ACTS

OF THE

Second Annual Session

OF THE

Two Hundredth Legislature

OF THE

STATE OF NEW JERSEY

AND

Twenty-ninth Under the New Constitution

CHAPTERS 250-579



New Jersey State Library

1983

CHAPTER 250

AN ACT concerning utility cost relief for certain tenants, and amending P. L. 1981, c. 210.

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

1. Section 4 of P. L. 1981, c. 210 (C. 48:2–29.33) is amended to read as follows:

C. 48:2-29.33 Increase in tenants' assistance payments.

4. Any residential tenant found eligible for the "Tenants' Lifeline Assistance Program" shall be entitled to an annual tenant's assistance payment, except as otherwise provided herein, at his principal residence. No household or rental unit, as appropriate, shall receive more than one tenant's assistance payment for any fiscal year. No household shall receive during the same fiscal year both a tenant's assistance payment and a lifeline credit allowed pursuant to P. L. 1979, c. 197 (C. 48:2–29.15 et seq.). The annual tenant's assistance payment shall be $200.00. Subject to the availability of appropriations, the level of assistance shall be increased to $225.00 beginning in October, 1984.

2. This act shall take effect July 1, 1983.

Approved July 7, 1983.

CHAPTER 251

AN ACT concerning utility bill credits, and amending P. L. 1979, c. 197.

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

1. Section 3 of P. L. 1979, c. 197 (C. 48:2–29.17) is amended to read as follows:

C. 48:2-29.17 Lifeline Credit Program.

3. The "Lifeline Credit Program" shall consist of an annual credit against the electric or gas utility bill of each eligible residential

electric or gas customer at his principal residence. Such credit shall be applied to the electric or gas utility bills of such customer as soon as may be practicable, but in no case later than the bills issued in October of each year or as soon thereafter as eligibility is determined, and shall be applied to each subsequent utility bill after the first until the full amount of the credit is exhausted. No household shall receive more than one annual credit. In the event that electric and gas are provided to the same customer by the same utility, the total annual credit shall be applied to the combined bills from such utility. In the event that electric and gas are provided to the same customer by two separate utilities, half of the total annual credit shall be applied to the bills from each such utility. The annual credit shall be $200.00. Subject to the availability of appropriations, the level of credit shall be increased to $225.00 beginning in October, 1984.

2. This act shall take effect July 1, 1983.

Approved July 7, 1983.

CHAPTER 252

AN ACT concerning the civil service and supplementing Title 11 of the Revised Statutes.

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

C. 11:4-3.16 Permanent status for Housing Division employees.

1. Notwithstanding any contrary provision of law relating to the qualifications required for appointment to a permanent position in accordance with the provisions of Title 11 of the Revised Statutes, an eligible employee presently holding a temporary position within the Rental Assistance Program, the Moderate Rehabilitation Program, the Neighborhood Preservation Program or the Housing Demonstration Program, all within the Division of Housing in the Department of Community Affairs, and who was initially hired into that position on or before June 29, 1981 as an employee in any of the above cited programs and who possesses at least the minimum job qualification requirements as they appear in the job specifications for that position approved by the Department of Civil Service, and who shall successfully be examined for

the position by qualifying examination to be administered by the Department of Civil Service, shall be recorded by the Civil Service Commission as having permanent status in the classified service as of the effective date of this act.

2. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 253

AN ACT to repeal section 46.1 of the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).

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

Repealer.

1. Section 46.1 of P. L. 1975, c. 291 (C. 40:55D–59) is repealed.

2. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 254

AN ACT concerning ownership of stock or interest in racing corporations and amending P. L. 1946, c. 167.

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

1. Section 1 of P. L. 1946, c. 167 (C. 5:5–34.1) is amended to read as follows:

C. 5:5-34.1 Approval required of racing corporation interest.

1. Whenever any association or corporation has been or shall be granted a permit to hold or conduct a horse race meeting, no person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership comprising a 5% or greater interest in such association or corporation without first having obtained the approval of

the commission therefor; and the commission may, after hearing, revoke such permit granted to any corporation or association which shall register on its books in the name of any person its shares of stock or certificates or other evidence of ownership of any such interest in such association or corporation without the approval of the commission having first been obtained, or which shall knowingly permit a person to be directly or indirectly interested in these shares of stock or certificates or other evidence of ownership of any interest in such association or corporation without reporting the same to the commission. Whenever the commission shall give to any person its approval to own or hold these shares of stock or certificates or other evidence of ownership of any such interest in any such association or corporation, it shall by registered mail notify the secretary of such association or corporation of such approval; provided, however, that under no circumstances shall the commission give such approval to any person who has been convicted of a crime involving moral turpitude, or has violated any of the provisions of the racing laws of the State of New Jersey or any rule or regulation of the commission, or has at any time been denied a license or permit of any kind by the commission.

2. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 255

AN ACT concerning amusement games license fees and amending P. L. 1959, c. 109 and P. L. 1961, c. 103.

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

1. Section 3 of P. L. 1959, c. 109 (C. 5:8–102) is amended to read as follows:

C. 5:8-102 Municipal, State licensing of amusement games.

3. Each applicant for such a license shall file with the clerk of the municipality a written application therefor in the form prescribed by the Amusement Games Control Commissioner, duly executed and verified, in which shall be stated the name and address of the applicant, together with sufficient facts relating to its in-

corporation and organization if the applicant be a corporation or organization; the specific kind of amusement games intended to be held, operated and conducted by the applicant, and the place or places where, the period, term, date or dates and the time or times when, such amusement games are intended to be conducted by the applicant, under the license applied for; and that no prize or prizes will be offered and given under said license except of merchandise only and same shall be of a value not in excess of the sum or value authorized to be offered and given by this act and such other information as shall be prescribed by the Amusement Games Control Commissioner.

Every such municipal license so issued shall be inoperative unless the licensee named therein shall also, within 90 days from the issuance thereof and prior to the conduct or operation of amusement games thereunder, procure a State license authorizing the licensee holding the municipal license to operate and conduct certain games according to the terms of such municipal license. The said State license shall be issued by the State Amusement Games Control Commissioner, if he finds that all of the conditions, terms and requirements of this act and of said rules and regulations have been fully met and complied with. As a condition of granting any such State license the applicant therefor shall pay to the said commissioner an annual fee of $250.00. An applicant who is the owner of an arcade shall pay an additional annual fee of $10.00 per machine for each machine over 50 machines. If any such municipal license authorizes the licensee to conduct and operate games at more than one place or of more than one specific kind the applicant for the State license shall pay the said annual fee of $250.00 for each such place and for each such specific kind.

For the purposes of this section, "arcade" means a place where a single player upon payment of a fee is permitted to play a machine or device to obtain a prize, ticket or token redeemable for a prize, or attain a score upon the basis of which a prize, ticket or token is awarded.

2. Section 5 of P. L. 1961, c. 103 (C. 5:8–125) is amended to read as follows:

C. 5:8-125 State license fees.

5. As a condition of granting a State license to any such association, where the said association is itself to operate an amusement game or amusement games, the association shall pay an annual fee of $50.00 per game. Where the operator of the game at an agricul-

tural fair and exhibition conducted under the auspices of such an association is to be a person holding a concession to operate at the fair and exhibition from the association holding the same, such operator shall pay for the State license an annual fee of $50.00 for each game to be operated at the fair and exhibition, but if said operator is a licensee under the "Amusement Games Licensing Law" and has paid the annual fee of $250.00 for a State license, he shall not be required to pay the said fee of $50.00 for each game to be operated unless he operates more than five games, in which case he shall pay for the State license an additional annual fee of $50.00 for each game in excess of five.

3. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 256

AN ACT to amend "An act providing for payments for local services in lieu of taxes on State property, and repealing R. S. 54:4–2.1 and R. S. 54:4–2.2," approved October 26, 1977 (P. L. 1977, c. 272).

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

1. Section 5 of P. L. 1977, c. 272 (C. 54:4–2.2e) is amended to read as follows:

C. 54:4-2.2e In lieu tax payments.

5. After completion of the review of the assessments of State property, the director shall compute the State's liability for in lieu tax payments in each municipality affected. The in lieu payment shall be calculated by applying the effective local purpose tax rate of the municipality for the tax year 1977 and thereafter to the aggregate amount of State property, as defined in section 1, in the municipality and the sum of such calculations shall constitute the State's liability; provided, however, the State shall have no liability to any one municipality when the sum of its liability is less than $1,000.00, and no municipality shall receive an in lieu payment from the State greater than an amount equal to 35% of the local purpose tax levy, which for the purposes of this act

shall include revenues which are used for municipal purposes and derived from tax abated properties, for the year for which the calculations are made; provided, however, that in any calendar year no municipality which receives or is entitled to receive any extraordinary payment for municipal services and in lieu of taxes under P. L. 1977, c. 137 shall receive less under this act than the amount that it received under said P. L. 1977, c. 137.

2. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 257

AN ACT to amend "An act concerning traffic regulations, and amending and supplementing chapter 4 of Title 39 of the Revised Statutes and certain other statutes relating thereto," approved April 5, 1951 P. L. 1951, c. 23).

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

1. Section 17 of P. L. 1951, c. 23 (C. 39:4–14.2) is amended to read as follows:

C. 39:4-14.2 Bicycling regulations.

17. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; provided, however, that any person may move to the left under any of the following situations:

(a) to make a left turn from a left-turn lane or pocket;

(b) to avoid debris, drains or other hazardous conditions that make it impracticable to ride at the right side of the roadway;

(c) to pass a slower moving vehicle;

(d) to occupy any available lane when traveling at the same speed as other traffic;

(e) to travel no more than two abreast when traffic is not impeded.

Persons riding bicycles upon a roadway may travel no more than two abreast when traffic is not impeded, but otherwise shall ride

in single file except on paths or parts of roadways set aside for the exclusive use of bicycles.

2. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 258

AN ACT concerning annual service charges for municipal services paid by urban renewal corporations or associations or urban renewal nonprofit corporations in certain cases, and amending P. L. 1961, c. 40 and P. L. 1965, c. 95.

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

1. Section 26 of P. L. 1961, c. 40 (C. 40:55C–65) is amended to read as follows:

C. 40:55C-65 Redevelopment tax exemption.

26. The rehabilitation or improvements made in the development or redevelopment of a blighted area or area adjacent thereto or State investment blighted area, pursuant to this act, shall be exempt from taxation for a period of not more than 20 years from the date of the execution of a financial agreement for the development or redevelopment of the property upon which the improvements are to be made pursuant to a financial agreement entered into with the municipality in which said area is situate, provided, in an instance of housing the redevelopment or improvements shall be exempt from taxation for a period of 35 years. Any such exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions and no such claim shall be allowed unless the municipality wherein said property is situated shall certify that a financial agreement with an urban renewal corporation or association for the development or the redevelopment of the property has been entered into and is in effect as required by the provisions of this act. In event that an exemption status changes during a tax year, the procedure for the apportionment of the taxes for said year shall be the same as in the case of other changes in tax exemption status during the tax year.

With respect to any projects or portions of any projects which are not housing projects devoted to condominium ownership pursuant to P. L. 1969, c. 257 (C. 46:8B–1 et seq.), the urban renewal corporation or association shall make payment to the municipality of an annual service charge for municipal services supplied to said project, in an annual amount equal to 15% of the annual gross revenue from each unit of the project, if the project is undertaken in units, or from the total project, if the project is not undertaken in units, for each of the years of operation commencing with the date of the completion of such unit or of the project, as the case may be.

Where all or part of a housing project is devoted to condominium ownership by the recording of a master deed pursuant to P. L. 1969, c. 257 (C. 46:8B–1 et seq.), the project or portions thereof so utilized shall be liable for, and the urban renewal corporation or association, or a condominium owner, as the case may be, shall pay to the municipality, an amount equal to 15% of the annual gross revenue from each condominium unit in the project, or the condominium unit owned, as the case may be, for each of the first 10 years of operation commencing upon the date of the completion of the project, or each condominium unit, if the project is undertaken in units, as the case may be. For the remainder of the period of the exemption, the annual service charge shall be determined in the same manner as provided in this paragraph, subject to the following modifications:

a. For the eleventh year and for each succeeding year thereafter through the fifteenth year, an amount equal to either 15% of the annual gross revenue, or 20% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

b. For the sixteenth year and for each succeeding year thereafter through the twentieth year, an amount equal to either 15% of the annual gross revenue, or 40% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

c. For the twenty-first year and for each succeeding year thereafter through the twenty-fifth year, an amount equal to either 15% of the annual gross revenue, or 60% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater; and

d. For the twenty-sixth year and for each succeeding year thereafter through the thirtieth year, an amount equal to either 15%

of the annual gross revenue, or 80% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater.

Where because of the nature of the development, ownership, use or occupancy of the project or any unit thereof, if the project is to be undertaken in units, the total annual gross rental cannot be reasonably ascertained under the provisions of section 12 of this act (C. 40:55C–51), the governing body shall provide in the financial agreement that the annual service charge shall be a sum equal to 2% of the total project cost or total project unit cost determined pursuant to section 8 of this act (C. 40:55C–47), calculated from first day of the month following the substantial completion of the project or any unit thereof, if the project is undertaken in units; provided, however, that in no event shall such payment together with the taxes on the land, in any year after first occupancy of the project be less than the total taxes assessed on all real property in the area covered by the project in the calendar year immediately preceding the acquisition of the said area by the municipality or its agency, or by the private or public owner from whom the urban renewal corporation acquired the land.

The aforesaid payment shall be made annually within 30 days after the close of each calendar year.

Against such annual charge the corporation or association, or, in the case of a condominium unit, the unit owner, shall be entitled to credit for the amount, without interest, of the real estate taxes on land paid by it in the last four preceding quarterly installments.

At the end of 20 years from the date of the execution of said financial agreement or earlier, at the end of 15 years of operation of any unit, if the project is undertaken in units, or the entire project, if it is not undertaken in units, whichever occurs first, the tax exemption upon said unit, if the project is undertaken in units, or upon the entire project, if the project is not undertaken in units, shall cease and the improvements and any other property of the corporation or association as well as the land shall be assessed and taxed, according to general law, like other property in the municipality. In an instance of housing, the exemptions shall cease as provided above at the end of 35 years from the date of execution of the financial agreement or earlier, at the end of 30 years of the operation of any unit, if the project is undertaken in units, or of the entire project, if it is not undertaken in units, whichever first

occurs, or if the project is devoted to condominium ownership at the end of 30 years after the recording of the master deed.

At the same date all restrictions and limitations upon the corporation or association shall terminate and be at an end upon the corporation's or association's rendering its final account with the municipality.

2. Section 21 of P. L. 1965, c. 95 (C. 40:55C–97) is amended to read as follows:

C. 40:55C-97 Annual charge for municipal services.

21. The improvements made in the development or redevelopment of a blighted area, pursuant to this act, shall be exempt from taxation for a period of not more than 25 years from the date of the execution of a financial agreement for the development or redevelopment of the property upon which the improvements are to be made pursuant to a financial agreement entered into with the municipality in which said area is situate. Any such exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions and no such claim shall be allowed unless the municipality wherein said property is situated shall certify that a financial agreement with an urban renewal nonprofit corporation for the development or the redevelopment of the property has been entered into and is in effect as required by the provisions of this act. In event that an exemption status changes during a tax year, the procedure for the apportionment of the taxes for said year shall be the same as in the case of other changes in tax exemption status during the tax year.

The urban renewal nonprofit corporation shall make payment to the municipality of an annual service charge for municipal services applied to said project, in an annual amount equal to 15% of the annual gross revenue from each unit of the project, if the project is undertaken in units, or from the total project, if the project is not to be undertaken in units, for each of the years of operation commencing with the date of the completion of such unit or of the project, as the case may be. Where because of the nature of the development, ownership, use or occupancy of the project or any unit thereof, if the project is to be undertaken in units, the total annual gross rental cannot be reasonably ascertained under the provisions of section 9 of this act, the governing body shall provide in the financial agreement that the annual service charge shall be a sum equal to 2% of the total project cost or total project unit cost determined pursuant to section 8 of this act, calculated from

first day of the month following the substantial completion of the project or any unit thereof, if the project is to be undertaken in units; provided, however, that in no event shall such payment together with the taxes on the land, in any year after first occupancy of the project be less than the total taxes assessed on all real property in the area covered by the project in the calendar year immediately preceding the acquisition of the said area by the municipality or its agency, or by the private owner from whom the urban renewal corporation acquired the land.

The aforesaid payment shall be made annually within 30 days after the close of each such calendar year.

Against such annual charge the corporation shall be entitled to credit for the amount, without interest, of the real estate taxes on land paid by it in the last 4 preceding quarterly installments.

At the end of 25 years from the date of the execution of said financial agreement or earlier, at the end of 20 years of operation of any unit, if the project is undertaken in units, or of the entire project, if it is not undertaken in units, whichever occurs first, the tax exemption upon said unit, if the project is undertaken in units, or upon the entire project, if the project is not undertaken in units, shall cease and the improvements and any other property of the corporation as well as the land shall be assessed and taxed, according to general law, like other property in the municipality.

At the same date all restrictions and limitations upon the corporation in regard to the project covered by the agreement shall terminate and be at an end upon the corporation's rendering its final account on that project with the municipality.

3. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 259

AN ACT to authorize the township of Neptune, in the county of Monmouth to make permanent the appointment of Richard C. Cuttrell and Kent Albee Cole to the police department of the township of Neptune.

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

1. Pursuant to the provisions of P. L. 1948, c. 199 (C. 1:6–10 et seq.), under which a petition for a special law has been filed with the Legislature, the township of Neptune, in the county of Monmouth, is authorized to make permanent the appointment of Richard C. Cuttrell and Kent Albee Cole to the police department of the township of Neptune, notwithstanding their ages are greater than the maximum age limit for the appointment thereto set forth in N. J. S. 40A:14–127.

2. The Board of Trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act, if there is paid into the retirement system in a manner which the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the township of Neptune for the purpose of adopting it.

Approved July 7, 1983.

CHAPTER 260

AN ACT to promote airport safety by regulating hazards about certain airports, amending P. L. 1975, c. 291 and supplementing P. L. 1938, c. 48 (C. 6:1–20 et seq.).

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

C. 6:1-80 Findings, declarations.

1. (New section) It is found and declared by the Legislature that an airport hazard endangers the lives and property of the users of the airport and of occupants of land in the vicinity thereof, and also, if the hazard is of the obstruction type, it reduces the size of the area available for landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public benefit therein. Accordingly, it is declared:

a. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; therefore, it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and

b. That the prevention of the creation or establishment of airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power of the State, without compensation.

C. 6:1-81 Short title.

2. (New section) Sections 1 through 9 of this act shall be known and may be cited as the "Air Safety and Hazardous Zoning Act of 1983."

C. 6:1-82 Definitions.

3. (New section) As used in this amendatory and supplementary act:

a. "Airport" means any area of land or water, or both, designed and set aside for the landing and taking-off of fixed wing aircraft, utilized or to be utilized by the public for such purposes, publicly or privately owned, and licensed by the commissioner as a public use airport or landing strip, or an area designated by the commissioner, which has been determined by him as likely to be so licensed within 1 year of such determination.

b. "Airport hazard" means (1) any use of land or water, or both, which creates a dangerous condition for persons or property in or about an airport or aircraft during landing or taking-off at an airport, or (2) any structure or tree which obstructs the air space required for the flight of aircraft in landing or taking-off at an airport.

c. "Airport hazard area" means any area of land or water, or both, upon which an airport hazard might be created or established, if not prevented as provided in this supplementary act.

d. "Commissioner" means the Commissioner of the Department of Transportation.

e. "Department" means the Department of Transportation.

f. "Structure" means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, chimneys, and overhead transmission lines.

g. "Tree" means an object of natural growth.

C. 6:1-83 Delineation of airport hazard areas.

4. (New section) After public hearing upon notice, including notice of each affected municipality, and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), the commissioner shall adopt rules and regulations which delineate airport hazard areas for all airports subject to this amendatory and supplementary act. The regulations shall describe the methodology used to make the delineation and may delineate subzones.

C. 6:1-84 Promulgation of standards.

5. (New section) The commissioner shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), promulgating standards which specify permitted and prohibited land uses, including the specification of the height to which structures may be erected and trees allowed to grow, within airport hazard areas. These standards shall be uniform for all airport hazard areas, except that where the commissioner determines that local conditions require it, he may adopt an amended or special standard. No standard adopted under this amendatory and supplementary act shall be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the standard when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 9 of this amendatory and supplementary act.

C. 6:1-85 Municipal ordinances.

6. (New section) Each municipality which contains within its boundaries any part of a delineated airport hazard area shall enact an ordinance or ordinances incorporating the standards promulgated by the commissioner pursuant to section 5 of this amendatory and supplementary act and providing for their enforcement within those delineated areas. A valid copy of this ordinance or ordinances, including any amendments that may be made from time to time, shall be transmitted to the commissioner.

C. 6:1-86 Permits, fees for nonconforming uses.

7. (New section) The commissioner shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), providing for the issuing of permits and the charging of appropriate fees in cases where, upon request by a municipality and upon the submission of such information as he may require, he determines it to be in the public interest to allow the creation or establishment of a nonconforming use which would be prohibited under the standards promulgated pursuant to section 5 of this amendatory and supplementary act.

C. 6:1-87 Actions against violators.

8. (New section) The commissioner may institute, in any court of competent jurisdiction, an action in the name of the State to prevent, restrain, correct, or abate any violation of any provision of this act, and the court shall adjudge to the State such relief, by way of injunction or otherwise, as may be proper under all the

facts and circumstances of the case, to effectuate the purposes of this act.

C. 6:1-88 Acquisition of property rights.

9. (New section) In any case in which it is desired to remove, lower, or otherwise terminate a nonconforming use; or in which the necessary protection from an airport hazard cannot, because of constitutional limitations, be provided by zoning regulations; or if it appears advisable that the necessary protection from an airport hazard be provided by acquisition of property rights rather than by zoning regulations, the commissioner may acquire by purchase, grant, condemnation, or otherwise in the manner provided by law, such air right, easement, or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purposes of this act, including acquisition of a fee simple estate.

10. Section 19 of P. L. 1975, c. 291 (C. 40:55D–28) is amended to read as follows:

C. 40:55D-28 Preparation; contents; modification.

19. Preparation; contents; modification. a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, where appropriate, the following elements:

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element (a) taking into account the other master plan elements and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; (c) showing the existing and proposed location of any airports and the boundaries of any airport hazard areas delineated pursuant to the "Air Safety and Hazardous Zoning Act of 1983,"

P. L. 1983, c. 260 (C. 6:1–80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

(3) A housing plan element, including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities;

(6) A community facilities plan element showing the location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, open space, water, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, wildlife and other natural resources;

(9) An energy conservation plan element which systematically analyzes the impact of each other component and element of the master plan on the present and future use of energy in the municipality, details specific measures contained in the other plan elements designed to reduce energy consumption, and proposes other measures that the municipality may take to reduce energy consumption and to provide for the maximum utilization of renewable energy sources; and

(10) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements.

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of

contiguous municipalities, (2) the master plan of the county in which the municipality is located and (3) any comprehensive guide plan pursuant to section 15 of P. L. 1961, c. 47 (C. 13:1B–15.52).

11. Section 29 of P. L. 1975, c. 291 (C. 40:55D–38) is amended to read as follows:

C. 40:55D-38 Contents of ordinance.

29. Contents of ordinance. An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall include the following:

a. Provisions, not inconsistent with other provisions of this act, for submission and processing of applications for development, including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development;

b. Provisions ensuring:

(1) Consistency of the layout or arrangement of the subdivision or land development with the requirements of the zoning ordinance;

(2) Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map, if any, and the circulation element of the master plan, if any, and so oriented as to permit, within the limits of practicability and feasibility, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map;

(3) Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants;

(4) Suitable size, shape and location for any area reserved for public use pursuant to section 32 of this act;

(5) Reservation pursuant to section 31 of this act of any open space to be set aside for use and benefit of the residents of planned development, resulting from the application of standards of density or intensity of land use contained in the zoning ordinance, pursuant to subsection 52 c. of this act;

(6) Regulation of land designated as subject to flooding, pursuant to subsection 52 e., to avoid danger to life or property;

(7) Protection and conservation of soil from erosion by wind or water or from excavation or grading; and

(8) Conformity with standards promulgated by the Commissioner of Transportation, pursuant to the "Air Safety and Hazardous Zoning Act of 1983," P. L. 1983, c. 260 (C. 6:1–80 et seq.), for any airport hazard areas delineated under that act;

c. Provisions governing the standards for grading, improvement and construction of streets or drives and for any required walkways, curbs, gutters, streetlights, shade trees, fire hydrants and water, and drainage and sewerage facilities and other improvements as shall be found necessary, and provisions ensuring that such facilities shall be completed either prior to or subsequent to final approval of the subdivision or site plan;

d. Provisions ensuring that when a municipal zoning ordinance is in effect, a subdivision or site plan shall conform to the applicable provisions of the zoning ordinance, and where there is no zoning ordinance, appropriate standards shall be specified in an ordinance, pursuant to this article; and

e. Provisions ensuring performance in substantial accordance with the final development plan; provided that the planning board may permit a deviation from the final plan, if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance.

12. Section 49 of P. L. 1975, c. 291 (C. 40:55D–62) is amended to read as follows:

C. 40:55D-62 Power to zone.

49. Power to zone. a. The governing body may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon. Such ordinance shall be adopted after the planning board has adopted the land use plan element of a master plan, and all of the provisions of such zoning ordinance or any amendment or revision thereto shall either be substantially consistent with the land use plan element of the master plan or designed to effectuate such plan element; provided that the governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan

element, but only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting recorded in its minutes when adopting such a zoning ordinance; and provided further that, notwithstanding anything aforesaid, the governing body may adopt an interim zoning ordinance pursuant to subsection 77 b. of this act.

The zoning ordinance shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land. The regulations in the zoning ordinance shall be uniform throughout each district for each class or kind of buildings or other structures or uses of land, including planned unit development, planned unit residential development and residential cluster, but the regulations in one district may differ from those in other districts.

b. No zoning ordinance and no amendment or revision to any zoning ordinance shall be submitted to or adopted by initiative or referendum.

c. The zoning ordinance shall provide for the regulation of any airport hazard areas delineated under the "Air Safety and Hazardous Zoning Act of 1983," P. L. 1983, c. 260 (C. 6:1–80 et seq.), in conformity with standards promulgated by the Commissioner of Transportation.

13. 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, in accordance with the provisions of any such ordinance, 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. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property, 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, including a variance for a conditional use; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use; 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 shall review a request for a variance pursuant to subsection 47 a. of this act; and

d. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act, including, but not limited to, allowing a structure or use in a district restricted against such structure or use, but only by affirmative vote of at least 5 members, in the case of a municipal board, or ⅔ of the full authorized membership, in the case of a regional board, pursuant to article 10 of this act.

No variance or other relief may be granted under the terms of this section unless 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 of any airport hazard areas delineated under the "Air Safety and Hazardous 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 the 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, including the planning board pursuant to section 17 of this act, for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

14. This act shall take effect immediately but section 6 of this act shall take effect on March 1, 1984.

Approved July 7, 1983.

CHAPTER 261

AN ACT concerning injury to animals used by law enforcement agencies 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:29-3.1 Purposeful injury to animals used for law enforcement.

1. Any person who purposely kills, maims or otherwise inflicts harm upon a dog, horse or other animal owned or used by a law enforcement agency or who interferes with any law enforcement officer using an animal in the performance of his official duties commits a disorderly persons offense, subject to a sentence of six months' imprisonment, some or all of which may be community service, restitution and a $1,000.00 fine.

2. This act shall take effect immediately.

Approved July 7, 1983.

CHAPTER 262

AN ACT concerning the leasing of school district property, amending R. S. 54:4–3.3, 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. 54:4–3.3 is amended to read as follows:

Tax-exempt property.

54:4–3.3. Except as otherwise provided by article 1 of this chapter (§ 54:4–1 et seq.), the property of the State of New Jersey; and the property of the respective counties, school districts and taxing districts used for public purposes, or for the preservation or exhibit of historical data, records or property; school district property which is leased to a nonprofit organization which is exempt from taxation under R. S. 54:4–3.6, for use by that organization in its exempt functions; school district property which is leased to

another board of education or governmental agency; and property acquired by any municipality through tax title foreclosure or by deed in lieu of foreclosure, if not used for private purpose, shall be exempt from taxation under this chapter, but this exemption shall not include real property bought in for debts or on foreclosure of mortgages given to secure loans out of public funds or out of money in court, which property shall be taxed unless devoted to public use. The lands of counties, municipalities, and other municipal and public agencies of this State used for the purpose and for the protection of a public water supply shall be subject to taxation by the respective taxing districts where situated, at the taxable value thereof, without regard to any buildings or other improvements thereon, in the same manner and to the same extent as the lands of private persons, but all other property so used shall be exempt from taxation. Property, the title to which is in the Morris Canal and Banking Company, in trust for the State, shall, so long as the title is so vested, be deemed to be the property of the State within the meaning of any tax law.

C. 54:4-3.6e Partial exemption.

2. (New section) Whenever a portion of school district property is leased to an organization other than those described in R. S. 54:4-3.3, that portion shall be subject to taxation and the remaining portion only shall be exempt.

3. This act shall take effect immediately but shall be applicable only to taxes payable in 1984 and thereafter.

Approved July 7, 1983.

CHAPTER 263

AN ACT to authorize the borough of Metuchen, in the county of Middlesex to make permanent the appointment of William Johnson to the police department of the borough of Metuchen.

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

1. Pursuant to the provisions of P. L. 1948, c. 199 (C. 1:6-10 et seq.), under which a petition for a special law has been filed with the Legislature, the borough of Metuchen, in the county of Middle-

sex is authorized to make permanent the appointment of William Johnson to the police department of the borough of Metuchen, notwithstanding his age is greater than the maximum age limit for the appointment thereto set forth in N. J. S. 40A:14–127.

2. The Board of Trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act, if there is paid into the retirement system in a manner which the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the borough of Metuchen for the purpose of adopting it.

Approved July 7, 1983.

CHAPTER 264

AN ACT providing for the financing of a program to ensure the safety of general aviation airports in New Jersey, enabling publicly owned airports to obtain federal funds for airport development, and revising parts of the statutory law.

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

C. 6:1-89 Short title.

1. (New section) This act shall be known and may be cited as the "New Jersey Airport Safety Act of 1983."

C. 6:1-90 Findings, declarations.

2. (New section) a. The Legislature finds and declares that:

(1) New Jersey's public use, general aviation airports are an integral part of the State's transportation network and promote mobility and economic activities of common public benefit. These public use, general aviation transportation facilities are deteriorating and must be improved as to safety in order to realize their full public benefit.

(2) There is a growing need to upgrade the safety of general aviation airports, which require such improvements and equipment

as radar, instrument landing aids and weather-reporting equipment to enable them to safely handle modern general aviation aircraft.

(3) Many publicly owned, general aviation airports are unable to obtain all of the federal funds available to them for airport development because they are unable to raise money for their local matching requirements.

(4) Many privately owned, public use, general aviation airports which are essential to the State's economic development are in danger of conversion to nonaviation uses, and it is in the public interest to provide State assistance to county and municipal efforts to preserve these airports, through acquisition or other means.

(5) Users of general aviation airports have contributed substantial amounts to the State treasury through fees and fuel taxes, and this money should henceforth be used to establish an airport assistance program.

b. The Legislature therefore finds and declares that it is in the public interest to establish an Airport Safety Fund, impose a two cent per gallon tax on fuel distributed to general aviation airports, and authorize the Commissioner of Transportation to establish assistance programs to improve the safety of general aviation airports.

c. The Legislature also declares that, inasmuch as federal authorities already register aircraft, it is deemed appropriate to cease the State registration of New Jersey based aircraft, which is currently administered at a net loss.

C. 6:1-91 Definitions.

3. (New section) As used in this act:

a. "Commissioner" means the Commissioner of Transportation.

b. "Department" means the Department of Transportation.

c. "Fund" means the Airport Safety Fund, as established in section 4 of this act.

d. "Treasurer" means the State Treasurer.

e. "Unrestricted public use airport" means any facility for the take-off and landing of aircraft, either publicly or privately owned, that does not have restrictive covenants on operational use by the general public for reasons other than safety.

f. "General aviation airport" means any area of land or water, or both, used or made available for the landing and take-off of civil aircraft, and which has further been determined by the Commissioner of Transportation not to be an international airport either by classification or service characteristics.

g. "Turbine fuel" means any liquid or gaseous substance used by jet and turbo-shaft aircraft for the propulsion of aircraft through the air, as determined by the Commissioner of Transportation.

h. "Director" means the Director of the Division of Taxation.

C. 6:1-92 Airport Safety Fund.

4. (New section) a. There is established in the general fund a separate special account to be known as the "Airport Safety Fund." Notwithstanding any provisions of law to the contrary and except as otherwise provided in this act, revenues from the taxes imposed on the sale of fuel used in aircraft, pursuant to chapter 39 of Title 54 of the Revised Statutes, revenues from the taxes imposed on the sale of aircraft fuels sold for distribution to general aviation airports, pursuant to this act, and fees imposed under Title 6 of the Revised Statutes shall be credited to the fund.

b. Moneys shall be appropriated from the fund, notwithstanding the provisions of P. L. 1976, c. 67 (C. 52:9H–5 et seq.).

c. Moneys in the fund shall be appropriated to the department only for those aviation purposes which the department is empowered to undertake pursuant to this act or under Title 6 and Title 27.

d. All revenues generated by the taxes imposed on the sale of aircraft fuels, pursuant to chapter 39 of Title 54 of the Revised Statutes; the taxes imposed on the sale of aircraft fuels sold for distribution to general aviation airports, pursuant to this act, and fees imposed under the provisions of Title 6 of the Revised Statutes shall be collected and invested by the treasurer pursuant to law. Earnings received from the investment or deposit of revenues in the fund shall be paid into and become part of the fund.

e. Any revenues credited to the fund but not appropriated to the department shall remain in the fund exclusively for the purposes set forth in this act.

f. The Director of the Division of Budget and Accounting is empowered to transfer funds from the fund as may be necessary in order to compensate the Division of Taxation for the cost incurred in administering the tax provisions in this act.

5. R. S. 54:39–66 is amended to read as follows:

Fuel tax refund.

54:39–66. Any person:

(1) Who shall use any fuels as herein defined for any of the following purposes:

(a) (Deleted by amendment.)

(b) Autobuses while being operated over the highways of this State in those municipalities to which the operator has paid a monthly franchise tax for the use of the streets therein, under the provisions of R. S. 48:16–25 and autobuses while being operated over the highways of this State to provide regular route passenger service under operating authority conferred purusuant to R. S. 48:4–3,

(c) Agricultural tractors not operated on a public highway,

(d) Farm machinery,

(e) Aircraft,

(f) Ambulances,

(g) Rural free delivery carriers in the dispatch of their official business,

(h) Such vehicles as run only on rails or tracks, and such vehicles as run in substitution thereof,

(i) Such highway motor vehicles as are operated exclusively on private property,

(j) Motor boats or motor vessels used exclusively for or in the propagation, planting, preservation and gathering of oysters and clams in the tidal waters of this State,

(k) Motor boats or motor vessels used exclusively for commercial fishing,

(l) Motor boats or motor vessels, while being used for hire for fishing parties or being used for sightseeing or excursion parties,

(m) Cleaning,

(n) Fire engines and fire-fighting apparatus,

(o) Stationary machinery and vehicles or implements not designed for the use of transporting persons or property on the public highways,

(p) Heating and lighting devices,

(q) Fuels previously taxed under this chapter and later exported or sold for exportation from the State of New Jersey to any other state or country; provided proof satisfactory to the director of such exportation is submitted,

(r) Motor boats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America,

(s) Emergency vehicles used exclusively by volunteer first-aid or rescue squads, and

(2) Who shall have paid the tax for such fuels, hereby required to be paid, shall be reimbursed and repaid the amount of tax so paid upon presenting to the director an application for such re-

imbursement or repayment, in form prescribed by the director, which application shall be verified by a declaration of the applicant that the statements contained therein are true. Such application for reimbursement or repayment shall be supported by an invoice, or invoices, showing the name and address of the person from whom purchased, the name of the purchaser, the date of purchase, the number of gallons purchased, the price paid per gallon, and an acknowledgment by the seller that payment of the cost of the fuel, including the tax thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

The director may, in his discretion, permit a distributor entitled to a refund under the provisions of this section to take credit therefor, in lieu of such refund, in such manner as the director may require, on a report filed pursuant to R. S. 54:39–27.

Any refund granted to a person under subsection (1) (e), for fuel used in aircraft, shall be paid from the moneys deposited in the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety Act of 1983," P. L. 1983, c. 264 (C. 6:1–92). Such refunds shall be granted on an annual basis.

6. R. S. 54:39–71 is amended to read as follows:

Distribution of moneys.

54:39–71. Except as provided in R. S. 54:39–30, moneys received in accordance with this chapter, other than taxes paid on aircraft fuels, shall be accounted for and forwarded by the Director of the Division of Taxation to the State Treasurer, to be paid out and distributed by him as hereinafter in this article provided. Moneys received from taxes on fuel used in aircraft, pursuant to R. S. 54:39–27 and section 7 of the "New Jersey Airport Safety Act of 1983," P. L. 1983, c. 264 (C. 54:39–27a), shall be accounted for and forwarded by the Director of the Division of Taxation to the State Treasurer, who shall credit these payments to the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety Act of 1983," P. L. 1983, c. 264 (C. 6:1–92).

C. 54:39-27a Quarterly reports to Division of Taxation.

7. (New section) Every distributor and gasoline jobber who sells fuel for distribution to general aviation airports shall, on or before the twenty-second day of each month following the calendar quarter, render a report to the Division of Taxation, stating the number of gallons of fuel, except turbine fuels, sold in this

State by him for distribution to general aviation airports during the preceding calendar quarter. In addition to the provisions of R. S. 54:39–27 and except as otherwise provided in R. S. 54:39–65, a tax of $0.02 per gallon on each gallon of fuel, except turbine fuels, so reported shall be paid by each distributor or gasoline jobber, such payment to accompany the filing of the report.

Every distributor and gasoline jobber who sells turbine fuels for distribution to general aviation airports shall, on or before the twenty-second day of each month following the calendar quarter, render a report to the Division of Taxation, stating the number of gallons of turbine fuel sold by him for distribution to general aviation airports during the preceding calendar quarter. Except as otherwise provided in R. S. 54:39–65, a tax of $0.02 per gallon on each gallon of turbine fuels so reported shall be paid by each distributor or gasoline jobber, such payment to accompany the filing of the report.

If any distributor or gasoline jobber shall fail, neglect or refuse to file the report within the time prescribed by this section, the Director of the Division of Taxation shall note such failure, neglect or refusal upon his records, and shall estimate the sales, distribution and use of said distributor or gasoline jobber, assessing the tax thereon, adding to said tax a penalty of 20 percent thereof for failure, neglect or refusal to report, and such estimate shall be prima facie evidence of the true amount of tax due to the director from such distributor or gasoline jobber; provided that if a good and sufficient cause or reason is shown for such delinquency, the director may remit or waive the payment of the whole or any part of the penalty as provided in the State Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised Statutes. Reports required by this section, exclusive of schedules, itemized statements and other supporting evidence annexed thereto, shall at all reasonable times be open to the public, anything contained in R. S. 54:50–8 to the contrary notwithstanding.

The quarterly filing provisions of this section notwithstanding, in the event it is determined by the director that the period for filing reports should be changed from a quarterly to a monthly filing period, he may do so upon the promulgation of regulations pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

The refund provisions of R. S. 54:39–66 shall not apply to this section. However, users of general aviation aircraft shall be en-

C. 6:1-94 Criteria for assistance.

10. (New section) Any airport, to qualify under the provisions of section 9 of this act, shall not be an international airport, either by classification or service characteristics, as determined by the Commissioner of Transportation, and shall be included in the New Jersey State Airport System Plan, as prepared or revised from time to time by the department.

In considering an application for financial assistance, the commissioner shall consider, in addition to the requirements of eligibility under the provisions of this act and other eligibility criteria that the commissioner may promulgate by rule to effectuate the purposes of section 9 of this act, the scope and cost of the improvement required, availability of local funds for airport development, the capture of federal funds, the relative value of that improvement to the other needs of the particular airport, the present and future public service levels in regard to operations, based aircraft, passenger service, freight service, Statewide distribution of services, and local and State economic development, the impact on the area surrounding the airport, the extent to which the improvement will contribute to the welfare of the citizens of the State and the local area, and the relative value to the State airport system as a whole.

The commissioner shall also establish certification requirements to ensure that:

a. The airport will be owned or effectively controlled, operated, repaired and maintained adequately during the improvement's full useful life, for the benefit of the public;

b. In connection with the operation of the airport, during the improvement's full useful life, the public will not be deprived of its rightful, fair, equal and uniform use of the airport;

c. The airport will adhere to State and federal laws and regulations. If an airport received financial assistance under section 9 of this act and ceases operations or fails to continue to comply with the provisions of this section before the predetermined life of the financially assisted improvements, as such life is determined by the commissioner at the time the financial assistance is granted, the State shall be reimbursed for the unused portion of such predetermined life and, if not fully reimbursed, the claim shall be a first lien on the airport property to the extent of the unpaid balance; and

d. If a county or municipality or other public body received financial assistance under section 9 of this act for acquisition of real

property, that property shall not be sold or used for any non-aviation purpose without the approval of the commissioner.

C. 6:1-95 Acquisition of airports, land.

11. (New section) The commissioner may acquire airports or lands or rights therein, including aviation easements necessary for clear zones or clear areas, by gift, devise or purchase, when it is deemed to be necessary for the safe operation of the airport and the general public safety or necessary for the continued operations of an airport which is deemed to be necessary for a safe and efficient air transportation system in the State. The commissioner may contract for the operation of these facilities on a temporary basis or retain ownership of the facilities without operating them. He may also sell any airport or airport land so acquired to a county or municipality or other public bodies on the condition that they operate the facility as an airport and that they may not sell the land without the commissioner's approval.

12. Section 2 of P. L. 1938, c. 48 (C. 6:1–21) is amended to read as follows:

C. 6:1-21 Definitions.

2. When used in this act:

(a) "Aeronautics" means avigation of or transportation by aircraft; air instruction; the operation, repair or maintenance of aircraft, aircraft power plants and accessories; and the design, construction, repair, maintenance, operation or management of airports, landing fields, landing strips and other avigation facilities.

(b) "Avigation" means the operating, steering, directing, or managing of aircraft in or through the air and on the ground or water.

(c) "Aircraft" means any contrivance now known or hereafter invented, used or designed for avigation or flight in the air.

(d) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of the United States, of the District of Columbia, and of any state, territory or insular possession of the United States, but not including any government-owned aircraft engaged in carrying for hire persons or goods.

(e) "Civil aircraft" means any aircraft other than a public aircraft.

(f) "Airport" means any area of land, water, or both, which is used or made available for the landing and take-off of aircraft, and which provides facilities for the shelter, supply and repair of

aircraft, and which, as to size, design, surface, marking, maintenance, repair and management, meets the minimum requirements for the various classes of airports established from time to time by the New Jersey Commissioner of Transportation.

(g) (Deleted by amendment; P. L. 1983, c. 264.)

(h) "Landing strip" means any area of land, water, or both, other than an airport, which is used or is made available for the landing and take-off of aircraft.

(i) "Air instruction" means instruction in aeronautics or in the art or science of avigation or flight of aircraft.

(j) "Fixed base operator" means any person engaged in giving, offering to give, advertising, representing or holding himself out as giving, to the public, with or without compensation or other reward, air instruction and any person engaged in, but not limited to, the following types of operation: flying club; dusting, spraying and seeding by aircraft; aircraft maintenance or repair shop; banner towing; intrastate air carriers; sport parachute center; air taxi, scheduled or charter; pipe or power line patrol; aerial photography; fish spotting; aerial advertising (other than banner towing); and parachute repair and rigging; but, the term "fixed base operator" shall not include air carriers operating under a certificate of public convenience and necessity issued by the Civil Aeronautics Board or any successor thereto.

(k) "Person" means any individual, corporation, copartnership or other association of individuals.

(l) "Commissioner" means the Commissioner of the State Department of Transportation.

(m) "Director" means the State Director of Aeronautics in the Department of Transportation.

(n) "Temporary landing area" means any area of land, water, or both, which is used or made available for the landing and take-off of aircraft, and which, as to size, design, surface, ownership and location, meets the minimum requirements established from time to time by the Commissioner of Transportation.

(o) The singular shall include the plural and any gender shall include every other gender.

13. Section 16 of P. L. 1938, c. 48 (C. 6:1–35) is amended to read as follows:

C. 6:1-35 Licenses: aircraft; provisions for.

16. Licenses: aircraft; provisions for. The commissioner may provide for the licensing of civil aircraft by reasonable rules,

regulations and orders adequate to protect the public safety and the safety of those participating in aeronautics and to ensure the satisfactory and safe performance of aircraft in accordance with their design or contemplated use.

Any class of aircraft shall be deemed to be licensed under the provisions of section 16 of this article; provided such aircraft shall be validly and effectively licensed and registered under the provisions of laws, rules and regulations of the United States Government.

14. Section 24 of P. L. 1938, c. 48 (C. 6:1–43) is amended to read as follows:

C. 6:1-43 Licensing of avigation facilities.

24. It shall be unlawful, except as provided for by the provisions of this chapter and the rules, regulations and orders adopted pursuant to this chapter, to operate, use, or cause to be operated or used any avigation facility intended to accommodate the operation, take-off, or landing of aircraft, except in the case of emergency or at avigation facilities owned and operated exclusively by and for the Government of the United States. No aircraft or airman shall utilize, land, or take off from any area of land or water, unless that area is licensed for such activity, or found and declared by the commissioner to be vital or necessary for avigation purposes. It shall be further unlawful to operate or allow to be operated without proper license any aeronautical activity fixed base operation that is required to be licensed by the provisions of this chapter or the rules, regulations and orders issued pursuant to this chapter in the interests of the public health, safety and welfare.

15. Section 25 of P. L. 1938, c. 48 (C. 6:1–44) is amended to read as follows:

C. 6:1-44 Rules, regulations, orders for licensing.

25. The commissioner shall provide for the licensing of airports, landing strips, or other avigation facilities and temporary landing areas by rules, regulations and orders adequate to protect the public health and safety and the safety of those participating in aeronautical activities; provided, however, that the continued use and operation of airports, landing strips, and other avigation facilities, in use and operation on the effective date of this chapter, for which an application for a license shall have been filed within the time fixed by the commissioner, shall be permitted, pending

the granting or rejection of such applications; and provided further, that the application for a license for any airport, landing strip, or other avigation facility in use and operation on the effective date of this chapter shall be granted, unless the commissioner shall find that such airports, landing strips, or other avigation facilities are not constructed, equipped and operated in accordance with the standards and requirements fixed by the rules, regulations and orders of the commissioner. Whenever the commissioner or the Director of Aeronautics shall reject any application for license under the provisions of this section, he shall state in writing the reasons for such rejection.

The commissioner may further determine it necessary and provide for the licensing of specific aeronautical activities, fixed base operations, or persons engaged in specific types of aeronautical activities, or operations by rules, regulations and orders adequate to protect the public health, safety and welfare and the safety of those participating in aeronautics.

16. Section 1 of P. L. 1953, c. 234 (C. 6:1–44.1) is amended to read as follows:

C. 6:1-44.1 Issuance of licenses, certificates.

1. The commissioner shall have the power to grant an appropriate license or certificate upon application properly made and the fee therefor paid for activities and operations that comply with the requirements of this act.

Licenses or certificates (excepting those issued on a temporary basis) required by regulation for the operation of aeronautical facilities and fixed base operations are issued for a period of one year. Such licenses may be annually renewed for a period of one year, upon satisfaction of requirements set by the applicable rules and regulations appropriate to the license or certificate sought. Licenses or certificates issued on a temporary basis shall be valid for a period of less than one year and continue in effect until a specified expiration date, by request for withdrawal of license or certificate by the initial applicant, or by order of the commissioner. Rules, procedures, and application fees for the issuing of all licenses and certificates shall be established by the commissioner through regulation. Each applicant for license or certificate, be it initial, renewal, or temporary, shall be required to pay a nonrebatable fee to the Division of Aeronautics in the Department of Transportation.

All such fees shall be paid to the State Treasurer by the division for deposit in the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety Act of 1983," P. L. 1983, c. 264 (C. 6:1–92).

17. Section 7 of P. L. 1971, c. 118 (C. 6:1–59.1) is amended to read as follows:

C. 6:1-59.1 Violations; penalties.

7. Any person violating any provisions of this act or any rule, regulation or order authorized hereby and any person who operates, conducts, uses or permits others to operate, conduct, use or employ any aeronautical facility, operation or activity which is required to be licensed, without said license being previously issued or renewed as required, shall be liable to a penalty of up to $1,000.00, which may be collected and enforced in an action by the Division of Aeronautics in the name of the State in any municipal court or in any other court of competent jurisdiction in a summary manner, without a jury, in accordance with the procedure prescribed in "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). All penalties and costs collected in such actions shall be accounted for by the judge and forwarded to the Division of Aeronautics, which shall transmit the same to the State Treasurer, who shall credit such moneys to the Airport Safety Fund established by section 4 of the "New Jersey Airport Safety Act of 1983," P. L. 1983, c. 264 (C. 6:1–92).

C. 6:1-96 Rules, regulations.

18. (New section) The commissioner is authorized to make such rules and regulations, in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), as he deems necessary to effectuate the purposes of this act.

C. 6:1-97 Aircraft exempt from personal property tax.

19. (New section) All aircraft, whether or not the same are required to be registered under State or federal law, shall be exempt from taxation under chapters 4 and 11A of Title 54 of the Revised Statutes or any other law of this State which may impose a personal property tax.

Repealer.

20. The following are repealed:

a. P. L. 1938, c. 48, §§ 17, 20 and 22 (C. 6:1–36, 6:1–39 and 6:1–41);

b. P. L. 1964, c. 128 (C. 6:1–63 et seq.).

21. This act shall take effect immediately, except that sections 4, 5, 6, 7, 9, 10, 11, 16 and 17 shall take effect on the first day of the second month after enactment and subsection b. of section 20 shall take effect on July 1, 1983.

Approved July 11, 1983.

CHAPTER 265

AN ACT to amend "The Planned Real Estate Development Full Disclosure Act," approved February 25, 1978 (P. L. 1977, c. 419).

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

1. Section 7 of P. L. 1977, c. 419 (C. 45:22A–27) is amended to read as follows:

C. 45:22A-27 Application for registration of development.

7. a. The application for registration of the development shall be filed as prescribed by the agency's rules and shall contain the following documents and information:

(1) An irrevocable appointment of the agency to receive service of any lawful process in any noncriminal proceeding arising under this act against the developer or his agents;

(2) The states or other jurisdictions, including the federal government, in which an application for registration or similar documents have been filed, and any adverse order, judgment or decree entered in connection with the development by the regulatory authorities in each jurisdiction or by any court;

(3) The name, address, and principal occupation for the past five years of every officer of the applicant or person occupying a similar status, or performing similar management functions; the extent and nature of his interest in the applicant or the development as of a specified date within 30 days of the filing of the application;

(4) Copies of its articles of incorporation, with all amendments thereto, if the developer is a corporation; copies of all instruments by which the trust is created or declared, if the developer is a trust; copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other

form of organization; and if the purported holder of legal title is a person other than the developer, copies of the above documents from such person;

(5) A legal description of the lands offered for registration, together with a map showing the subdivision proposed or made, and the dimensions of the lots, parcels, units, or interests, as available, and the relation of such lands to existing streets, roads, and other improvements;

(6) Copies of the deed or other instrument establishing title to the subdivision in the developer, and a statement in a form acceptable to the agency of the condition of the title to the land comprising the development, including encumbrances as of a specified date within 30 days of the date of application by a title opinion of a licensed attorney, or by other evidence of title acceptable to the agency;

(7) Copies of the instrument which will be delivered to a purchaser to evidence his interest in the development, and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(8) Copies of any management agreements, service contracts, or other contracts or agreements affecting the use, maintenance or access of all or a part of the development;

(9) A statement of the zoning and other government regulations affecting the use of the development including the site plans and building permits and their status, and also of any existing tax and existing or proposed special taxes or assessments which affect the development; and a statement of the existing use of adjoining lands;

(10) A statement that the lots, parcels, units or interests in the development will be offered to the public, and that responses to applications will be made without regard to marital status, sex, race, creed, or national origin;

(11) A statement of the present condition of access to the development, the existence of any unusual conditions relating to noise or safety, which affect the development and are known to the developer, the availability of sewage disposal facilities and other public utilities including water, electricity, gas, and telephone facilities in the development to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

(12) In the case of any conversion an engineering survey shall be required, which shall include mechanical, structural, electrical and engineering reports to disclose the condition of the building;

(13) In the case of any development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality;

(14) A narrative description of the promotional plan for the disposition of the lots, parcels, units or interests in the development, together with copies of all advertising material which has been prepared for public distribution, and an indication of their means of communication;

(15) The proposed public offering statement;

(16) A current financial statement, which shall include such information concerning the developer as the agency deems to be pertinent, including but not limited to, a profit and loss statement certified by an independent public accountant and information concerning any adjudication of bankruptcy during the last five years against the developer, or any principal owning more than 10% of the interest in the development at the time of filing, provided, however, that this shall not extend to limited partners, or others whose interests are solely those of investors;

(17) Copies of instruments creating easements or other restrictions;

(18) A statement of the status of compliance with the requirements of all laws, ordinances, regulations, and other requirements of governmental agencies having jurisdiction over the premises;

(19) Such other information, documentation, or certification as the agency deems necessary in furtherance of the protective purposes of this act.

b. The information contained in any application for registration and copies thereof, shall be made available to interested parties at a reasonable charge and under such regulations as the agency may prescribe.

c. A developer may register additional property pursuant to the same common promotional plan as those previously registered by submitting another application, providing such additional information as may be necessary to register the additional lots, parcels, units or interests, which shall be known as a consolidated filing.

d. The developer shall immediately report any material changes in the information contained in an application for registration. The term "material changes" shall be further defined by the agency in its regulations.

e. The application shall be accompanied by a fee in an amount equal to $500.00 plus $35.00 per lot, parcel, unit, or interest contained in the application, which fees may be used by the agency to partially defray the cost of rendering services under the act. If the fees are insufficient to defray the cost of rendering services under P. L. 1977, c. 419 (C. 45:22A–21 et seq.), the agency shall, by regulation, establish a revised fee schedule. The revised fee schedule shall assure that the fees collected reasonably cover but do not exceed the expenses and administration of implementing P. L. 1977, c. 419 (C. 45:22A–21 et seq.).

2. This act shall be effective immediately and shall be retroactive to August 16, 1982.

Approved July 13, 1983.

CHAPTER 266

AN ACT concerning the qualification of bidders pursuant to the "Public School Contracts Law," and amending sections 18A:18A–15, 18A:18A–26, 18A:18A–27 and 18A:18A–32 of the New Jersey Statutes.

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

1. N. J. S. 18A:18A–15 is amended to read as follows:

Specifications generally.

18A:18A–15. Specifications generally. Any specifications for an acquisition under this chapter, whether by purchase, contract or agreement, shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this chapter may:

a. Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the purchase, contract or agreement is made; or

b. Require that any bidder be a resident of, or that his place of business be located in, the county or school district in which the purchase will be made or the contract or agreement performed, unless the physical proximity of the bidder is requisite to the efficient and economical purchase or performance of the contract or agreement; or

c. Discriminate on the basis of race, religion, sex, national origin; or

d. Require, with regard to any purchase, contract or agreement, the furnishing of any "brand name," but may in all cases require "brand name or equivalent," except that if the materials to be supplied or purchased are patented or copyrighted, such materials or supplies may be purchased by specification in any case in which the resolution authorizing the purchase, contract, sale or agreement so indicates, and the special need for such patented or copyrighted materials or supplies is directly related to the performance, completion or undertaking of the purpose for which the purchase, contract or agreement is made; or

e. Fail to include any option for renewal, extension, or release which the board of education may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract or agreement.

The specifications for every contract for public work, the entire cost whereof will exceed $20,000.00 shall provide that the board of education, through its authorized agent, shall upon completion of the contract report to the department as to the contractor's performance, and shall also furnish such report from time to time during performance if the contractor is then in default.

Any specification adopted by the board of education which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect and such purchase, contract or agreement shall be readvertised, and the original purchase, contract or agreement shall be set aside by the board of education.

2. N. J. S. 18A:18A–26 is amended to read as follows:

Classification of bidders as requisite to bidding.

18A:18A–26. Classification of bidders as requisite to bidding. Every board of education shall require that all persons proposing to bid on any contract requiring public advertisement for bids with

the board for public work, the entire cost whereof will exceed $20,000.00, shall first be classified in accordance with article 6 of this chapter as to the character and amount of public work on which they shall be qualified to submit bids. So long as such requirement is in effect, the board of education shall accept such bids only from persons qualified in accordance with such classification.

3. N. J. S. 18A:18A–27 is amended to read as follows:

Authority of State Board of Education to adopt regulations providing for qualification of bidders.

18A:18A–27. Authority of State Board of Education to adopt regulations providing for qualification of bidders. The State Board of Education may establish reasonable regulations appropriate for controlling the qualifications of prospective bidders upon contracts for public work, the entire cost whereof will exceed $20,000.00, by the amount, class or category of work to be performed or materials and supplies to be furnished or hired which may fix the qualifications required according to the financial ability and experience of the bidders and the capital and equipment available to them pertinent to and reasonably related to the class or category of work to be performed or materials and supplies to be furnished or hired in the performance of any such contract, and may require each bidder to furnish a statement thereof.

Such regulations shall be written in a manner:

a. Which will not unnecessarily discourage full, free and open competition; or

b. Which will not unnecessarily restrict the participation of small business in the public bidding process; or

c. Which will not create undue preferences; or

d. Which will not violate any other provision of this chapter, or any other law.

No qualification rating of any bidder shall be influenced by his race, religion, sex, national origin, nationality or his place of residence.

In lieu of adopting any qualification regulation under this section, the State Board may, in whole or in part, delegate by regulation to the Department of the Treasury or other appropriate State agency with its consent, the authority to qualify bidders subject to this article.

"Department," as used in this article, shall mean the Department of Education, Department of the Treasury or other State

agency to which the authority to qualify bidders has been delegated by the State Board.

Such regulations shall not be effective unless they have been adopted as provided in the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

4. N. J. S. 18A:18A–32 is amended to read as follows:

Bidders not submitting statements within one year ineligible to bid; affidavit of no change in status to accompany bid; reports as to performance, etc.

18A:18A–32. Bidders not submitting statements within one year ineligible to bid; affidavit of no change in status to accompany bid; reports as to performance, etc. No person shall be qualified to bid on any public work contract with the board of education, the entire cost whereof will exceed $20,000.00, who shall not have submitted a statement as required by N. J. S. 18A:18A–28 within a period of one year preceding the date of opening of bids for such contract. Every bidder shall submit with his bid an affidavit that subsequent to the latest such statement submitted by him there has been no material adverse change in his qualification information except as set forth in said affidavit.

5. This act shall take effect immediately.

Approved July 14, 1983.

CHAPTER 267

AN ACT concerning the imposition of fees and taxes on the disposal of solid waste, and supplementing the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39, C. 13:1E–1 et seq.).

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

C. 13:1E-123 Tax exemption for solid waste from federal agencies.

1. The provisions of P. L. 1981, c. 278 (C. 13:1E–92 et seq.) or P. L. 1981, c. 306 (C. 13:1E–100 et seq.) to the contrary notwithstanding, no tax or fee shall be levied upon the owner or operator of a sanitary landfill facility for the acceptance for disposal of solid waste generated exclusively by any agency of the federal

government, if the solid waste collector who transports that solid waste to the sanitary landfill facility submits to the owner or operator thereof an itemized invoice to that federal agency, signed and verified by a duly authorized officer of the agency, indicating the number of cubic yards of solid waste to be disposed of, and if that owner or operator attaches a copy of that invoice with the monthly tax return filed pursuant to the aforecited acts.

C. 13:1E-124 Applicable only to prior contracts.

2. The exemption provided for in this supplementary act shall apply only to solid waste collected pursuant to contracts signed prior to January 1, 1982. The solid waste collector, at his initial disposal of the exempt waste, shall submit to the owner or operator of the sanitary landfill facility a copy of his contract with an agency of the federal government indicating an effective date of the contract prior to January 1, 1982. The owner or operator of the sanitary landfill facility, at his initial request for the exemption provided for in this act, shall submit the contract with the monthly tax return filed pursuant to the acts cited in section 1 of this act.

C. 13:1E-125 Not retroactive.

3. Nothing herein provided shall be construed to authorize a refund of taxes paid or to relieve any tax liability incurred prior to the effective date of this act.

4. This act shall take effect immediately.

Approved July 14, 1983.

CHAPTER 268

AN ACT conferring police powers on federal law enforcement officers in certain circumstances, and supplementing chapter 154 of Title 2A of the New Jersey Statutes.

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

C. 2A:154-5 State police powers conferred on federal officers.

1. The following persons employed as full-time law enforcement officers by the federal government, who are empowered to effect an arrest with or without warrant for violations of the United

States Code and who are authorized to carry firearms in the performance of their duties, shall be empowered to act as an officer for the arrest of offenders against the laws of this State where the person reasonably believes that a crime of the first, second or third degree is or is about to be committed or attempted in his presence:

Federal Bureau of Investigation special agents;

United States Secret Service special agents;

Immigration and Naturalization Service special agents, investigators and patrol officers;

United States Marshal Service deputies;

Drug Enforcement Administration special agents;

United States Postal inspectors;

United States Customs Service special agents, inspectors and patrol officers;

United States General Services Administration special agents;

United States Department of Agriculture special agents;

Bureau of Alcohol, Tobacco and Firearms special agents;

Internal Revenue Service special agents and inspectors.

2. This act shall take effect immediately.

Approved July 14, 1983.

CHAPTER 269

AN ACT concerning juvenile proceedings and the establishment of the family court and amending P. L. 1982, c. 77, P. L. 1982, c. 78, P. L. 1982, c. 79, P. L. 1982, c. 80, P. L. 1982, c. 81 and P. L. 1982, c. 185.

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

1. Section 34 of P. L. 1982, c. 77 is amended to read as follows:

34. This act shall take effect on December 31, 1983; provided, however, that subsection c. of section 24 of this act shall expire 48 months following the effective date of this act.

2. Section 17 of P. L. 1982, c. 78 is amended to read as follows:

17. This act shall take effect on December 31, 1983, except that any appointment, any confirmation of any appointment, and any action permitted or required by this act and necessary to implement this act as of such date may be made or undertaken prior to such date.

3. Section 4 of P. L. 1982, c. 79 is amended to read as follows:

4. This act shall take effect on December 31, 1983.

4. Section 18 of P. L. 1982, c. 80 is amended to read as follows:

18. This act shall take effect on December 31, 1983, except for section 17 which shall take effect immediately.

5. Section 16 of P. L. 1982, c. 80 (C. 2A:4A–91) is amended to read as follows:

C. 2A:4A-91 Youth services planning.

16. Youth services planning. By September 1, 1983 the governing body of each county, in conjunction with the county department or such other persons designated by the county charged with responsibility for planning for youth services, shall submit to the Commissioner of the Department of Human Services a comprehensive plan for the provision of community services and programs to meet the needs of children under the jurisdiction of the Family Court and the provisions of this act and which shall be developed within the limits of fiscal and other resources available to the county.

a. The comprehensive plan shall include:

(1) A description of the various community resources currently available within the county to provide programs and services to children under the jurisdiction of the court and this act;

(2) A description of county facilities for juveniles and the population they serve, including current rates of utilization of facilities based upon population;

(3) A detailed plan for providing increased programs and services including anticipated costs and a description and timetable for implementation. The plan shall specify what programs and services are to be provided, the target populations to be served, and which agencies are to provide services. The plan may involve provision of programs and services by the county, by an agreement with a State agency, by private organizations including volunteer groups, or by some specified combination of the above.

b. Programs and services provided to children and families shall be designed to meet the unique needs of juveniles under the juris-

diction of the court and this act and shall be designed to strengthen families, consistent with the physical safety and mental well-being of the juvenile, and avoid, reduce, or provide alternatives to institutional placements. Programs and services may include home detention projects, day treatment programs, juvenile-family crisis counseling team, Host Home projects, family support networks, truancy prevention programs, neighborhood multi-service centers and other community based alternative programs.

c. In determining whether to approve a comprehensive plan under this act, the commissioner shall consider whether the plan is designed to meet the needs of children and families under the jurisdiction of the court and this act, whether the plan is consistent with the goals of family and community based treatment, and whether implementation of the plan is feasible. Each county plan submitted to the commissioner shall be presumed valid; provided that it is in substantial compliance with the provisions of this section. Where the commissioner fails to approve a county plan, the county may request a court hearing on that determination.

d. The governing body of each county, in conjunction with the county department or such other persons designated by the county charged with responsibility for youth services, shall establish a citizens' advisory committee to assist the governing body in development of the comprehensive plan. The advisory committee shall consist of no less than 12 nor more than 20 members and shall be appointed by the governing body. The committee shall include representatives from among the judges assigned to the family part of the Superior Court for the county and of the county governing body, the county prosecutor or his designee, the district offices of the Division of Youth and Family Services, a wide range of public and private child and family organizations, including schools, mental health, family counseling and other organizations, persons involved in alternative projects and other individuals with interest or experience in issues concerning children and families. Each committee shall, to the maximum extent feasible, represent the various socioeconomic, racial and ethnic groups of the county in which it serves.

e. Not less than 30 days prior to the submission of the comprehensive plan or any amendment thereto to the commissioner for approval, the governing body of the county shall give public notice of its intention to submit a plan and shall make copies of the draft plan available for public comment. The county shall implement the comprehensive plan promptly upon approval by the commissioner.

f. The commissioner shall monitor the operation of the programs and services provided pursuant to this act. Monitoring shall be limited to a determination as to whether each county is implementing the county comprehensive plan.

g. Pursuant to the adoption of the comprehensive plan for youth services, the governing body of each county, in conjunction with the county department charged with the responsibility for youth services and the citizens' advisory committee as established under subsection d. of this section, shall submit a comprehensive plan for youth services including a needs assessment and resource inventory of youth services in the county to the commissioner for approval every third year. Every effort shall be made to gain public involvement in the development of a youth services plan for each county.

6. Section 7 of P. L. 1982, c. 81 is amended to read as follows:

7. This act shall take effect on December 31, 1983.

7. Section 5 of P. L. 1982, c. 185 is amended to read as follows:

5. This act shall take effect immediately, except section 4 shall take effect on December 31, 1983 and sections 1, 2 and 3 shall expire on December 31, 1983.

8. Section 3 of P. L. 1983, c. 140 is amended to read as follows:

3. This act shall take effect immediately, except section 2 shall take effect on December 31, 1983 and section 1 shall expire on December 31, 1983.

9. This act shall take effect immediately.

Approved July 14, 1983.

CHAPTER 270

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, 1983 and regulating the disbursement thereof," approved June 30, 1982 (P. L. 1982, c. 49).

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 State moneys to support the expenditures listed below are available, the following sum is appropriated:

STATE FUNDS

DEPARTMENT OF HEALTH

Physical and Mental Health

21 Health Services

03-4230	Communicable Disease Control	$530,000

Special Purpose:
Joint research with the University of Medicine and Dentistry of New Jersey into the problem of Acquired Immune Deficiency Syndrome (AIDS) ..... ($530,000)

2. This act shall take effect immediately.

Approved July 14, 1983.

CHAPTER 271

AN ACT concerning certain contracts with towing services 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. 39:4-56.8 Definitions; debris removal mandated.

1. a. As used in this act:

(1) "Public entity" means the State, and any county, municipality, district, or political subdivision and any authority, agency, board or body thereof.

(2) "Public road or highway" means every street, road or highway open to the use of the public for the purpose of vehicular travel.

(3) "Private entity" means any entity other than a public entity with jurisdiction over a road or highway in the State open to the use of the public.

b. Any towing service under contract to a public or private entity to tow disabled motor vehicles which, after being called upon to remove a disabled motor vehicle, fails to remove from public roads or highways any motor vehicle debris or material in the area surrounding that vehicle shall be subject to a fine of not less than $25.00 nor more than $50.00 if the debris or material is likely to cause injury to a person operating a motor vehicle or substantial damage to another motor vehicle. A towing service shall not be required to remove any debris or material which may be hazardous such as oil, gasoline, kerosene or other petroleum or chemical products, or debris or material which the service is not equipped to remove.

2. This act shall take effect immediately.

Approved July 18, 1983.

CHAPTER 272

AN ACT concerning the authorization, acquisition, financing and operation of a food distribution center in the Hackensack Meadowlands District, providing for the creation and establishment of the Hackensack Meadowlands Food Distribution Center Commission as a public body corporate and politic to undertake the same, for the issuance of bonds and other obligations therefor, and for the charges and other means to meet the expense thereof and repealing P. L. 1960, c. 18.

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

C. 13:17A-1 Short title.

1. This act shall be known and may be cited as the "Hackensack Meadowlands Food Distribution Center Commission Law."

C. 13:17A-2 Food distribution center commission.

2. It is declared to be in the public interest and to be the policy of the State and municipalities to foster and promote by all reasonable means the provision of a food distribution center within the Hackensack Meadowlands District for use by the public in the expeditious handling, storage and marketing of agricultural and

horticultural products, meat, fish, foods, and other products and commodities and reduce and eliminate the shortage of facilities which has resulted in undue losses, spoilage and waste of agricultural and horticultural products, meat, fish, foods and other products and commodities and increased costs of public consumers, and to promote the public health, welfare, betterment and convenience and reduce the impairment of any of the aforesaid resulting from lack of proper public marketing facilities which cannot be adequately obtained except by exercise of the powers of government. The Hackensack Meadowlands Development Commission is currently undertaking a study to determine the feasibility of a food distribution center in the vicinity of the Hackensack Meadowlands District. In the event that study determines that such a facility is feasible it is the purpose and object of this act to further and implement this policy by:

a. Empowering a food distribution center commission to acquire, construct, maintain, operate and improve a market facility at a site selected as hereinafter provided;

b. Authorizing the making of charges for the use or the services of the facility, and providing for the establishment, collection and enforcement of the charges;

c. Establishing a food distribution center commission as a body corporate and politic to have full responsibility and powers with respect to the facility and the establishment, collection, enforcement, use and disposition of the charges for the use or services of the facility;

d. Authorizing the food distribution center commission to provide for the financing of the facility, for the issuance of bonds of the commission therefor, and for the payment and security of the bonds; and

e. Granting to the commission discretionary powers to provide for the food distribution center and to obtain funds to defray the cost thereof from the users of the facility or from the federal government, or states, counties or municipalities or from other persons contracting for or with respect to the same.

C. 13:17A-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

"Bonds" means bonds or other obligations issued pursuant to this act;

"Commission" means the Hackensack Meadowlands Food Distribution Center Commission created by this act;

"Construct" and "construction" mean construction, reconstruction, replacement, extension, improvement and betterment;

"Cost" means the cost of the acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, or other improvement; the cost of machinery and equipment; the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of 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 commission 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; cost of financial, legal, professional and other estimates and advice; organization, administrative, insurance, operating and other expenses of the commission 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 commission may determine;

"County" means any county of any class;

"District" means the Hackensack Meadowlands District as defined in section 4 of P. L. 1968, c. 404 (C. 13:17–4);

"Facility charges" means the charges authorized by section 13 of this act;

"Governing body" means, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality, and, in the case of a county, the board of chosen freeholders, or, in the case of a county having adopted the provisions of the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A–1 et seq.), as defined in the form of government adopted by the county under that act;

"Local unit" means any municipality in which the site for the proposed food distribution center is to be located;

"Market facility" or "food distribution center" means all real and personal property acquired, constructed or operated by the commission at the site selected as hereinafter provided, for the purposes

of the commission, including plants, storage and processing facilities, port facilities, buildings, sheds, accommodations, access areas and roadways, equipment, devices, appurtenances and all other facilities, structures and projects, whether on, above or under the ground, and all other real and personal property and incidental rights therein and appurtenances thereto necessary or useful and convenient for any of the aforesaid;

"Mayor" means the chief elected executive officer of the municipality, whether elected directly by the voters or selected by the governing body of the municipality;

"Person" means any person or other entity, real or artificial, public or private, other than a State, county or a municipality;

"Real property" means lands both within and without the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein.

C. 13:17A-4 Designation of site; establishment of commission.

4. a. By December 31, 1983 the Hackensack Meadowlands Development Commission shall identify an appropriate site, if any, for a food distribution center within the Hackensack Meadowlands District and shall advise the Governor on whether the center is compatible with its master plan and is needed within the district. Upon receipt of this advice from the Hackensack Meadowlands Development Commission or in any event after December 31, 1983, the Governor may designate an appropriate site within the Hackensack Meadowlands District for a food distribution center and establish the Hackensack Meadowlands Food Distribution Center Commission. The site designated by the Governor need not be the site selected by the Hackensack Meadowlands Development Commission.

b. The commission is established in, but not of, the Department of Community Affairs and constituted a body politic and corporate and an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and the exercise by the commission of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

c. The commission shall consist of eleven members to be appointed as follows:

(1) The Commissioner of the Department of Community Affairs, who shall be a member ex officio;

(2) The Secretary of the Department of Agriculture, who shall be a member ex officio;

(3) The State Treasurer, who shall be a member ex officio;

(4) The Commissioner of the Department of Commerce and Economic Development, who shall be a member ex officio;

(5) Two members of the Hackensack Meadowlands Development Commission, to be appointed by the Governor;

(6) Three members to be appointed by the Governor to represent the municipalities in which the site for the food distribution center is located. The members shall be selected from names submitted by the mayors of the municipalities and may include the mayors themselves; and

(7) Two public members, to be appointed by the Governor.

The members first appointed pursuant to subsections (6) and (7) above shall be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the dates of their appointments. Subsequent appointments shall be for a term of five years.

Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member of the commission shall be eligible for reappointment.

d. Each ex officio member of the commission may designate an officer or employee of his department to represent him at meetings of the commission, and each designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any designation shall be in writing, delivered to the commission and shall continue in effect until revoked or amended by writing, delivered to the agency.

e. Each member of the agency before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of these oaths shall be filed in the office of the Secretary of State.

f. Any vacancies in the membership of the commission occurring other than by expiration of term shall be filled in the same manner as the original appointments but for the unexpired terms only.

g. A true copy of the minutes of every meeting of the commission shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the commission shall have force or effect until 10 days, Saturday, Sundays, and public holidays excepted, after the copy

of the minutes shall have been so delivered, unless during the 10-day period the Governor shall approve the same, in which case such action shall become effective upon the approval. If, in said 10-day period, the Governor returns the copy of the minutes with veto of any action taken by the commission or any member thereof at the meeting, the action shall be null and void and of no effect. The Governor may approve all or part of the action taken at the meeting prior to the expiration of the said 10-day period.

C. 13:17A-5 Meetings; quorum.

5. The powers of the commission shall be vested in the members thereof in office from time to time. A majority of the entire authorized membership, which shall include at least two ex officio members, of the commission shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commission at any meeting of the members thereof by vote of a majority of the members present (which shall include at least two ex officio members), unless in any case the bylaws of the commission shall require a larger number. The commission may delegate to one or more of its officers, agents or employees any powers and duties as it may deem proper.

No vacancy in the membership of the commission shall affect the right of the quorum to exercise all the rights and perform all the duties of the commission.

C. 13:17A-6 Officers.

6. The Governor shall designate one of the members of the commission as chairman. The commission shall elect from its members a vice-chairman. The commission shall elect a secretary and a treasurer, who need not be members; but the same person may be elected to serve both as secretary and treasurer.

C. 13:17A-7 Reimbursement for expenses.

7. The members of the commission shall serve without compensation, but the commission may reimburse its members for necessary expenses incurred in the discharge of their duties. No member of the commission shall receive any compensation of any kind from the commission except as authorized by this section.

C. 13:17A-8 No self-dealing.

8. No member, officer or employee of the commission shall have or acquire any interest, direct or indirect, in the market system or in any contract or proposed contract for materials or services to be furnished to or used by the commission. Neither the holding of

any office or employment in the government of any county or municipality or of the State nor the owning of any other property within the State nor being engaged in any business or enterprise involving the handling, storage and marketing of agricultural or horticultural products, meat, fish, foods or similar products and commodities shall be deemed a disqualification for membership in or employment by the commission, and members of the governing body of a municipality may be appointed and may serve as members of the commission.

C. 13:17A-9 Removal of member.

9. A member of the commission may be removed by the Governor for incapacity, inefficiency or neglect of duty or misconduct in office or other disqualifying cause and after he shall have been given a copy of the charges against him and afforded a hearing, in person or by counsel, but not sooner than 10 days after receiving a copy of the charges. The member may be suspended by the Governor pending the completion of the hearing.

C. 13:17A-10 Dissolution.

10. The commission may be dissolved by law on condition that the commission has no debts or obligations outstanding or on condition that provision has been made for the payment or retirement of its debts and obligations. Upon dissolution of the commission, all property, funds and assets thereof shall be vested in the State. The commission may request dissolution upon its finding that its development or operation of the food distribution center is not feasible.

C. 13:17A-11 Purposes; acquisition of facilities; approval of plans.

11. a. The purposes of the commission shall be: (1)providing a food distribution center for the use of the public at the site selected, after a finding that the market facility is feasible; and (2) making the facility available to the public for the handling, storage and marketing of agricultural and horticultural products, meat, fish, foods and other products and commodities.

b. The commission is authorized, subject to the limitations of this act, to acquire in its own name, by purchase, gift, condemnation or otherwise, and notwithstanding the provisions of any charter, ordinance or resolution of any political subdivision of this State to the contrary, except as provided in section 25, to construct, maintain, operate and use the market facility, and any plants, storage and processing facilities, buildings, sheds, accommodations, access areas and roadways, port facilities, equipment,

devices, appurtenances and other facilities and structures, within and without the State, as in the judgment of the commission will provide an effective and satisfactory method for promoting the purpose of the facility.

c. The plans and specifications for the market facility shall be approved by the Hackensack Meadowlands Development Commission in accordance with the standards and criteria contained in the district's master plan and zoning regulations.

C. 13:17A-12 Additional powers.

12. The commission shall have the following additional powers:

a. To adopt and have a common seal and to alter the same at pleasure;

b. To sue and be sued;

c. To acquire, hold, use and dispose of its charges and other revenues and other moneys;

d. To acquire, rent, hold, use and dispose of other personal property for the purposes of the commission, and to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements therein necessary or useful and convenient for the purposes of the commission, whether subject to mortgages, deeds of trust or other liens, or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the commission;

e. To grant by franchise, lease or otherwise the use of any project, facilities or property owned and controlled by it to any person for any consideration and for any period or periods of time and upon any other terms and conditions as it may fix and agree upon. Any grant may be upon condition that the user shall or may construct or provide any buildings or structures or improvements on project facilities or property, or portions thereof, all upon terms and conditions as may be agreed upon;

f. To borrow money and to issue bonds of the commission and to provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

g. To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the commission from any person, county or municipality, including the United States or any agency thereof, and to make and perform agreements and contracts and to do any and all things

necessary or desirable in connection with the procuring, acceptance or disposition of gifts or grants;

h. To determine the exact location, type and character of all matters in connection with all or any part of the food distribution center which it is authorized to own, construct, establish, effectuate or control and to enter on any lands, waters or premises for the purpose of making surveys, diagrams, maps or plans or for the purpose of making soundings or borings as it deems necessary or convenient;

i. To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of the market facility and any other of its properties, and to amend the same;

j. To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any person;

k. To acquire, purchase, construct, lease, operate, maintain and undertake any project and to make service charges for the use thereof;

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

m. To engage in the sale of goods and commodities in and upon its market facility if in the opinion of the commission the sale will promote the public convenience and assist in defraying the expenses of the commission;

n. To engage in research, studies and experimentation and to make recommendations concerning the handling, storage and marketing of agricultural and horticultural products, meat, fish, foods and other products and commodities;

o. To provide security and protection at the market facility site of the property of the facility and all persons associated with it and to contract with the State or the municipality, or with any person, for the provision of any service or services necessary or beneficial to the accomplishment of that end; and

p. To enter into a contract with any political subdivision of the State or any person for the joint development and operation of a public market facility and to include in the contract provisions apportioning the costs and expenses of the facility and the manner in which any fees will be distributed between the contracting parties;

q. To enter into contracts with a person upon such terms and conditions as the commission shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the market facility and to pay or compromise any claims arising therefrom;

r. To establish and maintain reserve and insurance funds with respect to the financing of the market facility;

s. To mortgage, pledge or assign or otherwise encumber all or any portion of the market facility or revenues, whenever it shall find such action to be in furtherance of the purposes of this act;

t. To grant options to purchase or renew leases for all or any portion of its property on such terms as the commission may determine to be reasonable;

u. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

v. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

w. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the commission to carry out the purposes of the act and to fix and pay their compensation from funds available to the commission therefor, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes;

x. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

y. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of the market facility, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the commission shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the market facility and the settlement of any claims arising there-

from and the establishment and maintenance of reserve funds with respect to the financing of the market facility.

C. 13:17A-13 Facility charges.

13. The commission is authorized to charge and collect rents, rates, fees or other charges, in this act sometimes referred to as "facility charges," in connection with, or for the use, or services of, its market facility or any part thereof. These facility charges may be charged to and collected from any person, county or municipality using or contracting for the use of all or any part of the market facility, and the person, county or municipality shall be liable for and shall pay these facility charges to the commission at the time when and place where the charges are due and payable.

C. 13:17A-14 Revision of charges.

14. The commission shall prescribe and when necessary revise a schedule of all its facility charges, which schedule shall comply with the terms of any contract of the commission, and the same may be so adjusted that the revenues of the commission will at all times be adequate to pay the expenses of operation and maintenance of the market facility, including reserves, insurance, improvements, replacements, and other required payments, and to pay the principal of and interest on any bonds and to maintain reserves or sinking funds therefor as may be required by the terms of any contract of the commission or as may be deemed necessary or desirable by the commission. A copy of the schedule of service charges in effect shall be a public record.

C. 13:17A-15 Governmental unit appropriations.

15. The State and any county or municipality shall have power, in the discretion of its governing body, to appropriate moneys for the purposes of the commission, and to loan or donate moneys to the commission in installments and upon terms as may be agreed upon with the commission.

C. 13:17A-16 Bond resolution.

16. For the purpose of raising funds to pay the cost of any part of its market facility or for the purpose of funding or refunding any bonds, the commission shall have power to authorize or provide for the issuance of bonds pursuant to this act, by a resolution (in this act sometimes referred to as "bond resolution") which shall:

a. Describe in brief and general terms sufficient for reasonable identification the market facility or part thereof (in this act some-

times called "project") to be constructed or acquired, or describe the bonds which are to be funded or refunded (if any);

b. State the cost or estimated cost of the project (if any); and

c. Provide for the issuance of the bonds in accordance with section 17 of this act.

C. 13:17A-17 Issuance of bonds.

17. Upon adoption of a bond resolution, the commission shall have power to incur indebtedness, borrow money and issue its bonds for the purpose of financing the project or of funding or refunding the bonds described therein. The bonds shall be authorized by the bond resolution and may be issued in one or more series and shall bear a date or dates, mature at a time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates determined by the commission, be in denomination or denominations, be in form, either coupon or registered, carry conversion or registration privileges, have rank or priority, be executed in the manner, be payable from such sources, in any medium of payment, at any place or places within or without the State, and be subject to terms of redemption, with or without premium, as the bond resolution may provide. The commission may issue any types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable: a. exclusively from the income and revenues of the project financed with the proceeds of the bonds; b. exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds; or c. from its revenues generally. Any bonds may be additionally secured by a pledge of any grant or contributions from the federal government, the State or any county or municipality, or a pledge of any income or revenues of the commission or a mortgage of any project, projects or other property of the commission. This act shall be complete authority for the issuance of bonds by the commission, and the provisions of any other law shall not apply to the issuance of these bonds.

C. 13:17A-18 Sale.

18. Bonds of the commission may be sold by the commission at public or private sale at any price or prices as the commission shall determine.

C. 13:17A-19 Public bidding; exceptions.

19. a. All purchases, contracts, or agreements where the cost or contract price exceeds the sum of $7,500.00 shall, except as other-

wise provided in this act, be made, negotiated, or awarded only after public advertisement for bids therefor and shall be awarded to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the commission, in its judgment, upon consideration of price and other factors. Any bid may be rejected when the commission determines that it is in the public interest to do so.

Any purchase, contract, or agreement where the cost or contract price is $7,500.00 or less may be made, negotiated, or awarded by the commission without advertising and in any manner which the commission, in its judgment, deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

b. Any purchase, contract, or agreement where the cost or contract price exceeds $7,500.00 may be made, negotiated, or awarded by the commission without advertisement for bids when the subject matter is that described in subsection c. below or when the purchase, contract, or agreement is made, negotiated, or awarded under the circumstances described in subsection d. below. In any such instance, the commission may make, negotiate, or award the purchase, contract, or agreement in any manner which the commission deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

c. Any purchase, contract, or agreement may be made, negotiated, or awarded pursuant to subsection b. above when the subject matter consists of:

(1) Services which are professional or technical in nature or services which are original and creative in character in a recognized field of artistic endeavor;

(2) Items which are perishable or subsistence supplies;

(3) Items which are specialized equipment or specialized machinery necessary to the conduct of commission business;

(4) Items or services supplied by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges made, charged or exacted by the public utility for those items or services are filed with the board;

(5) Items which are styled or seasonal wearing apparel; or

(6) The lease of such office space, office machinery, specialized equipment, buildings or real property as may be required for the conduct of commission business.

d. Any purchase, contract, or agreement may be made, negotiated, or awarded pursuant to subsection b. above when:

(1) Standardization of equipment and interchangeability of parts is in the public interest;

(2) Only one source of supply or service is available;

(3) The safety or protection of the commission's or other public property requires;

(4) The exigency of the commission's service will not admit of advertisement;

(5) More favorable terms can be obtained from a primary source of supply of an item or service;

(6) Bid prices, after advertising, are not reasonable or have not been independently arrived at in open competition; but no negotiated purchase, contract, or agreement may be entered into under this subsection after the rejection of all bids received unless: (a) notification of the intention to negotiate and reasonable opportunity to negotiate is given to each responsible bidder; (b) the negotiated price is lower than the lowest rejected bid price of a responsible bidder; and (c) the negotiated price is the lowest negotiated price offered by any responsible contractor;

(7) The purchase is to be made from, or the contract is to be made with, the federal or any state government or agency or political subdivision thereof; or

(8) Purchases made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P. L. 1959, c. 40 (C. 52:27B–56.1).

e. In any case where the commission shall make, negotiate, or award a purchase, contract, or agreement without public advertisement pursuant to subsection b. above, the commission shall, by resolution passed by the affirmative vote of a majority of its members, specify the subject matter or circumstances set forth in subsections c. and d. which permit the commission to take such action.

f. Nothing herein shall prevent the commission from having any work done by its own employees.

C. 13:17A-20 Provisions of bond resolution.

20. Any bond resolution of the commission providing for or authorizing the issuance of any bonds may contain provisions and

the commission, in order to secure the payment of bonds and in addition to its other powers, shall have power by provision in the bond resolution to covenant and agree with the several holders of these bonds, as to:

a. The custody, security, use, expenditure or application of the proceeds of the bonds;

b. The construction and completion, or replacement, of all or any part of the market facility;

c. The use, regulation, operation, maintenance, insurance or disposition of all or any part of the market facility, or restrictions on the exercise of the powers of the commission to dispose, or to limit or regulate the use of all or any part of the market facility;

d. Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any bonds or obligations as to any lien or security, or the acceleration of the maturity of any bonds or obligations;

e. The use and disposition of any moneys of the commission, including revenues, in this act sometimes called "facility revenues," derived or to be derived from the operation of all or any part of the market facility, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof or thereafter constructed or acquired;

f. Pledging, setting aside, depositing or trusteeing all or any part of the facility revenues or other moneys of the commission to secure the payment of the principal of or interest on the bonds or any other obligations or the payment of expenses of operation or maintenance of the market facility, and the powers and duties of any trustee with regard thereto;

g. The setting aside out of the facility revenues or other moneys of the commission of reserves and sinking funds, and the source, custody, security, regulation, application and disposition thereof;

h. Determination or definition of the facility revenues or of the expenses of operation and maintenance of the market facility;

i. The rents, rates, fees, or other charges in connection with or for the use of the market facility, including any parts thereof theretofore constructed or acquired and any parts, extensions, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of facility revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

j. The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the market facility or any obligation having or which may have a lien on any part of the facility revenues;

k. Limitations on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the commission;

l. Limitations on the powers of the commission to construct, acquire or operate, or to consent to the construction, acquisition or operation of, any structures or properties which may compete or tend to compete with the project;

m. Vesting in a trustee or trustees any property rights, powers and duties in trust as the commission may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 21 of this act, and limiting or abrogating the right of the holders to appoint a trustee pursuant to section 21 of this act or limiting the rights, duties and powers of the trustee;

n. The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds of holders of which shall consent thereto, and the manner in which their consent may be given or evidenced; or

o. Any other matter or course of conduct which, by recital in the bond resolution, is declared to further secure the payment of the principal of or interest on the bonds and to be part of any covenant or contract with the holders of the bonds.

All provisions of the bond resolution, and all covenants and agreements shall constitute valid and legally binding contracts between the commission and the several holders of the bonds, regardless of the time of issuance of the bonds, and shall be enforceable by any holder or holders by appropriate action, suit or proceeding in any court of competent jurisdiction.

C. 13:17A-21 Default; appointment, powers of trustee.

21. a. If the bond resolution of the commission authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of the series shall be entitled to the benefits of this section, then if there shall be a default in the payment of principal of or interest on any bonds of the series after the same shall become due, whether at maturity or upon call for redemption, and if any default shall continue for a period of 30 days, or if the commission shall fail or refuse to comply

with any of the provisions of this act or shall fail or refuse to carry out and perform the terms of any contract with the holders of any bonds, and if the failure or refusal shall continue for a period of 30 days after written notice to the commission of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of the series then outstanding, by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds of the series for the purposes provided in this section.

b. The trustee may, and upon written request of the holders of 25% in the aggregate principal amount of the bonds of a series then outstanding shall, in his or its own name:

(1) By any action, or other proceeding, enforce all rights of the holders of the bonds, including the right to require the commission to charge and collect facility charges adequate to carry out any contract as to, or pledge of, facility revenues, and to require the commission to carry out and perform the terms of any contract with the holders of the bonds or its duties under this act;

(2) Bring an action upon all or any part of the bonds or interest coupons or claims appurtenant thereto;

(3) By action, require the commission to account as if it were the trustee of an express trust for the holders of the bonds;

(4) By action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds; or

(5) Declare all bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the commission, but, if all defaults shall be made good within not more than 30 days thereafter, if so provided in the bond resolution, shall annul the declaration and its consequences.

c. The trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds of any series in the enforcement and protection of their rights.

d. In any action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, appointed pursuant to this act, shall, if allowed by the court, con-

stitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be first charged upon any service charges and facility revenues of the commission pledged for the payment or security of bonds of the series.

C. 13:17A-22 Receivership.

22. If the bond resolution of the commission authorizing or providing for the issuance of a series of its bonds shall provide in substance that the holders of the bonds of the series shall be entitled to the benefits of section 21 of this act and shall further provide in substance that any trustee appointed pursuant to said section or having the powers of a trustee, then the trustee, whether or not all of the bonds of the series shall have been declared due and payable, shall be entitled to the appointment of a receiver of the market facility, and the receiver may enter upon and take possession of the market facility and, subject to any pledge or contract with the holders of the bonds, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or reconstruction of the market facility and proceed with any acquisition, construction, operation, maintenance or reconstruction which the commission is under any obligation to do, and operate, maintain and reconstruct the market facility, and fix, charge, collect, enforce and receive the facility charges and all facility revenues thereafter arising, subject to any pledge thereof or contract with the holders of bonds relating thereto, and perform the public duties and carry out the contracts and obligations of the commission in the same manner as the commission itself might do and under the direction of the court.

C. 13:17A-23 No personal liability.

23. Neither the members of the commission nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State, and the bonds shall so state, and bonds or other obligations issued by the commission pursuant to this act shall not be in any way a debt or liability of the State or of any county or municipality and shall not create or constitute any indebtedness, liability or obligation of the State or of any county or municipality, except of a county or municipality which in accordance with this act shall have guaranteed payment of the principal of and interest on the bonds. Nothing in this act contained shall be construed to authorize the commission to incur any

indebtedness on behalf of or except as in this act expressly provided.

C. 13:17A-24 Site of market facility.

24. The market facility shall be located at a site within the area selected by the Governor, as provided in section 4 of this act.

C. 13:17A-25 Power of eminent domain.

25. The commission is empowered, in its own name, to acquire by purchase, gift, grant or devise and to take for public use real property within the market facility which may be deemed by the commission to be necessary for its purposes, including public lands and property, hereinafter in this section called "public lands," in which any county, municipality or political subdivision has any right, title or interest and to the acquisition of which it shall have consented. Whenever the commission has determined that it is necessary to take any real property for facility purposes by the exercise of the power of condemnation, as hereinafter provided, it shall prepare two copies of diagrams, maps or plans designating the general area in the district in which real property is to be acquired, and file one copy thereof in its office and the other copy thereof in the office of the clerk of the local unit. The commission is empowered to acquire and take real property by condemnation, in the manner provided by the "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3–1 et seq.), and to that end, may invoke and exercise in the manner or mode of procedure prescribed in said act; provided, however, that, notwithstanding the foregoing or any other provision of this act, the commission shall not institute any proceeding to acquire or take by condemnation any real property within the designated area in the local unit referred to above in this section until after the date of filing in the office of the clerk of the local unit of a certified copy of: a. a resolution of the commission, stating the finding of the commission that it is necessary or convenient to acquire real property in said designated area for facility purposes, and b. a resolution of the governing body of the local unit, expressing its consent to the acquisition of real property in said designated area.

C. 13:17A-26 Removal, relocation of public utility facilities.

26. In addition to other powers conferred by this act or by any other law, and not in limitation thereof, the commission, in connection with construction or operation of any part of its market facility, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation

and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances, herein called "facilities," of any public utility, as defined in R. S. 48:2–13, in, on, along, over or under any real property of the commission. Whenever, in connection with construction or operation of any part of the market facility, the commission shall determine that it is necessary that any facilities located in, on, along, over or under any real property should be relocated in the real property, or should be removed therefrom, the public utility owning or operating the facilities shall relocate or remove the same, in accordance with the order of the commission; provided, however, that the cost and expenses of relocation or removal, including the cost of installing these facilities in a new location, or new locations, and the cost of any lands or any rights or interests in lands, or any other rights acquired to accomplish the relocation or removal less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of the property, shall be paid by the commission and may be included in the cost of the market facility. In case of any relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns may maintain and operate the facilities, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in their former location.

C. 13:17A-27 Powers of county, municipality.

27. a. For the purpose of aiding and cooperating in the planning, undertaking, acquisition, construction or operation of any project of the commission, any county or any municipality may: a. acquire real property in its name for any project; or for the widening of existing roads, streets, parkways, avenues or highways; or for new roads, streets, parkways, avenues or highways to any project; or partly for these purposes and partly for other county or municipal purposes, by purchase or condemnation, in the manner provided by law for the acquisition of real property by the county or municipality; b. furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake; and c. do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of any project, and cause services to be furnished to the commission

of the character which the county or municipality is otherwise empowered to furnish, and to incur the entire expense thereof.

b. Nothing in this act shall be construed in derogation of the powers granted to the Hackensack Meadowlands Development Commission in P. L. 1968, c. 404 (C. 13:17–1 et seq.).

C. 13:17A-28 Conveyance of property to commission.

28. Any county or municipality, by ordinance or resolution, as appropriate, of its governing body, or any other person is empowered, without any referendum or public or competitive bidding, to sell, lease, lend, grant or convey to the commission, or to permit the commission to use, maintain or operate as part of its market facility, any real or personal property owned by it, which may be necessary or useful and convenient for the purposes of the commission and accepted by the commission. Any sale, lease, loan, grant, conveyance or permit may be made with or without consideration, and for a specified or an unlimited period of time, and under any agreement and on any terms and conditions which may be approved by the county, municipality or other person and which may be agreed to by the commission, in conformity with its contracts with the holders of any bonds. Subject to any contracts with holders of bonds, the commission may enter into and perform any and all agreements with respect to property so accepted by it, including agreements for the assumption of principal or interest or both of indebtedness of the county, municipality or other person, or of any mortgage or lien existing with respect to the property, or for the operation and maintenance of the property as part of the market facility.

C. 13:17A-29 Financing by counties, municipalities.

29. Any county or any municipality shall have power from time to time, pursuant to proper resolution or ordinance of its governing body, and for any period and upon any terms, with or without consideration, as may be provided in the resolution or ordinance and accepted by the commission: a. to appropriate money for all or any part of the cost of acquisition or construction of any project of the commission and, in accordance with the limitations and any exceptions thereto and in the manner or mode of procedure prescribed by the "Local Bond Law," chapter 2 of Title 40A of the New Jersey Statutes or any supplement to or revision thereof hereafter adopted, to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of financing any project and appropriation, and to pay the proceeds of the bonds to the commission; b. to covenant and agree with the commission to pay to

or on the order of the commission annually or at shorter intervals as a subsidy for the promotion of its purposes not exceeding the sums of money as may be stated in the resolution or ordinance; and c. upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform and after appropriation of the moneys necessary for performance, to covenant and agree with the commission to do and perform any act or thing, and as to the time, manner and other details of its doing and performance.

C. 13:17A-30 Payment of obligations.

30. Every person, county or municipality which shall make any contract, covenant or agreement with the commission, or a pledge to the commission pursuant to this act, is authorized and directed to do any and all acts or things necessary, convenient or desirable to carry out the same and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations. Any contract, covenant, agreement or pledge, and any instruments making or evidencing the same, may be pledged or assigned by the commission to secure its bonds, and thereafter may not be modified except as provided by the terms of the instrument or by the terms of the pledge or assignment.

C. 13:17A-31 Guaranty of bonds.

31. For the purpose of aiding the commission in the planning, undertaking, acquisition, construction or operation of all or any part of the market facility, the county in which the site of the market facility is located, and any municipality may, pursuant to resolution or ordinance duly adopted by its governing body, after notice published in the manner provided for a resolution or ordinance authorizing bonds of the county or municipality pursuant to the "Local Bond Law" (N. J. S. 40A:2–1 et seq.), and with or without consideration, and upon terms and conditions as may be agreed to by and between any county or municipality and the commission, unconditionally guarantee to the punctual payment of the principal of and interest on any bonds of the commission. Any guaranty of bonds of the commission made pursuant to this section shall be evidenced by endorsement thereof of the bonds, executed in the name of the county or municipality and on its behalf by an officer thereof as may be designated in the resolution or ordinance authorizing the guaranty, and the county or municipality shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner

and to the same extent as in the case of bonds issued by it. Any guaranty of bonds of the commission may be made, and any resolution or ordinance authorizing guaranty may be adopted, notwithstanding any statutory or other debt limitations, including particularly any limitation or requirement under or pursuant to the "Local Bond Law," but the principal amount of bonds so guaranteed shall, after their issuance, be included in the gross debt of the county or municipality for the purpose of determining the indebtedness of the county or municipality under or pursuant to "Local Bond Law." The principal amount of said bonds so guaranteed and included in gross debt shall be deducted and is declared to constitute a deduction from the gross debt under and for all the purposes of "Local Bond Law": a. from and after the time of issuance of said bonds and until the end of the fifth fiscal year beginning next after the completion of acquisition or construction of the projects to be financed from the proceeds of the bonds, and b. in any annual debt statement filed pursuant to law as of the end of any fiscal year succeeding said fifth fiscal year, unless the county or municipality in the succeeding fiscal year shall have been required to make any payment on account of the principal and interest on said guaranteed bonds.

In order to meet the obligation for payment of principal of or interest on any bonds by virtue of the guaranty, the county or municipality is authorized to borrow the funds necessary to meet the obligation and to issue its promissory note or notes therefor, payable within two years from the date of borrowing, to the extent that funds of the county or municipality are not otherwise available for this purpose.

The commission shall repay, as soon as practicable, to the county or the municipality, as appropriate, all sums paid by the county or municipality by virtue of a bond guaranty.

Promptly after each occurrence, the commission shall give written notice to the Director of Local Government Services in the Department of Community Affairs and the State Treasurer of any default in payment of principal or interest on bonds of the commission and of the payment by the county or the municipality of any sums by virtue of the guaranty of the county or municipality. The director shall thereafter have the right to examine any and all records of the commission, and, within six months after any default and at the end of each six-month period thereafter, the State Treasurer shall certify by writing delivered to the Governor

and to the commission that there are no funds of the commission available for payment to the county or the municipality, as appropriate, of the commission's obligation thereto.

C. 13:17A-32 Leasing of market facility.

32. The commission; any person; any instrumentality or agency of the State, by resolution of its governing body; any county, by ordinance or resolution, as appropriate, of its governing body; any municipality, by ordinance of its governing body, may enter into a contract or contracts providing for or relating to the use or lease of all or any part of the market facility of the commission and the cost and expense of the use. Any contract may provide for the payment to the commission annually or otherwise of any sum or sums of money for use, computed at fixed amounts or by a formula or in any other manner, as said contract or contracts may provide, and contracts may provide that the sum or sums so payable to the commission shall be in lieu of all or any of the facility charges which would otherwise be charged and collected by the commission with regard to use of all or any part of the market facility. Any contract may be made with or without consideration, and for a specified or an unlimited time, and on any terms and conditions which may be approved and agreed to by the commission in conformity with its contracts with the holders of any bonds, and shall be valid, whether or not an appropriation with respect thereto is made by any county or municipality prior to authorization or execution thereof. Subject to any contracts with the holders of bonds, the commission is authorized to do any and all things necessary, convenient or desirable to carry out every contract, to waive, modify, suspend or reduce the facility charges which would otherwise be charged and collected by the commission with respect to the use of the market facility, but nothing in this section or any contract shall prevent the commission from charging and collecting, as if the contract had not been made, facility charges with regard to use, sufficient to meet any default or deficiency in any payments agreed in the contract to be made to the commission.

C. 13:17A-33 Collection of service charges.

33. In the event that any service charge of the commission shall not be paid as and when due, the unpaid balance thereof and all interest at the rate of 1% per month accrued thereon, together with attorney's fees and costs, may be recovered by the commission in a civil action in any court of competent jurisdiction. The commission shall have power to make reasonable rules and regulations

for the collection and enforcement of service charges for the use of its market facility.

C. 13:17A-34 Partial disposal of facility.

34. The commission may dispose of any part or parts of the market facility as may be no longer necessary for the purposes of the commission, subject to its contract with the holder of any bonds or with the county or municipality which shall have guaranteed outstanding bonds.

C. 13:17A-35 Exemption from levy and sale.

35. All property of the commission shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the commission be a charge or lien upon its property; provided that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the commission on its facility revenues or other moneys.

C. 13:17A-36 Tax agreements.

36. To the end that a municipality may not suffer undue loss of revenue by reason of the acquisition of real property therein by the commission, the commission shall enter into a tax agreement with the municipality, prior to the issuance of bonds of the commission for financing real property acquisitions or the expenditure of moneys, other than the proceeds of bonds, for improvement of real property for the purposes of the commission. Under the tax agreement, the commission shall undertake to pay a fair and reasonable sum, as a "tax payment," to compensate the municipality for any loss of tax revenue by reason of the acquisition of real property by the commission. The tax payment may be computed on an annual basis, which shall not be less than the amount of taxes upon the property when last assessed prior to its acquisition by the commission. Every municipality is authorized and directed to enter into tax agreements with the commission so created as the commission is authorized to make, and every municipality is empowered to accept tax payments under a tax agreement and to apply them in the manner in which taxes may be applied in the municipality. The obligation of the commission to make any tax payments from its funds shall be in the manner and to the extent set forth and provided for in the tax agreement, and shall be at all times subject to prior use of commission funds to provide for the commission's operating and maintenance expenses and reserve therefor, and for

principal, interest and retirement of bonds, and reserves and securities of the commission as provided in any contract with the holders of commission bonds.

C. 13:17A-37 Authorized investment.

37. Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof; all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to this act, and these bonds shall be authorized security for any and all public deposits.

C. 13:17A-38 Tax exemption.

38. The market facility of the commission and all other properties of the commission are declared to be public property of the State, and devoted to an essential public and governmental function and purpose, and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are declared to be issued by a public instrumentality of this State, and for an essential public and governmental purpose, and the bonds, and the interest thereon and the income therefrom, and all facility charges, funds, revenues and other moneys pledged or available to pay or secure the payment of these bonds, or interest thereon, shall at all times be exempt from taxation, except for transfer inheritance and estate taxes, and taxes on transfers by or in contemplation of death.

Notwithstanding the provisions of the law concerning the taxation of leasehold interests in exempt real estate, contained in chapter 4 of Title 54 of the Revised Statutes, the leasehold estate of any person in and to any part of the market facility, and other rights and privileges of any person to possess, occupy and use the market facility, and any and all real property therein situated, derived through or under a lease or contract with the commission, shall be exempt from taxation by any municipality or county, and by the State and its political subdivisions, provided the commis-

sion or other government entity has an ownership interest in the market facility.

C. 13:17A-39 Part of contract with bondholders.

39. Except as otherwise expressly hereinabove provided with respect to the right of the commission to grant by franchise, lease or otherwise the use of any project owned or controlled by it, the commission shall not mortgage, pledge, encumber or otherwise dispose of any part of the market facility, except that the commission may dispose of any part or parts thereof as may be no longer necessary for the purposes of the commission. The provisions of this section shall be deemed to constitute a part of the contract with the holder of any bonds.

C. 13:17A-40 Exempt from levy and sale.

40. All property of the commission shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same, nor shall any judgment against the commission be a charge or lien upon its property, provided that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the commission on its facility revenues or other moneys.

C. 13:17A-41 State pledge to bondholders.

41. The State of New Jersey does pledge to and covenant and agree with the holders of any bonds issued pursuant to a bond resolution of the commission adopted pursuant to this act that the State will not limit or alter the rights vested in the commission to acquire, construct, maintain, reconstruct and operate its market facility, or to fix, establish, charge and collect its facility charges, and to fulfill the terms of any agreement made with the holders of the bonds or other obligations, so as to impair in any way the rights or remedies of the holders, and will not modify in any way the exemptions from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged.

C. 13:17A-42 Collateral.

42. All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business are authorized to give to the commission a good and sufficient undertaking with sureties as shall be approved by the commission

to the effect that the bank or banking institution as hereinbefore described shall faithfully keep and pay over to the order of or upon the warrant of the commission or its authorized agent all funds as may be deposited with it by the commission and agreed interest thereon, at times or upon demand as may be agreed with the commission, or in lieu of these sureties, deposit with the commission or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, the securities as the commission may approve. The deposits of the commission may be evidenced by a depository collateral agreement in a form and upon terms and conditions as may be agreed upon by the commission and the bank or banking institution.

C. 13:17A-43 Annual audit.

43. a. It shall be the duty of the commission created pursuant to this act to cause an annual audit of the accounts of the commission to be made and filed with the commission, and for this purpose the commission shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the commission within four months after the close of the fiscal year of the commission, and a certified duplicate copy thereof shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs and State Treasurer within five days after the original report is filed with the commission.

b. The commission shall make an annual report of its activities for the preceding year to the Governor and Legislature. The report shall set forth a complete operating and financial statement covering the commission's operations during the year.

C. 13:17A-44 Filing of bond resolution.

44. The commission shall file in the office of the State Treasurer, in the office of the Secretary of Agriculture and in the office of the Director of the Division of Local Government Services in the Department of Community Affairs certified copies of each bond resolution adopted by it, together with a certified summary of the dates, amounts, maturities and interest rates of all bonds to be issued pursuant thereto, prior to the issuance of any bonds.

C. 13:17A-45 No stockyard, slaughterhouse.

45. Nothing in this act shall authorize the commission to establish or maintain any building or structure as a stockyard or slaughterhouse.

Repealer.

46. P. L. 1960, c. 18 (C. 4:25–1 et seq.) is repealed.

47. This act shall take effect immediately.

Approved July 18, 1983.

CHAPTER 273

AN ACT concerning county improvement authorities, vesting them with the necessary powers to finance the establishment of retail food outlets, and amending P. L. 1979, c. 275.

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

1. Section 34 of P. L. 1979, c. 275 (C. 40:37A–55.1) is amended to read as follows:

C. 40:37A-55.1 Improvement authority powers.

34. For purposes of the redevelopment of blighted, deteriorated, or deteriorating areas, and subject to the provisions of this act, an authority may:

a. Acquire or contract to acquire from any person, firm or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, condemnation or otherwise, real or personal property or any interest therein, including such property as it may deem necessary or proper, although temporarily not required for such purposes, in a redevelopment area and in any area designated by the municipal governing body as necessary for carrying out the relocation of the residents, industry and commerce displaced from a redevelopment area;

b. Demolish, remove or rehabilitate buildings or other improvements in any area acquired and install, construct or reconstruct streets, facilities, utilities and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan;

c. Relocate or arrange for the relocation of residents and occupants of an area;

d. Dispose of land so acquired for the uses specified in the redevelopment plan as determined by it to any person, firm, or corporation or to any public agency by sale, lease or exchange;

e. Request the municipal planning board, if any, to recommend and the municipal governing body pursuant to existing law to designate blighted areas in need of redevelopment and to make recommendations for such development;

f. Study the recommendations of the municipal planning board for redevelopment of any area and to make its own investigations and recommendations as to current trends in the municipality, blighted areas and blighting factors to the governing body of the municipality thereon;

g. Publish and disseminate information;

h. Prepare or arrange by contract for preparation of plans by registered architects or licensed professional engineers or planners for the carrying out of the redevelopment projects;

i. Arrange or contract with public agencies or redevelopers for the planning, replanning, conservation, rehabilitation, construction, or undertaking of any project, or redevelopment work, or any part thereof, to provide as part of any such arrangement or contract for extension of credit or making of loans to redevelopers to finance any project or redevelopment work, and to arrange or contract with public agencies for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area;

j. Arrange or contract with a public agency, to the extent that it is within the scope of that agency's functions, to cause the services customarily provided by such other agency to be rendered for the benefit of the occupants of any redevelopment area, and to have such other agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with redevelopment areas;

k. Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, soundings or test borings necessary to carry out the purposes of this act;

l. Arrange or contract with a public agency for the relocation of residents, industry or commerce displaced from a redevelopment area;

m. Make (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and im-

provements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

n. Develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of blight; and

o. To finance by mortgage loans or otherwise the construction or establishment of retail food outlets and to make temporary loans or advances in anticipation of permanent loans.

2. This act shall take effect immediately.

Approved July 18, 1983.

CHAPTER 274

AN ACT to amend the "Carnival-Amusements Rides Safety Act," approved May 29, 1975 (P. L. 1975, c. 105).

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

1. Section 2 of P. L. 1975, c. 105 (C. 5:3–32) is amended to read as follows:

C. 5:3-32 Definitions.

2. As used in this act, except where a different meaning is clearly implied by the context:

a. "Carnival" or "amusement ride" means any mechanical device or devices including water slides exceeding 15 feet in height which carry or convey passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills or excitement; and any passenger or gravity propelled ride when located in an amusement area or park in which there are other rides covered by P. L. 1975, c. 105 (C. 5:3–31 et seq.); provided, however, that this shall not include locomotives weighing more than seven tons, operating on a track the length of which is one-half mile or greater, the gauge of which is three feet or greater, and the weight of which is at least 60 pounds per yard. Any facility exempted pursuant to this subsection shall be under the jurisdiction of the Department of Transportation for the purpose of safety inspection;

b. "Owner" means a person who owns, leases, controls, or manages the operations of a carnival or amusement ride, including the State or any of its subdivisions;

c. "Ride operator" means any person or persons actually engaged in or directly controlling the operations of a carnival or amusement ride;

d. "Commissioner" means the Commissioner of Labor; and

e. "Department" means the State Department of Labor; and

f. "Advisory board" means the Advisory Board on Carnival-Amusement Ride Safety.

2. This act shall take effect immediately.

Approved July 18, 1983.

CHAPTER 275

AN ACT concerning certain fees charged by the Department of Health.

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

1. N. J. S. 2A:52–4 is amended to read as follows:

Correction of birth, marriage records.

2A:52–4. Upon the receipt of either of the following documents:

a. A certified copy of a judgment permitting a change of name; or

b. A certification issued in connection with a naturalization proceeding authorized by Act of Congress that a change of name was permitted by decree or order of a court vested with jurisdiction to naturalize persons as citizens of the United States; together with a request for correction of an existing record of the birth or marriage of the individual, the State Registrar of Vital Statistics or local registrar of vital statistics shall adjust the record or records to show the new name and the date and manner by which obtained. When the request and such copy or certification are received by a local registrar, he shall forward them to the State Registrar after having adjusted his local record.

In the event the name of any child or children shall be permitted to be changed in the naturalization proceedings of the parent of such child or children, the certification of the parent's naturaliza-

tion record or proceedings disclosing such change of name of such child or children shall be sufficient authority for the State Registrar of Vital Statistics or the local registrar, as the case may be, upon request, to correct the birth certificate or marriage certificate of such child or children in the same manner as provided for the correction of the parent's birth certificate or marriage certificate. The fee to be paid a local registrar or the State Registrar for each birth certificate or for each marriage certificate so corrected shall be $2.00. Any certified copy of a record changed as provided for in this chapter shall show the name at birth or marriage and the new name and date and manner by which obtained, but upon request shall show only the new name.

2. R. S. 24:2–6 is amended to read as follows:

Violations; penalties.

24:2–6. No person shall obstruct or interfere with the State department or the local board, or any officer or employee thereof, in the performance of any duty imposed by this subtitle.

Any person who shall violate the provisions of this section shall be liable to a penalty of not more than:

a. $200.00 for each first offense.

b. $600.00 for each second and subsequent offense.

3. Section 8 of P. L. 1966, c. 262 (C. 24:5A–8) is amended to read as follows:

C. 24:5A-8 Hazardous substance violations.

8. (a) The department shall execute and enforce the provisions of this act and in that enforcement is hereby vested with all powers relating to inspection, sampling, condemnation and embargoing of hazardous substances granted to it with respect to food and drugs under subtitle 1, Title 24 of the Revised Statutes.

(b) If any person shall violate directly or indirectly, through his officers or employees, any of the provisions of this act, or regulations promulgated hereunder, the commissioner may order the correction of the violation within such reasonable period of time as the commissioner may prescribe. Such order shall be complied with in the time specified.

(c) Any person violating any of the provisions of this act or orders or regulations promulgated hereunder shall be liable to a penalty of not less than $100.00 nor more than $1,000.00 and for the second and each succeeding violation, a penalty of not less than $200.00 nor more than $2,000.00 to be collected in a civil

action by summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). Where the violation is of a continuing nature, each day during which it continues, after the date given by which the violation must be eliminated in the order by the commissioner, shall constitute an additional, separate and distinct offense, except during the time an appeal from said order may be taken or is pending.

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

(d) Payment of a penalty for any violation of this act or regulations promulgated hereunder either before or after the institution of proceedings for the collection thereof shall be deemed equivalent to a conviction of the violation for which such penalty was claimed.

4. Section 4 of P. L. 1961, c. 52 (C. 24:6B–4) is amended to read as follows:

C. 24:6B-4 Registration fee.

4. A fee shall accompany each registration statement. It shall be $200.00 if the business has less than 2 locations in this State, and $500.00 if the business has 2 or more locations in this State; except that where the gross total annual business in drugs of a registrant shall not exceed 3% of the gross total annual volume of the business of the registrant, as certified by a certified public accountant, the fee shall be $50.00 for each location in this State.

5. Section 5 of P. L. 1961, c. 52 (C. 24:6B–5) is amended to read as follows:

C. 24:6B-5 Change of address.

5. If any location of a registered business is to be changed, the registrant shall give the department written notice prior to the change of the address of such new location and the name and address of the individual to be in charge thereof. A fee of $20.00 shall accompany such notification.

6. Section 12 of P. L. 1961, c. 52 (C. 24:6B–11) is amended to read as follows:

C. 24:6B-11 Noncompliance; penalties.

12. (a) Any person who does not comply with an order of the commissioner within the time specified shall be liable for the first offense for a penalty, to be established by the commissioner of not

less than $200.00 nor more than $2,000.00 and for the second and each succeeding offense for a penalty of not less than $1,000.00 nor more than $10,000.00. The penalties herein provided shall be enforced by the department as plaintiff in a summary proceeding in accordance with "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

(b) Any person, who engages or continues to engage in the manufacturing or wholesaling of drugs without having registered with the department as required by this act is guilty of a misdemeanor.

7. Section 3 of P. L. 1951, c. 342 (C. 24:9–23) is amended to read as follows:

C. 24:9-23 Refrigerated warehouses, locker plants.

3. The State department shall collect from each applicant for each license granted under the provisions of this act for each refrigerated warehouse or locker plant the following fees: for each refrigerated warehouse or locker plant with gross refrigerated space not in excess of one hundred thousand cubic feet, $50.00; for each refrigerated warehouse or locker plant with gross refrigerated space in excess of one hundred thousand cubic feet but not in excess of one million cubic feet, $150.00; for each refrigerated warehouse or locker plant with gross refrigerated space in excess of one million cubic feet, $300.00. If a locker plant is operated as part of a refrigerated warehouse and upon the same premises, no additional license shall be required.

Any license issued pursuant to this section may be suspended, or revoked, upon hearing, for any violation of this act or of any rule or regulation of the State department.

8. Section 5 of P. L. 1964, c. 62 (C. 24:10–57.5) is amended to read as follows:

C. 24:10-57.5 Milk plants, bulk haulers.

5. The department shall collect from each applicant for a permit under the provisions of this act an annual fee in the following amounts:

(a) From each milk plant or bulk milk hauler receiving milk or fluid milk products from another milk plant or bulk milk hauler or collecting milk from one or more dairy farms but not more than 25 dairy farms, the sum of $50.00.

(b) From each milk plant or bulk milk hauler collecting milk from more than 25 dairy farms, the sum of $100.00.

9. Section 10 of P. L. 1964, c. 120 (C. 24:10–73.10) is amended to read as follows:

C. 24:10-73.10 Frozen dessert plants.

10. Every person owning or operating a frozen dessert plant for the assembly, manufacturing, processing, freezing or converting in form of frozen desserts for sale or distribution within this State shall, before July 1 in each year, apply to the department for a license to sell or distribute such products within this State and register with the department such information as may be required by the department to enable it to carry out its responsibilities under this act.

At the same time application for a license and registration is filed the applicant shall pay to the department an annual license fee as follows: for each manufacturer of frozen desserts producing or distributing annually within this State not in excess of 10,000 gallons of those products, $20.00; in excess of 10,000 gallons and not in excess of 25,000 gallons of those products, $40.00; in excess of 25,000 gallons and not in excess of 50,000 gallons of those products, $100.00; in excess of 50,000 gallons and not in excess of 100,000 gallons of those products, $200.00; in excess of 100,000 gallons of those products, $400.00.

10. R. S. 24:12–5 is amended to read as follows:

Bottled drinks.

24:12–5. No person engaged in the business of bottling water for drinking purposes or of bottling any nonalcoholic drink within this State shall sell or deliver any such water or nonalcoholic drink without first obtaining a license from the State department authorizing him to engage in the business of bottling water for drinking purposes or of bottling any nonalcoholic drink. A fee of $50.00 shall be charged for any license so issued.

11. Section 2 of P. L. 1971, c. 158 (C. 24:15–14) is amended to read as follows:

C. 24:15-14 Fee schedule adoption.

2. Where no other fee is provided by law or regulation, the commissioner may in accordance with a fee schedule adopted by him as a rule or regulation establish and charge reasonable fees for any service performed in the licensing and inspection of any premises coming within the provisions of this chapter. The fees charged as provided for by this section shall be no more than $500.00 based on criteria set forth in the rule or regulation.

12. R. S. 24:17–1 is amended to read as follows:

Violations; penalties.

24:17–1. (a) Any person who shall violate any provision of this subtitle, or any rule or regulation of the State department made pursuant thereto, or who shall refuse to comply with any lawful order or direction of the department, shall be liable to the following penalties, unless otherwise specifically provided:

(1) For each first offense a penalty of $100.00;

(2) For each second offense a penalty of $200.00;

(3) For each third and every subsequent offense a penalty of $400.00.

(b) Any person who shall remove or dispose of any depressant or stimulant drug as defined pursuant to law in violation of section 24:4–12 of this Title is guilty of a misdemeanor.

13. R. S. 26:8–40.1 is amended to read as follows:

Birth certificate of adopted person.

26:8–40.1. When any person born in New Jersey who has been adopted pursuant to provisions of the laws of any state or country, and which adoption has been certified to the State Registrar as required by paragraph B of section 15 of P. L. 1953, c. 264 (C. 9:3–31) or there is submitted a certification or a certified copy of the decree or judgment of the court in such adoption proceedings, the State Registrar shall establish, in lieu of the original birth record, a certificate of birth showing (a) the name of the adopted person as changed by the decree of adoption, if changed, (b) the date and place of birth, (c) the names of the adopting parents or parent including the maiden name of the female adopting parent if such name is given in the certification or certified copy of the decree or judgment of the court, and (d) the date of filing. In any instance where the child has been adopted by the spouse of the natural parent the name of such parent shall also be entered on the new certificate of birth. Such certificate shall be of the same general type as is used in making a birth certificate for a person who has not been adopted. Upon application by an adopting parent or parents of any person born in the United States and adopted pursuant to the laws of this State, the court before which the adoption proceedings have been conducted, may, for good cause shown, direct and order that the place of birth shall be the residence of the adopting parent or parents at the time of said adoption; provided, however, that the adopting parent or parents were residents of this State at the time of said adoption.

Upon receipt of such application, certification or certified copy of the decree or judgment of a court in an adoption proceeding, the State Registrar shall make a new certificate of birth containing the information referred to in the preceding paragraph. The fee for such service shall be $6.00 which includes the issuance of a certified copy of the new certificate.

The State Registrar may file such a new certificate for any foundling, for any child born in any state or country, and for any child for whom an original birth report cannot be located, who has been adopted in New Jersey; provided that there is attached to the decree or judgment of the court in such adoption proceeding or is submitted to the State Registrar a certified copy of the original birth record or acceptable evidence of birth. In the case of a foundling, the date and place of birth may be decided by the adopting parent or parents if not decided by the court before which the adoption proceedings were conducted. Such certificate for any child who is not a citizen of the United States shall bear the notation "by adoption," which shall also be shown upon any copy of the certificate issued; such notation may be removed at any subsequent date upon submission of acceptable proof that the child has become a citizen of the United States.

When a new certificate of birth is made the State Registrar shall notify the local registrar of vital statistics of the place in which the birth occurred who shall enter the new certificate in his local record and place his copy of the original record under seal.

The State Registrar shall cause to be placed under seal the original certificate of birth and all papers pertaining to the new certificate of birth. Such seal shall not be broken except by order of a court of competent jurisdiction. Thereafter whenever a certificate of birth of such person is issued, it shall be made from the new certificate of birth except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth.

14. R. S. 26:8–56 is amended to read as follows:

Birth, death certificate fees.

26:8–56. The local registrar shall be paid $1.00 for each birth or death certificate properly executed, registered, recorded, and promptly returned to the State Registrar. A local registrar shall not receive such fee if compensated by a fixed salary as provided in section 26:8–59 of this Title.

15. R. S. 26:8–60 is amended to read as follows:

Marriage certificate fee.

26:8–60. Each local registrar shall be entitled to receive from the proper disbursing officer of the municipality or county the sum of $1.00 for each marriage certificate properly transmitted to the State Registrar.

In any registration district, the body appointing local registrars may, in lieu of fees, provide that officers performing the above service shall receive a fixed compensation to be determined by such body.

16. R. S. 26:8–61 is amended to read as follows:

Marriage record cancellation fee.

26:8–61. The person procuring the cancellation of a marriage record pursuant to sections 26:8–45 and 26:8–46 of this Title shall first pay to the State Registrar the sum of $2.00 and the State Registrar shall pay the same over to the State Treasurer. Such fee may be included in the taxable costs in the annulment suit.

17. R. S. 26:8–64 is amended to read as follows:

Search fees.

26:8–64. a. For any search of the files and records of births, deaths, or marriages when the correct year only is supplied by the applicant, whether or not a certification or a certified copy is made, the State Registrar shall be entitled to a minimum fee of $4.00, plus a fee of $1.00 for each additional year searched, said fee to be paid by the applicant, except as provided by section 26:8–63 of the Revised Statutes. Each additional copy is $2.00.

b. For all searches of the New Jersey State census records, except as otherwise provided herein, the State Registrar shall be entitled to a fee of $2.00 for each address searched in any census year.

c. Conduct without fee upon request for administrative use by any city, state, or federal agency, a search for any New Jersey State census entry.

18. This act shall take effect immediately.

Approved July 18, 1983.

CHAPTER 276

A SUPPLEMENT to "An act making appropriations for the support of the State Government and several public purposes for the fiscal year ending June 30, 1983 and regulating the disbursement thereof," approved June 30, 1982 (P. L. 1982, c. 49).

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

DEPARTMENT OF HEALTH

Physical and Mental Health

21 Health Services

03–4230	Communicable Disease Control	$218,043
08–4280	Diagnostic Services	53,285
02-4220	Community Health Services	174,211
	Total Appropriation, Health Services	$445,539

Personal Services:		
Salaries and Wages	($171,157)	
Employee Benefits	(40,165)	
Materials and Supplies	(9,000)	
Services Other Than Personal	(5,690)	
Maintenance and Fixed Charges	(1,500)	
Special Purpose:		
Supplemental Food Program	(174,211)	
Other—Indirect Cost	(43,816)	
Total Appropriation, Department of Health		$445,539

DEPARTMENT OF HIGHER EDUCATION

Educational, Cultural, and Intellectual Development

36 Higher Educational Services

5500 Glassboro State College

16-5500	Student Services	$390,977
	Total Appropriation, Higher Educational Services	$390,977
	Special Purpose: Basic Educational Opportunity Grant (Pell Grant)	($390,977)

5520 Kean College of New Jersey

16–5520	Student Services	$250,000
	Total Appropriation, Higher Educational Services	$250,000
	Special Purpose: Basic Educational Opportunity Grant (Pell Grant)	($250,000)

5540 Montclair State College

16-5540	Student Services	$582,280
	Total Appropriation, Higher Educational Services	$582,280
	Special Purpose: Basic Educational Opportunity Grant (Pell Grant)	($582,280)
	Total Appropriation, Department of Higher Education	$1,223,257

DEPARTMENT OF LABOR

Economic Planning, Development and Security

52 Economic Regulation

12–4550	Enforcement of Workplace Standards	$52,000
	Total Appropriation, Economic Regulation ...	$52,000

Special Purpose:
O. S. H. A. On-Site Consultation .....($52,000)

Economic Planning, Development and Security

53 Economic Assistance and Security

01–4510	Unemployment Compensation	$3,800,000
	Total Appropriation, Economic Assistance and Security	$3,800,000

Special Purpose:
Unemployment Insurance
Administration .....($3,800,000)

Economic Planning, Development and Security

54 Manpower and Employment Services

10–4545	Employment Development Services	$3,060,493
	Total, Manpower and Employment Services...	$3,060,493

Special Purpose:
Jobs Training Partnership Act
Title III, Formula Funding .....($560,493)
Jobs Training Partnership Act
Title III, Discretionary Funds ....(1,500,000)
Jobs Training Partnership Act,
Private Industry Councils' Planning
Grants .....(1,000,000)

DEPARTMENT OF LAW AND PUBLIC SAFETY

Special Government Services

82 Protection of Citizens' Rights

16-1350	Protection of Civil Rights	$160,000
	Total Appropriation, Protection of Citizens' Rights	$160,000
	Personal Services:	
	Salaries and Wages	($115,200)
	Employee Benefits	(36,800)
	Special Purpose:	
	Indirect Cost	(8,000)
	Total Appropriation, Department of Law and Public Safety	$160,000
	Federal Funds	$8,741,289

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.

2. This act shall take effect immediately.

Approved July 20, 1983.

CHAPTER 277

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, 1983 and regulating the disbursement thereof," approved June 30, 1982 (P. L. 1982, c. 49).

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 moneys to support the expenditures listed below are available, the following sums are appropriated:

FEDERAL FUNDS

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management

02-8020	Housing Services	$1,936,000
	Total, Community Development Management	$1,936,000

Special Purpose:
Grants to cities—Small Cities Block Grant ..... ($1,936,000)

Economic Planning, Development, and Security

55 Related Social Services Programs

05-8050	Human Resources	$3,251,665*
	Total, Related Social Services Programs	$3,251,665*

Special Purpose:
Weatherization Assistance Program ..... ($2,682,419†)
Community Services Block Grant ..... (569,246)

Total Appropriation, Department of Community Affairs	$5,187,665**

Of the amount appropriated above for the weatherization assistance program, $1,000,000 shall be used for weatherization assistance in public housing.††

DEPARTMENT OF EDUCATION

Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

51-5070	Library Services	$1,153,361
	Total, Cultural and Intellectual Development Services	$1,153,361
Special Purpose:		
	Library Construction ($1,153,361)	
	Total Appropriation, Department of Education	$1,153,361

DEPARTMENT OF ENERGY

Community Development and Environmental Management

42 Natural Resource Management

05-4030	Energy Resource Management	$1,585,000
	Total Appropriation, Natural Resource Management	$1,585,000
Special Purpose:		
	School and Hospital Energy Conservation Assistance ($1,585,000)	
	Total Appropriation, Department of Energy	$1,585,000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Community Development and Environmental Management

45 Recreation Resource Management

12-4875	Parks Management	$1,840,000
	Total, Recreation Resource Management	$1,840,000
Special Purpose:		
	Historic preservation ($540,000)	
	Parks redevelopment (1,300,000)	

46 Environmental Planning and Administration

99-4800	Management and Administrative Services	$1,162,000
	Total, Management and Administrative Services	$1,162,000
	Special Purpose:	
	Land and Water Conservation Fund ($1,162,000)	
	Total Appropriation, Department of Environmental Protection	$3,002,000

DEPARTMENT OF HEALTH

Physical and Mental Health

21 Health Services

02-4220	Community Health Services	$4,530,191
04-4240	Narcotic and Drug Abuse Control	420,566
05-4250	Alcoholism Control	226,458
	Total Appropriation, Health Services	$5,177,215
	Special Purpose:	
	Maternal and Child Health programs ($2,294,402)	
	Alcohol, Drug Abuse and Mental Health programs (647,024)	
	Women, Infants, and Children (WIC) Feeding program (2,235,789)	
	Total Appropriation, Department of Health	$5,177,215

DEPARTMENT OF HUMAN SERVICES

Physical and Mental Health

23 Mental Health Services

08-7700	Community Services	$693,681
	Total Appropriation, Mental Health Services	$693,681

Special Purpose:		
Alcohol, drug abuse and mental health programs	($693,681)	
Total Appropriation, Department of Human Services		$693,681

DEPARTMENT OF LABOR

Economic Planning, Development, and Security

54 Manpower and Employment Services

10-4545	Employment Development Services	$1,888,551***
Total Appropriation, Manpower and Employment Services		$1,888,551***
Special Purpose:		
Dislocated youth employment	($1,828,086††)	
Summer youth employment	(60,465)	
Total Appropriation, Department of Labor		$1,888,551*

Of the amount appropriated above for the dislocated workers' program, $278,600 shall be made available for persons eligible as a result of the closing of Kerr Glass (Keyport); and $1,549,486 shall be made available for persons eligible as a result of the closing of the following plants: Western Electric (Kearny), Westinghouse (Newark), Chevron (Perth Amboy) and Shulton (Mays Landing).††

DEPARTMENT OF TRANSPORTATION

Transportation Services

63 Local Highway Facilities

15–6220	Interstate Transfer	$1,000,000
Total Appropriation, State Highway Facilities		$1,000,000

New Jersey State Library

Special Purpose:	
Interstate transfer projects, Bayway Circle—Rts. 1 and 9 ..... ($1,000,000)	
Total Appropriation, Department of Transportation	$1,000,000
TOTAL APPROPRIATION, FEDERAL FUNDS	$19,687,473†††

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.

2. This act shall take effect immediately.

Approved July 20, 1983.

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* Reduced to $2,251,665 by line item veto of the Governor. See statement following.
† Reduced to $1,682,419.
** Reduced to $4,187,665.
†† Deleted.
*** Reduced to $60,465.
††† Reduced to $16,859,387.

STATEMENT TO SENATE BILL NO. 3350

To the Senate:

I am today returning Senate Bill No. 3350 with my signature, along with certain Constitutionally permitted modifications set forth in the Statement appended hereto.

This bill would appropriate a total of $19,687,473 in federal funds to various departments in State government. While I am, of course, entirely supportive of the need to pass through these funds to the relevant departments, unfortunately the Senate Committee amendments to Senate Bill No. 3350 included the addition of certain language which is neither proper nor responsible.

Among those problems is language specifying that $1 million of the Weatherization Assistance Program funds shall be used for weatherization assistance in public housing. The committee was

apparently unaware, however, that $1 million will be provided for this purpose from the Oil Overcharge Funds Account. I have been assured by the sponsor of this amendment, Senator Lipman, that that alternative source of funds is satisfactory to her, and I in fact look forward to the State implementing this program. I have, however, line item vetoed this portion of Senate Bill No. 3350 in order that the Legislature may reappropriate that $1 million for a more appropriate purpose in a future bill.

The second problem area lies in the language added by the Senate Committee restricting the expenditure of $1,828,086 for the Dislocated Workers' Program in the Department of Labor. That amendatory language would stipulate that $278,600 of that sum must be used for persons eligible as a result of the closing of the Kerr Glass Plant in Keyport, and that the $1,549,486 balance must be made available for persons eligible as a result of the closing of the Western Electric Plant in Kearny, the Westinghouse Plant in Newark, the Chevron Plant in Perth Amboy, or the Shulton Plant in Mays Landing. Although I realize that the Legislature's goal in adding that amendment was certainly very well intentioned, I am concerned with the advice I have received from the Commissioner of Labor that the specific impact of that action would ultimately be significantly detrimental to our overall employment and training plan for dislocated workers in the State of New Jersey.

Restricting these funds to individuals impacted by only five individual plant closings will create a serious imbalance in the equity of services being provided to dislocated workers. As part of our Statewide plan for serving dislocated workers, we hope to eventually provide assistance to over 30,000 dislocated workers throughout the State. Restricting these funds to just five plants in only five communities would limit the beneficial impact of these funds to assisting only a relative handful of workers. That is neither fair nor equitable to other dislocated workers throughout our State. Furthermore, the Western Electric Plant, which is the largest of the plant closings included in this restriction, is currently involved in court litigation which will probably not be resolved until late 1984. We have also received strong indications that federal funds may be available to deal with the mass layoffs from the Western Electric Plant.

Accordingly, given the inequities of restricting these funds to a few certain plants, and given the uncertainty over potential litigation or federal actions regarding these closings, it would be both

unjust and irresponsible for me to approve this appropriation at this time given that restrictive language.

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3350 at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

"FEDERAL FUNDS"

"Department of Community Affairs"

On Page 1:
Line 1, "05-8050 Human Resources ..... $3,251,665"
This item is reduced to $2,251,665.

On Page 2:
Lines 3-4, "Total, Related Social Services Programs ..... 3,251,665"
This item is reduced to $2,251,665.

On Page 2:
Lines 6-7, "Weatherization Assistance Program ..... (2,682,419)"
This item is reduced to $1,682,419.

On Page 2:
Lines 11-12, "Total Appropriation, Department of Community Affairs ..... 5,187,665"
This item is reduced to $4,187,665.

On Page 2:
Lines 13-16, "Of the amount appropriated above for the weatherization assistance program, $1,000,000 shall be used for weatherization assistance in public housing."
The quoted language is deleted in its entirety.

"Department of Labor"

On Page 4:
Line 1, "10-4545 Employment Development Services ..... 1,888,551"
This item is reduced to $60,465.

On Page 4:
Lines 2-3, "Total Appropriation, Manpower and Employment Services ..... 1,888,551"
This item is reduced to $60,465.

On Page 4:
Line 5, "Dislocated workers' program .....(1,828,086)"
This item is deleted in its entirety.

On Page 4:
Line 7, "Total Appropriation, Department of Labor ..... 1,888,551"
This item is reduced to $60,465.

On Pages 4 and 5:
Lines 8-16, "Of the amount appropriated above for the dislocated workers' program, $278,600 shall be made available for persons eligible as a result of the closing of Kerr Glass (Keyport); and $1,549,486 shall be made available for persons eligible as a result of the closing of the following plants: Western Electric (Kearny), Westinghouse (Newark), Chevron (Perth Amboy), and Shulton (Mays Landing)."
The quoted language is deleted in its entirety.

On Page 5:
Lines 8-9, "Total Appropriation, Federal Funds . 19,687,473"
This item is reduced to $16,859,387.

Respectfully,

[SEAL] /s/ THOMAS H. KEAN,
Attest: *Governor.*
/s/ W. CARY EDWARDS,
Chief Counsel

CHAPTER 278

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, 1983 and regulating the disbursement thereof," approved June 30, 1982 (P. L. 1982, c. 49).

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 moneys to support the expenditures listed below are available, the following sums are appropriated:

FEDERAL FUNDS

DEPARTMENT OF HIGHER EDUCATION

Educational, Cultural and Intellectual Development

36 Higher Education Services

5510 Jersey City State College

16-5510 Student Services $1,172,045

Special Purpose:
Basic educational opportunity grant ..... ($1,172,045)

2. This act shall take effect immediately.

Approved July 20, 1983.

CHAPTER 279

AN ACT concerning investments by insurance companies and amending R. S. 17:24–12 and N. J. S. 17B:20–7.

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

1. R. S. 17:24–12 is amended to read as follows:

Holding of securities within State; exceptions.

17:24–12. All securities of domestic insurers shall be held for safekeeping within the geographical limits of this State, except:

a. Securities deposited with public officials of other states, the District of Columbia, the United States Government, any territory or possession thereof, the Commonwealth of Puerto Rico, and foreign countries, to the extent required by the laws of the jurisdiction as a condition for authority to transact business;

b. Securities required as collateral for loans or as security for the performance of contracts;

c. Mortgages and evidences of indebtedness secured thereby, which are held for safekeeping in one or more offices operated by and under the direct control of an officer of the company;

d. Stock and other securities representing stock or convertible into stock, and options, warrants, or rights to acquire stock;

e. Debt securities with a maturity of less than one year;

f. Securities issued or guaranteed by the United States or any department or agency or instrumentality thereof; and

g. As long as there are held for safekeeping within the geographical limits of this State securities having a value of not less than $50,000,000.00, any other debt securities which are publicly traded.

This section shall not limit or prohibit: (1) the deposit of securities under agreements as provided in R. S. 17:24–3, or (2) the transmission of securities outside the State for the purpose of securing or recording title to the securities or to property, or for the purpose of the sale, exchange or alteration of the provisions of the securities, or for the collection of any payment due thereon, or (3) the holding of securities in the names of nominees authorized by the board of directors of the insurer, or by a committee of the board which is charged with the duty of supervising investments, or (4) the lending of securities to any corporation or business partnership upon adequate collateral security.

2. N. J. S. 17B:20–7 is amended to read as follows:

Securities of domestic insurers.

17B:20–7. All securities of domestic insurers shall be held for safekeeping within the geographical limits of this State, except:

a. Securities deposited with public officials of other states, the District of Columbia, the United States Government, any territory or possession thereof, the Commonwealth of Puerto Rico, and

foreign countries, to the extent required by the laws of the jurisdiction as a condition for authority to transact business;

b. Securities required as collateral for loans or as security for the performance of contracts;

c. Mortgages and evidences of indebtedness secured thereby, which are held for safekeeping in one or more offices operated by and under the direct control of an officer of the company;

d. Stock and other securities representing stock or convertible into stock, and options, warrants or rights to acquire stock;

e. Debt securities with a maturity of less than one year;

f. Securities issued or guaranteed by the United States or any department or agency or instrumentality thereof; and

g. As long as there are held for safekeeping within the geographical limits of this State securities having a value of not less than $50,000,000.00, any other debt securities which are publicly traded.

This section shall not limit or prohibit: (1) the deposit of securities under transactions as provided in N. J. S. 17B:20–3, or (2) the transmission of securities outside the State for the purpose of securing or recording title to the securities or to property, or for the purpose of the sale, exchange or alteration of the provisions of the securities, or for the collection of any payment due thereon, or (3) the holding of securities in the names of nominees authorized by the board of directors of such insurer, or by a committee of the board which is charged with the duty of supervising investments, or (4) the lending of securities to any institution upon adequate collateral security.

3. This act shall take effect immediately.

Approved July 29, 1983.

CHAPTER 280

AN ACT concerning the employment of personnel at State correctional facilities in certain counties and supplementing Title 11 of the Revised Statutes.

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

C. 11:9-2.1 Residents' preference in employment.

1. Notwithstanding any provisions of law relating to required residence for State employees in Title 11 of the Revised Statutes, the appointing authority of any State correctional facility located in a county with a population of more than 117,000 but less than 133,000 inhabitants according to the latest federal decennial census shall appoint to positions of employment with the facility residents of the county in which the facility is located and residents of any adjoining county with a population of less than 83,000 and shall give first preference in appointments to positions of employment to residents of the municipality in which the facility is located and second preference in appointments to positions of employment to residents of the county in which the facility is located, provided that:

a. The residents permanently appointed possess at least the minimum qualifications required by Civil Service specifications for the available positions, have lived in the county for at least six months and have complied with other requirements of Title 11 of the Revised Statutes; and

b. A sufficient number of qualified residents exists for permanent appointment to available positions.

Third preference in appointments to positions of employment shall be given to residents of any adjoining county with a population of less than 83,000 who have lived in the adjoining county for at least six months and who otherwise meet the requirements of subsections a. and b. of this section.

C. 11:9-2.2 Working test period, job training program.

2. The appointing authority shall establish a working test period and job training program for all persons to be appointed under the provisions of this act. The working test period and job training program shall conform to the criteria and standards utilized by the Department of Civil Service and shall be designed to provide at least the minimum qualifications required by Civil Service specifications for the available positions.

C. 11:9-2.3 Insufficient number of residents.

3. If the appointing authority of any State correctional institution determines, after ample advertising, that an insufficient number of qualified residents exists for available positions, the appointing authority shall take such action as is necessary pursuant to Title 11 of the Revised Statutes to fill those positions.

C. 11:9-2.4 Current employees exempt.

4. The provisions of this act shall not apply to persons currently employed by any State correctional facility.

5. This act shall take effect immediately.

Approved July 29, 1983.

CHAPTER 281

AN ACT authorizing boards of education to contract with private driver education schools, amending N. J. S. 18A:18A–5, N. J. S. 18A:18A–42 and N. J. S. 18A:26–2, and supplementing chapter 18A 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:18A-3.1 Contracts with private driver education schools.

1. (New section) Boards of education may enter into contracts with private driver education schools for the purpose of providing driver education courses to students on an individual or group basis, according to rules prescribed by the Commissioner of Education, when it is determined by the local board of education that the private driver education school can provide behind-the-wheel driver education that is substantially equivalent to that provided by the board of education, and at less cost than current or other proposed programs.

Each private driver education school shall hold a current license or certificate of approval issued by the Director of the Division of Motor Vehicles pursuant to P. L. 1951, c. 216 (C. 39:12–1 et seq.), and be approved for the purposes of this act by the Commissioner of Education.

2. N. J. S. 18A:18A–5 is amended to read as follows:

Exceptions to requirement for advertising.

18A:18A–5. Exceptions to requirement for advertising. Any purchase, contract or agreement of the character described in N. J. S. 18A:18A–4 may be made, negotiated or awarded by the board of education by resolution at a public meeting without public advertising for bids and bidding therefor if

a. The subject matter thereof consists of:

(1) Professional services;

(2) Extraordinary unspecifiable services which cannot reasonably be described by written specifications, which exception as to extraordinary unspecifiable services shall be construed narrowly in favor of open competitive bidding where possible and the State Board of Education is authorized to establish rules and regulations limiting its use in accordance with the intention herein expressed; and the board of education shall in each instance state supporting reasons for its action in the resolution awarding the contract for extraordinary unspecifiable services;

(3) The doing of any work by employees of the contracting unit;

(4) The printing of all legal notices; and legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(5) Textbooks, copyrighted materials, kindergarten supplies, and student produced publications and services incidental thereto;

(6) Food supplies, including food supplies for home economics classes, when purchased pursuant to rules and regulations of the State board and in accordance with the provisions of N. J. S. 18A:18A-6;

(7) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utility Commissioners, in accordance with the tariffs and schedules of charges made, charged and exacted, filed with said board;

(8) The printing of bonds and documents necessary to the issuance and sale thereof by a board of education;

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services;

(10) Insurance, including the purchase of insurance coverage and consultant services;

(11) Publishing of legal notices in newspapers as required by law;

(12) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character;

(13) Election expenses, including advertising expenses incidental thereto;

(14) Electronic data processing service obtained from another board of education;

(15) Driver education courses provided by licensed driver education schools.

b. It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority or any other state or subdivision thereof.

c. The board of education has advertised for bids pursuant to N. J. S. 18A:18A–4 on two occasions and has received no bids in response to its advertisement and, after reasonable inquiry, it is determined that no board, body, officer, agency or authority of the United States, or of the State of New Jersey or of any county or municipality in which the board of education is located is willing and able to perform any work or furnish or hire any materials or supplies in conformity with the specifications of the board of education. Any such contract or agreement entered into pursuant to this subsection c. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the board of education at a meeting thereof authorizing such a contract or agreement. Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of the competitive bidding pursuant to N. J. S. 18A:18A–4 shall be stated in the resolution awarding the contract.

d. The board of education has advertised for bids pursuant to N. J. S. 18A:18A–4 on two occasions and has rejected such bids on each occasion because the board of education has determined that they are not reasonable as to price on the basis of cost estimates prepared for the board of education prior to the advertising therefor or have not been independently arrived at in open competition, but no such contract or agreement may be entered into after such rejection of bids, unless:

(1) Notification of the intention to negotiate and a reasonable opportunity to negotiate shall have been given by the board of education to each responsible bidder;

(2) The negotiated price is lower than the lowest rejected bid price of a responsible bidder who bid thereon and is the lowest negotiated price offered by any responsible supplier and is a reasonable price for such work, materials, supplies or services;

(3) Any amendment or modification of the terms, conditions, restrictions and specifications which were the subject of competitive bidding pursuant to N. J. S. 18A:18A–4 shall be stated in the resolution awarding the contract; and

(4) The negotiated price is lower than the price of the same or equivalent materials or supplies available from the State, county or municipality in which the board of education is located.

Whenever a board of education shall determine that a bid was not arrived at independently in open competition pursuant to this subsection d. of N. J. S. 18A:18A–5, it shall thereupon notify the county prosecutor of the county in which the board of education is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

e. The board of education has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to N. J. S. 18A:18A–10, and the lowest responsible quotation is at least 10% less than the price the board would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract.

Any such contract or agreement entered into pursuant to subsection d. or subsection e. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the board of education at a meeting thereof authorizing such a contract or agreement.

3. N. J. S. 18A:18A–42 is amended to read as follows:

Duration of certain contracts.

18A:18A–42. Duration of certain contracts. Any board of education may enter into a contract exceeding the fiscal year for the

a. Supplying of:

(1) Fuel for heating purposes, for any term not exceeding in the aggregate, three years; or

(2) Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years; or

b. The plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or

c. The collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or

d. Data processing service, for any term of not more than five years; or

e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, for any term of not more than three years; or

f. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind, for any term not exceeding the aggregate, five years; provided, however, such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or

g. The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, for a term not exceeding five years; or

h. Materials, supplies or services that are required on a recurring basis from year to year, for any term not exceeding in the aggregate, two years; however, such contract may be renewed yearly for a period not exceeding three additional years without any further solicitation for bids or bidding upon a finding by the board that the services are being performed in an effective and efficient manner, or that the materials and supplies continue to meet the original specifications. If a board of education elects to renew an existing contract, the terms and conditions of the existing contract shall remain substantially unchanged and any increase in the contract cost over the three year period shall be no greater than a total of 20% over the initial cost; or

i. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years.

All multiyear leases and contracts entered into pursuant to this section 18A:18A–42, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities and except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

4. N. J. S. 18A:26–2 is amended to read as follows:

Certification requirement; exemption.

18A:26–2. No teaching staff member shall be employed in the public schools by any board of education unless he is the holder of a valid certificate to teach, administer, direct or supervise the teaching, instruction, or educational guidance of, or to render or administer, direct or supervise the rendering of nursing service to, pupils in such public schools and of such other certificate, if any, as may be required by law.

Notwithstanding the foregoing certification requirement, boards of education shall be permitted to enter into contracts with properly licensed commercial drivers' schools for the purpose of providing behind-the-wheel instruction as a part of a regular curriculum driver education course, provided that classroom instruction in driver education is conducted by a certified teaching staff member. When classroom instruction in driver education is conducted by a certified teaching staff member, persons providing behind-the-wheel instruction need not be certified teachers but shall be properly licensed driving instructors under rules and regulations of the Division of Motor Vehicles.

5. This act shall take effect immediately.

Approved July 29, 1983.

CHAPTER 282

AN ACT to authorize the New Jersey Economic Development Authority to assist, through the issuance of bonds or the extension of loan guarantees, in financing the cost of purchasing and installing energy saving improvements in certain cases, amending "The New Jersey Economic Development Authority Act," approved August 7, 1974 (P. L. 1974, c. 80).

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

1. Section 2 of P. L. 1974, c. 80 (C. 34:1B–2) is amended to read as follows:

C. 34:1B-2 Findings, determinations.

2. The Legislature hereby finds and determines that:

a. Department of Labor and Industry statistics of recent years indicate a continuing decline in manufacturing employment within the State, which is a contributing factor to the drastic unemployment existing within the State, which far exceeds the national average, thus adversely affecting the economy of the State and the prosperity, safety, health and general welfare of its inhabitants and their standard of living; that there is an urgent need to protect and enhance the quality of the natural environment and to reduce, abate and prevent environmental pollution derived from the operation of industry, utilities and commerce within the State; and that the availability of financial assistance and suitable facilities are important inducements to new and varied employment promoting enterprises to locate in the State, to existing enterprises to remain and expand in the State, and to industry, utilities and commerce to reduce, abate and prevent environmental pollution.

b. The provision of buildings, structures and other facilities to increase opportunity for employment in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State is in the public interest and it is a public purpose for the State to induce and to accelerate opportunity for employment in such enterprises.

c. In order to aid in supplying these needs and to assist in the immediate reduction of unemployment and to provide sufficient employment for the citizens of the State in the future, it is necessary and in the public interest to aid and encourage the immediate commencement of new construction projects of all types, to induce and facilitate the acquisition and installation at an accelerated rate of such devices, equipment and facilities as may be required to reduce, abate and prevent environmental pollution by industry, utilities and commerce.

d. The availability of financial assistance by the State will reduce present unemployment and improve future employment opportunities by encouraging and inducing the undertaking of such construction projects, the location, retaining or expanding of employment promoting enterprises within the State, and the accelerated acquisition and installation of energy saving improvements and pollution control devices, equipment and facilities.

e. In many municipalities in our State substantial and persistent unemployment exists; and many existing residential, industrial, commercial and manufacturing facilities within such municipalities are either obsolete, inefficient, dilapidated or are located without regard to the master plans of such municipalities; and the obso-

lescence and abandonment of existing facilities will increase with further technological advances, the provision of modern, efficient facilities in other states and the difficulty which many municipalities have in attracting new facilities; and that many existing and planned employment promoting facilities are far from or not easily accessible to the places of residence of substantial numbers of unemployed and underemployed persons.

f. By virtue of their architectural and cultural heritage, their positions as principal centers of communication and transportation and their concentration of productive and energy efficient facilities, many municipalities are capable of ameliorating the conditions of deterioration which impede sound community growth and development; and that building a proper balance of housing, industrial and commercial facilities and increasing the attractiveness of such municipalities to persons of all income levels is essential to restoring such municipalities as desirable places to live, work, shop and enjoy life's amenities; that the accomplishment of these objectives is beyond remedy solely by the regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the powers provided herein, and that the exercise of the powers herein provided is critical to continuing the process of revitalizing such municipalities and will serve an urgent public use and purpose.

The Legislature further determines that in order to aid in remedying the aforesaid conditions and to further and implement the purposes of this act, that there shall be created a body politic and corporate having the powers, duties and functions provided in this act; and that the authority and powers conferred under this act, and the expenditure of moneys pursuant thereto constitute a serving of a valid public purpose; and that the enactment of the provisions hereinafter set forth is in the public interest and for the public benefit and good, and is hereby so declared to be as a matter of express legislative determination.

2. 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.

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. 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.

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. 1971, c. 64, 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.

3. Section 5 of P. L. 1974, c. 80 (C. 34:1B–5) is amended to read as follows:

C. 34:1B-5 Powers of authority.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the Eminent Domain Act of 1971, P. L. 1971, c. 361 (C. 20:3–1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project; provided, however, that the authority shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain to municipalities receiving State aid under the provisions of P. L. 1978, c. 14 (C. 52:27D–178

et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project;

g. To sell, convey or lease to any person all or any portion of a project, for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project or revenues, whenever it shall find such action to be in furtherance of the purposes of this act;

i. To grant options to purchase or renew a lease for any of its projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of the act, with the terms and conditions thereof;

k. In connection with any application for assistance under this act or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of this act;

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project by conveyance or by foreclosure, and sell, lease, manage or operate any project for a use specified in this act;

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in this act;

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project, which credits or loans may be secured by loan and security agreements, mortgages, leases, and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of the act, and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes;

t. To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any person;

u. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the act;

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and mainte-

nance of reserve funds with respect to the financing of such development property; and

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including but not limited to, the master plan and zoning ordinances, of such municipality.

4. Section 6 of P. L. 1974, c. 80 (C. 34:1B–6) is amended to read as follows:

C. 34:1B-6 Criteria for assistance.

6. A copy of any application for assistance under this act received by the authority shall be submitted to, and for the review and advice of, the Director of the Division of Economic Development. Prior to making any commitment for such assistance, the authority, after consultation with the director of said division, shall, by resolution duly adopted, find and determine, on the basis of all information reasonably available to it, that such assistance will tend to maintain or provide gainful employment for the inhabitants of the State, or will reduce the consumption, in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy, or will eliminate and reduce environmental pollution derived from the operation of industry, utilities and commerce, and improve living conditions, and shall serve a public purpose by contributing to the prosperity, health and general welfare of the inhabitants of the State, and will tend to aid and assist in the economic growth, development or redevelopment of the political subdivision wherein it is to be located, and such finding and determination shall be conclusive for all purposes of this act.

The authority shall also find and determine, on the basis of all information reasonably available to it, that such assistance, or any part thereof, used to construct, improve or refinance any pollution control facility as defined by this act will not impair any obligation undertaken by any County Industrial Pollution Control Financing Authority created pursuant to P. L. 1973, c. 376 (C. 40:37C–1 et seq.).

5. This act shall take effect immediately.

Approved July 29, 1983.

CHAPTER 283

AN ACT concerning the relocation of public utility facilities as required for certain highway work and supplementing Title 27 of the Revised Statutes.

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

C. 27:7-44.9 Relocation, removal of public utility facilities.

1. In addition to other powers conferred upon the Commissioner of Transportation by any other law and not in limitation thereof, the commissioner, in connection with the construction, reconstruction, maintenance or operation of any highway project, may make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, herein called "public utility facilities," of any public utility as defined in R. S. 48:2-13, in, on, along, over or under any highway project. Whenever the commissioner determines that it is necessary that public utility facilities which now are, or hereafter may be, located in, on, along, over or under any highway project shall be relocated in the project or should be removed from the project, the public utility owning or operating the facilities shall relocate or remove the same in accordance with the order of the commissioner. The cost and expenses of such relocation or removal, including the cost of installing the facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights acquired to accomplish the relocation or removal, shall be ascertained and paid by the commissioner as a part of the cost of the project. In the case of the relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns may maintain and operate the facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in the former location or locations.

As used in this act, "highway project," in addition to its ordinary meaning, means one which is administered and contracted for by the commissioner.

2. This act shall take effect immediately.

Approved July 29, 1983.

CHAPTER 284

AN ACT establishing a respite care demonstration program for frail or severely disabled adults.

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

C. 30:4F-1 Findings, declarations.

1. The Legislature finds and declares that there is a need to assist families in their care of frail or severely disabled persons and without the availability of occasional relief from the provision of constant care for these persons, placement in a long-term care facility may be necessary; that occasional relief can be provided through a program of respite care; and that in order to initiate and encourage expansion of respite care services and evaluate the need for and the most efficient and effective means of providing the service, it is necessary to establish a respite care demonstration program within the Department of Human Services.

2. As used in this act:

C. 30:4F-2 Definitions.

a. "Care-giver" means the family member or other person who ordinarily provides the daily care for or supervision of a frail or severely disabled adult. The care-giver may, but need not, reside in the same household as the frail or severely disabled adult.

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

c. "Department" means the Department of Human Services.

d. "Frail or severely disabled adult" means any person over the age of 18 who is unable to attend to his daily needs without the assistance or regular supervision of a care-giver due to a chronic, severe mental or physical impairment.

e. "Respite or respite care" means the provision of infrequent and temporary substitute care for or supervision of a frail or severely disabled adult on behalf of and in the absence of the care-giver, which shall be rendered in the adult's place of residence, for the purpose of providing relief from the stresses or responsibilities concomitant with providing constant care to a frail or severely disabled adult. Respite care may be provided on an hourly, daily or weekly basis but shall not exceed a maximum of 30 consecutive days or 60 days in total in any calendar year.

f. "Sponsor" means a public or private, nonprofit or for profit agency or organization approved by the commissioner which contracts with the department to develop and administer a respite care demonstration project.

C. 30:4F-3 Respite care demonstration projects.

3. The commissioner shall establish a program of respite care demonstration projects to: encourage the initiation and expansion of respite care throughout the State; evaluate the demand for and current availability of respite care services in the State; and determine the most efficient and effective means for providing respite care services to persons in need of these services.

C. 30:4F-4 Guidelines; review of proposals.

4. a. The commissioner shall prepare guidelines for respite care demonstration projects which shall include:

(1) Standards for eligibility for respite care services;

(2) Target populations that will be given priority in receiving services;

(3) Standards for financial eligibility of recipients and legally responsible care-givers for State funded respite care services and a sliding fee schedule based on the service recipient's and legally responsible care-giver's ability to pay for respite care services; and

(4) Procedures for reporting on implementation of each demonstration project.

b. The commissioner shall review project proposals submitted by agencies and organizations interested in participating in the program as sponsors, and approve those proposals which best meet the purposes of the respite care demonstration program.

C. 30:4F-5 Report to Governor, Legislature.

5. The commissioner shall report to the Governor and Legislature no later than six months before the expiration date of this act concerning:

a. The effects of the demonstration program with respect to assessing the demand for and availability of respite care services throughout the State;

b. An assessment of the most efficient and effective method for providing respite care services;

c. The projected costs for establishing a Statewide respite care program; and

d. Recommendations for permanently establishing a Statewide respite care program.

C. 30:4F-6 Rules, regulations.

6. The commissioner shall promulgate rules and regulations necessary to implement the provisions of this act.

7. This act shall take effect on July 1, 1983 and shall expire on June 30, 1986.

Approved July 29, 1983.

CHAPTER 285

AN ACT concerning motor vehicles and amending R. S. 39:3–46.

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

1. R. S. 39:3–46 is amended to read as follows:

Definitions.

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

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

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

"When lighted lamps are required" means at any time from a half-hour after sunset to a half-hour before sunrise and during any time when, due to rain, smoke, fog, unfavorable atmospheric conditions or for any other cause there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead.

"Headlamp" means a major lighting device capable of providing general illumination ahead of a vehicle.

"Auxiliary driving lamp" means an additional lighting device on a motor vehicle used primarily to supplement the headlamps in providing general illumination ahead of a vehicle.

"Single beam headlamps" mean headlamps or similar devices arranged so as to permit the driver of the vehicle to use but one distribution of light on the road.

"Multiple-beam headlamps" mean headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of two or more distributions of light on the road.

"Asymmetric headlamps" mean headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of several distributions of light on the road, at least one of which is asymmetric about the median vertical axis.

"Clear road beam" means the beam from multiple-beam headlamps designed to be used when not approaching other vehicles and designed to provide sufficient candlepower ahead to reveal obstacles at a safe distance ahead under ordinary conditions of road contour and of vehicle loading.

"Meeting beam" means the beam from multiple beam or asymmetric headlamps designed to be used when other vehicles are approaching within 500 feet or when signalled and designed so that the illumination on the left side of the road is reduced sufficiently to avoid dangerous glare for the approaching driver.

"Lower beam" means the beam from multiple beam or asymmetric headlamps designed to be directed low enough to avoid dangerous glare on both sides of the roadway.

"Reflector" means an approved device designed and used to give an indication by reflected light.

2. This act shall take effect immediately.

Approved July 29, 1983.

CHAPTER 286

AN ACT to amend the title of "An act permitting appointment of a chief warrant officer in certain counties of the first class and giving such officer full police officer status without having to take a civil service examination," approved September 7, 1976 (P. L. 1976, c. 85), so that the same shall read "An act permitting appointment without civil service examination of a chief warrant officer, and providing for limitations on the powers thereof," and to amend and supplement the body of that act.

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

1. The title of P. L. 1976, c. 85 is amended to read as follows:

Title amended.

An act permitting appointment without civil service examination of a chief warrant officer, and providing for limitations on the powers thereof.

2. Section 1 of P. L. 1976, c. 85 (C. 40A:9–117.5) is amended to read as follows:

C. 40A:9-117.5 Appointment of chief warrant officer.

1. A sheriff may appoint a chief warrant officer to serve for a term of one year without having to take a civil service examination. The chief warant officer shall have full police officer status as is granted to other sheriff's officers, provided that the officer has been certified by the Police Training Commission as having completed a police training course at an approved school, pursuant to P. L. 1961, c. 56 (C. 52:17B–66 et seq.).

C. 40A:9-117.5a Prior tenure unaffected.

3. (New section) This act shall not adversely affect tenure attained by a chief warrant officer prior to the effective date thereof pursuant to the provisions of P. L. 1976, c. 85 (C. 40A:9–117.5).

4. This act shall take effect immediately.

Approved July 29, 1983.

CHAPTER 287

AN ACT concerning juvenile and domestic relations court judges and family court judges in certain counties, amending P. L. 1982, c. 78 and supplementing chapter 4 of Title 2A of the New Jersey Statutes.

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

1. (New section) In addition to the judges authorized under N. J. S. 2A:4–4, the Governor, with the advice and consent of the Senate, shall appoint in each county of the fifth class having a population greater than 500,000 according to the 1980 federal census, two attorneys-at-law to be judges of the juvenile and domestic relations court of the county. They shall devote their entire time to their judicial duties, shall not engage in the practice of law and shall be paid a salary as provided by law.

2. (New section) In addition to the judges authorized under N. J. S. 2A:4–4, the Governor, with the advice and consent of the Senate, shall appoint in each county of the second class having a population of not less than 400,000 nor more than 450,000, according to the 1980 federal census, two attorneys-at-law to be judges of the juvenile and domestic relations court of the county. They shall devote their entire time to their judicial duties, shall not engage in the practice of law and shall be paid such salary as is provided by law.

3. Section 4 of P. L. 1982, c. 78 (C. 2A:4A–3) is amended to read as follows:

C. 2A:4A-3 Family court judges; court intake service.

4. a. The family court shall consist of 48 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. The family court shall consist of the following number of judges from the listed counties who at the time of their appointment and any reappointment were residents of that county:

Atlantic	1
Bergen	4
Burlington	1
Camden	4
Cumberland	1

Essex	6
Gloucester	2
Hudson	4
Mercer	1
Middlesex	4
Monmouth	6
Morris	4
Passaic	4
Somerset	1
Sussex	1
Union	4

c. In counties other than those in which the appointment of judges is provided by subsection b., the Supreme Court shall designate a Superior Court judge sitting in that county as the judge of the family court.

d. There shall be established in each county a court intake service, which shall have among its responsibilities the screening of juvenile delinquency complaints and juvenile-family crisis referrals. The intake service shall operate in compliance with standards established by the Supreme Court, but in no instance shall the standards for personnel employed as counselors hired after the effective date of this act be less than a master's degree from an accredited institution in a mental health or social or behavioral science discipline including degrees in social work, counseling, counseling psychology, mental health, counseling or education. Equivalent experience is acceptable when it consists of a minimum of an associate's degree with a concentration in one of the behavioral sciences and a minimum of five years' experience working with troubled youth and their families or a bachelor's degree in one of the behavioral sciences and two years' experience working with the troubled youth and their families. Intake personnel should also receive training in drug and alcohol abuse.

e. Guidelines for the education and training of judges authorized to sit in the family court shall be established by the Administrative Office of the Courts and shall include familiarization with youth services available in the county in which the judge sits.

4. This act shall take effect immediately except for section 3 which shall take effect December 31, 1983. Sections 1 and 2 shall expire on December 31, 1983.

Approved July 29, 1983.

CHAPTER 288

AN ACT concerning county prosecutors not required to devote full-time to their duties and amending N. J. S. 2A:158–10 and P. L. 1970, c. 6.

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

1. N. J. S. 2A:158–10 is amended to read as follows:

Annual salary range.

2A:158–10. County prosecutors not required by law to devote full-time to their duties shall receive annual salaries to be fixed by the governing body of the county at not less than $8,500.00 nor more than $35,000.00.

2. Section 1 of P. L. 1970, c. 6 (C. 2A:158–1.1) is amended as follows:

C. 2A:158-1.1 All county prosecutors to be full-time.

1. Any person appointed to the office of county prosecutor shall devote his entire time to the duties of his office and shall not engage in the practice of law or other gainful employment, except those appointed to that office in counties of the third class having a population between 65,000 and 85,000. No exception to the requirement that a prosecutor serve on a full-time basis shall be permitted on or after April 14, 1986.

3. Section 1 of this act shall take effect immediately and section 2 of this act shall take effect July 1, 1983.

Approved July 29, 1983.

CHAPTER 289

AN ACT requiring warnings in connection with the sale of kerosene for certain uses and supplementing chapter 4 of Title 51 of the Revised Statutes.

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

C. 51:4-9.1 Kerosene pump warnings required.

1. a. Every pump used or connected with the sale or offer for sale at retail of the grade of kerosene commonly known as 2-K, or any other grade having greater than 0.04% sulfur content by weight, and every place where such kerosene is paid for, shall be posted or imprinted with a warning, in a conspicuous place, as follows: "THIS KEROSENE IS DESIGNATED ASTM GRADE 2-K BY THE MANUFACTURER AND MAY NOT BE SUITABLE FOR USE IN ALL UNVENTED PORTABLE KEROSENE SPACE HEATERS. CONSULT THE HEATER MANUFACTURER'S RECOMMENDATIONS FOR PROPER FUEL."

b. Any person who violates the provisions of this section shall be liable to the penalties prescribed in R. S. 51:1–89.

c. The State Superintendent of Weights and Measures in the Division of Consumer Affairs, Department of Law and Public Safety, shall establish a program of inspection of retail dealers of kerosene in the State to determine compliance with the provisions of this section.

C. 51:4-9.2 Rules, regulations.

2. The State Superintendent of Weights and Measures in the Division of Consumer Affairs, Department of Law and Public Safety, shall adopt, pursuant to the provisions of 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.

3. This act shall take effect immediately.

Approved August 4, 1983.

CHAPTER 290

AN ACT concerning child abuse and amending P. L. 1974, c. 119.

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

1. Section 10 of P. L. 1974, c. 119 (C. 9:6–8.30) is amended to read as follows:

C. 9:6-8.30 Action by the division upon emergency removal.

10. Action by the division upon emergency removal. a. The division when informed that there has been an emergency removal of

a child from his home without court order shall make every reasonable effort to communicate immediately with the child's parent or guardian that such emergency removal has been made and the location of the facility to which the child has been taken, and advise the parent or guardian to appear in the appropriate juvenile and domestic relations court on the next court day. The division shall also advise the party making the removal to appear. For the purposes of this section, "facility" means a hospital, shelter or child care institution in which a child may be placed for temporary care, but does not include a foster home.

b. The division shall cause a complaint to be filed under this act immediately or on the first court day after such removal takes place.

c. Whenever a child has been removed pursuant to section 7 or 9 of this act, the division shall arrange for immediate medical examination of the child and shall have legal authority to consent to such examination. If necessary to safeguard the child's health or life, the division also is authorized to arrange for and consent to medical care or treatment of the child. Consent by the division pursuant to this subsection shall be deemed legal and valid for all purposes with respect to any person, hospital, or other health care facility examining or providing care or treatment to a child in accordance with and in reliance upon such consent. Medical reports resulting from such examination or care or treatment shall be released to the division for the purpose of aiding in the determination of whether the child has been abused or neglected. Any person or health care facility acting in good faith in the examination of or provision of care and treatment to a child or in the release of medical records shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.

2. This act shall take effect immediately.

Approved August 4, 1983.

CHAPTER 291

AN ACT establishing a birth defects registry within the Department of Health and repealing R. S. 9:13–5.

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

C. 26:8-40.20 Findings, declarations.

1. The Legislature finds and declares that major birth defects occur in approximately 1% of all births and are related to over 25% of all infant deaths; that while the cause of many birth defects is unknown, there is much concern that certain birth defects may be related to environmental factors such as pollution and toxic chemicals; that in order to effectively address this public health problem it is necessary to collect and compile complete and accurate information concerning the occurrence of birth defects in this State; and that a birth defects registry would provide a needed base of information to analyze this problem and plan for and provide services to children with birth defects and their families.

C. 26:8-40.21 Birth defects registry.

2. The State Department of Health shall establish and maintain a birth defects registry which shall contain a confidential record of all birth defects that occur in New Jersey and any other information that the department deems necessary and appropriate in order to conduct thorough and complete epidemiologic surveys of birth defects that occur in this State and plan for and provide services to children with birth defects and their families.

C. 26:8-40.22 Confidential reporting.

3. a. The Commissioner of Health, in consultation with the Public Health Council, shall require the confidential reporting to the Department of Health of all cases where a pregnancy results in a naturally aborted fetus or infant affected by a birth defect, and an electively aborted fetus that exhibits or is known to have a birth defect after 15 weeks of gestation. The reporting requirement shall apply to all infants from birth through one year of age.

b. The Commissioner of Health shall determine the health care providers and facilities which shall be required to report all birth defects, the types of conditions or defects that shall be reported, the type of information that shall be contained in the confidential report and the method for making the report. In reports concern-

ing all fetuses with anomalies, the name of the mother shall not be submitted.

C. 26:8-40.23 Not open to public inspection.

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

C. 26:8-40.24 No liability for divulging.

5. No individual or organization providing information to the Department of Health in accordance with this act shall be deemed to be or held liable for divulging confidential information.

C. 26:8-40.25 No compelled examination.

6. Nothing in this act shall be construed to compel any individual to submit to a medical examination or to Department of Health supervision.

C. 26:8-40.26 Rules, regulations.

7. The Commissioner of Health shall promulgate rules and regulations necessary to effectuate the purposes of this act.

Repealer.

8. R. S. 9:13–5 is repealed.

9. This act shall take effect 30 days following enactment.

Approved August 4, 1983.

CHAPTER 292

AN ACT to amend the "Uniform Securities Law (1967)," approved June 8, 1967 (P. L. 1967, c. 93).

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

1. Section 2 of P. L. 1967, c. 93 (C. 49:3–49) is amended to read as follows:

C. 49:3-49 Definitions.

2. When used in this act, unless the context otherwise requires:

(a) "Bureau" means the agency designated in section 19(a);

(b) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents an issuer in (1) effecting transactions in a security exempted by subdivision (1), (2), (3), or (11) of section 3(a); (2) effecting transactions exempted by section 3(b); or (3) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this State. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition;

(c) "Broker-dealer" means any person engaged in the business of effecting or attempting to effect transactions in securities for the accounts of others or for his own account. "Broker-dealer" does not include (1) an agent, (2) an issuer, (3) a person who effects transactions in this State exclusively in securities described in subdivisions (1) and (2) of section 3(a), (4) a bank, savings institution, or trust company, or (5) a person who (i) effects transactions in this State exclusively with or through (A) the issuers of the securities involved in the transactions, (B) other broker-dealers or (C) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of 12 consecutive months does not direct more than 15 offers to sell or to buy into this State in any manner to persons other than those specified in paragraph (c)(5)(i), whether or not the offeror or any of the offerees is then present in this State;

(d) "Capital" shall mean net capital as defined and adjusted under the formula established by the Securities and Exchange Commission in Rule 15c3–1, made pursuant to the Securities Exchange Act of 1934, prescribing a minimum permissible ratio of aggregate indebtedness to net capital as such formula presently exists or as it may hereafter be amended;

(e) "Fraud," in addition to the usual construction placed on it and accepted in courts of law and equity, shall include the following, provided, however, that any promise, representation, mis-

representation or omission be made with knowledge and with intent to deceive and results in a detriment to the purchaser:

(1) Any misrepresentation by word, conduct or in any manner of any material fact, either present or past, and any omission to disclose any such fact;

(2) Any promise or representation as to the future which is beyond reasonable expectation or is unwarranted by existing circumstances;

(3) The gaining of, or attempt to gain, directly or indirectly, through a trade in any security, a commission, fee or gross profit so large and exorbitant as to be unconscionable and unreasonable;

(4) Generally any course of conduct or business which is calculated or put forward with intent to deceive the public or the purchaser of any security as to the nature of any transaction or the value of such security;

(5) Any artifice, agreement, device or scheme to obtain money, profit or property by any of the means herein set forth or otherwise prohibited by this law;

(f) "Guaranteed" means guaranteed as to payment of principal, interest or dividends;

(g) "Investment advisor" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment advisor" does not include (1) a bank, savings institution, or trust company; (2) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (3) a broker-dealer registered under this law; (4) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation; (5) a person whose advice, analyses, or reports relate only to securities exempted by section 3, paragraph (a) (1) and (2); (6) a person who has no place of business in this State if (a) his only clients in this State are other investment advisors, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buy-

ers, whether acting for themselves or as trustees, or (b) during any period of 12 consecutive months he does not direct business communications into this State in any manner to more than five clients other than those specified in subparagraph (6) (a) of this paragraph, whether or not he or any of the persons to whom the communications are directed is then present in this State; or (7) such other persons not otherwise within the intent of this paragraph (g) as the bureau chief may by rule or order designate;

(h) "Issuer" means any person who issues or proposes to issue any security, except that (1) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and (2) with respect to certificates of interest in oil, gas, or mining titles or leases, there is not considered to be any "issuer";

(i) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(j) (1) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value;

(2) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value;

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value;

(4) A purported gift of assessable stock is considered to involve an offer and sale;

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the

same or another issuer, is considered to include an offer of the other security;

(6) The terms defined in this paragraph (j) do not include (a) any bona fide pledge or loan; (b) any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; (c) any act incident to a class vote by stockholders, pursuant to the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or (d) any act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash;

(k) "Savings institutions" shall mean any savings and loan association or building and loan association operating pursuant to the Savings and Loan Act of New Jersey, and any federal savings and loan association and any association organized under the laws of any state whose accounts are insured by the Federal Savings and Loan Insurance Corporation and who are subject to supervision and examination by the Federal Home Loan Bank Board, and any credit union licensed and supervised under the Credit Union Act of New Jersey or licensed and supervised by the Bureau of Federal Credit Unions;

(l) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935" and "Investment Company Act of 1940" mean the federal statutes of those names as amended or supplemented before or after the effective date of this act;

(m) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement including but not limited to certificates of interest or participation in real or personal property; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest in an oil, gas or mining title or lease; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for,

guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable number of dollars either in a lump sum or periodically for life or some other specified period;

(n) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico;

(o) "Nonissuer" means secondary trading not involving the issuer of the securities or any person in a control relationship with the issuer;

(p) "Accredited investor" means any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the security to that person:

(1) Any bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(2) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

(3) Any organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000.00;

(4) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(5) Any person who purchases at least $150,000.00 of the securities being offered, where the purchaser's total purchase price does not exceed 20% of the purchaser's net worth at the time of sale, or joint net worth with that person's spouse, for one or any combination of the following: (i) cash, (ii) securities for which market quotations are readily available, (iii) an unconditional obligation to pay cash or securities for which market quotations are readily available which obligation is to be discharged within five years of the sale of the securities to the purchaser, or (iv) the cancellation of any indebtedness owed by the issuer to the purchaser;

(6) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds $1,000,000.00; and

(7) Any natural person who had an individual income in excess of $200,000.00 in each of the two most recent years and who reasonably expects an income in excess of $200,000.00 in the current year.

The bureau chief may rule, or order, waive or modify the conditions in this subsection (p) and shall interpret and apply this subsection (p) so as to effectuate greater uniformity and coordination in federal-state securities registration exemptions;

(q) "Direct participation security" means a security which provides for flow-through tax consequences (tax shelter) regardless of the structure of the legal entity or vehicle for distribution, including, but not limited to, a security representing an interest in gas, oil, real estate, agricultural property, cattle, a condominium, or subchapter s corporate offerings and all other securities of a similar nature, regardless of the industry represented by the security, or any combination thereof. Excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans under section 408 of the Internal Revenue Code, tax sheltered annuities pursuant to the provisions of section 403(b) of the Internal Revenue Code and any company including separate accounts registered pursuant to the Investment Company Act of 1940.

2. Section 3 of P. L. 1967, c. 93 (C. 49:3–50) is amended to read as follows:

C. 49:3-50 Exemptions.

3. (a) The following securities are exempted from the provisions of sections 13 and 16 of this act:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United

States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank, savings institution, or trust company organized and supervised under the laws of any state or under the laws of the United States;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any State or Federal Savings and Loan Association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this State;

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this State;

(6) Any security issued or guaranteed by any Federal Credit Union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this State;

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act; (C) regulated in respect to its rates and charges by a governmental authority of the United States or any state; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange or the American Stock Exchange, and such other exchanges as the bureau chief may from time to time designate by rule or order; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(9) Any security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within 12 months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

(11) Any investment contract issued in connection with an employees' or professional stock purchase, savings, pension, profit-sharing, retirement or similar benefit plan if the bureau chief is notified in writing 30 days before the inception of the plan or, with respect to plans which are in effect on the effective date of this act, within 60 days thereafter (or within 30 days before they are reopened if they are closed on the effective date of this act);

(b) The following transactions are exempted from the provisions of sections 13 and 16 of this act:

(1) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

(2) Any nonissuer transaction of an outstanding security if (A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operation, or (B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the customer shall acknowledge upon a form prescribed by the bureau chief that the sale was unsolicited, and a signed copy of such form shall be filed with the Bureau of Securities;

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(5) Any transaction on a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or

other evidences of indebtedness secured thereby, is offered and sold as a single unit;

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this act;

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(9) Any transaction pursuant to an offer directed by the offeror to not more than 10 persons (other than those designated in paragraph (b)(8)) in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if (i) the seller reasonably believes that all buyers are purchasing for investment, and (ii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State; but the bureau chief may by rule or order, as to any transaction, withdraw or further condition this exemption, or increase or decrease the number of offerees permitted, or waive the conditions in subdivisions (i) and (ii);

(10) Any offer or sale of a preorganization certificate or subscription if (i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (ii) the number of subscribers does not exceed 10, and (iii) no payment is made by any subscriber;

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if (i) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this State, or (ii) the issuer first files a notice specifying the terms of the offer and the bureau chief does not by order disallow the exception within the next five full business days;

(12) Any transaction by or on behalf of an issuer if (i) the issuer has reasonable grounds to believe and, after making reasonable in-

quiry, believes, immediately prior to making any sale, that there are no more than 35 purchasers of the issue in this State during any period of 12 consecutive months and that each purchaser either alone or with his representative has the knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment; (ii) a written offering statement or prospectus is furnished to each offeree which provides the offeree with substantially the same information as is required by section 14(b) of P. L. 1967, c. 93 (C. 49:3–61) or, in the case of securities representing an interest in real estate, the same information as is required by section 4 of P. L. 1963, c. 192 (C. 49:3–30); and (iii) a report of the offering is filed with the bureau within 30 days of the completion date of the offering setting forth the name and address of the issuer, the total amount of the securities sold under this subsection (12), the price at which the securities were sold, the total number of purchasers of the securities, and the names and addresses of the purchasers of the securities indicating the number and amount of the securities each purchased. The fee for filing the report with the bureau shall be $100.00. The information on the report of sale shall be deemed confidential and shall not be disclosed to the public except by order of the court or in court proceedings. In calculating the number of purchasers permitted under this paragraph, accredited investors shall be excluded;

(c) The bureau chief may by order deny or revoke any exemption specified in subdivision (9), (10) or (11) of subsection (a) or in subsection (b) with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the bureau chief may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this subsection. Upon the entry of a summary order, the bureau chief shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within 15 days of the receipt of a written request the matter will be set down for hearing. The order will remain in effect until it is modified or vacated upon notice to all interested parties by the bureau chief. No order under this subsection may operate retroactively;

(d) In any proceeding under this act, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

3. Section 10 of P. L. 1967, c. 93 (C. 49:3–57) is amended to read as follows:

C. 49:3-57 Registration.

10. (a) A broker-dealer, agent, or investment advisor may obtain an initial or renewal registration by filing with the bureau an application together with a consent to service of process pursuant to section 26 (a). The application shall contain whatever information the bureau chief by rule requires concerning such matters as (1) the applicant's form and place of organization; (2) the applicant's proposed method of doing business; (3) the qualifications and business history of the applicant; in the case of a broker-dealer or investment advisor, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment advisor; and, in the case of an investment advisor or registered broker-dealer acting as an investment advisor, the qualifications and business history of any employee who is to give investment advice; (4) any injunction or administrative order or conviction of a crime of the fourth degree or its equivalent in any other jurisdiction involving a security or any aspect of the securities business and any conviction of a crime of the first, second or third degree or its equivalent in any other jurisdiction; and (5) the applicant's financial condition. If no denial, postponement or suspension order is in effect and no proceeding is pending under section 11, registration becomes effective at noon of the thirtieth day after an application is filed. The bureau chief may by rule or order specify an earlier effective date, or he may by order defer the effective date until the first day of the next calendar month after the thirtieth day after the filing of the application. The time limits herein provided shall run anew from the filing of any amendment. Registration of a broker-dealer automatically constitutes registration of any agent who is a partner, officer, or director, or a person occupying a similar status or performing similar functions;

(b) Every applicant for initial or renewal registration shall pay a filing fee of $500.00 in the case of a broker-dealer, plus $5.00 for each partner, officer, director, or principal doing business in this State, $30.00 in the case of an agent, $50.00 in the case of an investment advisor and $50.00 in the case of an issuer. When application is denied or withdrawn, the bureau shall retain the fee. Whenever any supplemental filing, for the purpose of keeping cur-

rent the information furnished to the bureau chief, is made there shall be a supplemental filing fee of $5.00;

(c) A registered broker-dealer or investment advisor may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the registration period. There shall be no filing fee;

(d) The bureau chief may by rule require a minimum capital for registered broker-dealers; provided that the bureau chief shall not in any case require a minimum capital in excess of $10,000.00 in the case of a registered broker-dealer; and provided, further, that the minimum capital requirement of a broker-dealer engaged exclusively in the sale of investment company shares shall not be in excess of $5,000.00;

(e) The bureau chief may by rule require registered investment advisors who have custody of clients' funds or securities and registered broker-dealers to post surety bonds in amounts up to $25,000.00, and may determine their conditions; provided that no such surety bond shall be required of an investment advisor or a broker-dealer who has a minimum capital of at least $25,000.00 or of a broker-dealer engaged exclusively in the sale of investment company shares who has a minimum capital of $5,000.00; except that, notwithstanding the provisions of this or any other section of this law, the bureau chief may by rule require registered broker-dealers and investment advisors if such registrant or any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling such registrant has ever been convicted of any crime of the fourth degree or its equivalent in any other jurisdiction involving a security or any aspect of the securities business, or any crime of the first, second or third degree or its equivalent in any other jurisdiction to post surety bonds in amounts up to $200,000.00. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. Every bond shall provide for suit thereon by any person who has a cause of action under section 24. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within two years after the sale or other act upon which it is based, 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;

(f) (1) The bureau chief may by rule provide for an examination which may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will

represent an investment advisor in doing any of the acts which make him an investment advisor;

(2) Each applicant for such examination shall pay examination fees as follows: broker-dealer, $50.00; partner, officer, or director doing business in this State, $50.00; agent, $50.00; and investment advisor, $50.00. When an application for examination is denied or withdrawn, the bureau shall retain the fee;

(g) Registration as a broker-dealer or agent under this act for the limited purpose of engaging in the business of effecting or attempting to effect transactions in direct participation securities for the accounts of others or for his own account shall be permitted. All the requirements of this act and the "Real Estate Syndication Offerings Law," P. L. 1963, c. 192 (C. 49:3–27 et seq.) shall apply to these limited registrations; except that any examination or other evaluation of proficiency or knowledge required by the bureau for this registration shall be limited to matters relating to direct participation securities and to the requirements of laws and regulations applicable to this registrant.

Any applicant for a limited registration shall acknowledge in writing to the bureau prior to registration that he understands (i) the limitations on the scope of his authority to do business pursuant to this limited registration; and (ii) that any activity which exceeds the limitations of the registration shall violate the provisions of this act and may result in disciplinary action by the bureau, prosecution under this act or other laws, or civil liability to the same extent as if he was not registered under this act.

4. This act shall take effect immediately.

Approved August 4, 1983.

CHAPTER 293

A SUPPLEMENT to "An act to supplement the 'New Jersey Medical Assistance and Health Services Act,' (P. L. 1968, c. 413) and making an appropriation therefor," approved August 21, 1975 (P. L. 1975, c. 194; C. 30:4D–20 et seq.).

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

C. 30:4D-21.1 Date of ineligibility.

1. (New section) Notwithstanding any law or regulation to the contrary, any eligible person receiving benefits under the "Pharmaceutical Assistance to the Aged and Disabled" program whose annual income is increased by reason of a Social Security Administration cost of living adjustment applied to a social security benefit amount to a level which would disqualify him under the program, the date of his ineligibility shall be the date of notification of such ineligibility by the Department of Human Services. No repayment of benefits received prior to the date of notice of eligibility shall be required.

2. This act shall take effect immediately.

Approved August 4, 1983.

CHAPTER 294

AN ACT concerning the restoration, maintenance and preservation of certain cemeteries.

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

C. 40:10B-1 Short title.

1. This act shall be known and may be cited as the "Historic Cemeteries Act."

C. 40:10B-2 Findings, declarations.

2. The Legislature finds that within the State of New Jersey, there are many historic cemeteries in which are interred the bodies of citizens who settled and first developed the colonial lands of East Jersey and West Jersey, fought to secure and preserve freedom and liberty, contributed to the historic and cultural development and evolution of the State, its counties and municipalities, and participated in events of historical and cultural importance and significance.

The Legislature further finds that because of a lack of funds available to restore, maintain and preserve many of these historic cemeteries, they have fallen into disrepair, disorder and decay.

The Legislature further finds that such cemeteries serve to remind us of our cultural and historical heritage, rekindle an awareness of the difficult struggles and unique achievements of preceding genera-

tions, and renew, in each succeeding generation, an appreciation and an understanding of the patterns of our State and local history.

The Legislature, therefore, declares that it is altogether fitting and proper, and in the public interest, to enable local governmental units to assist in the restoration, maintenance and preservation of such cemeteries.

C. 40:10B-3 Preservation of historic cemeteries.

3. The governing body of any county or municipality may provide for the restoration, maintenance and preservation of any historic cemetery located within its borders. As used in this act "historic cemetery" means a cemetery not owned by the State, a county, municipality, or religious corporation or association, in which are interred the remains of prominent citizens or residents of the State or of the Colony of East Jersey or the Colony of West Jersey, or veterans of the Colonial Wars, the War of Independence, the War of 1812, the Mexican-American War, the Civil War, the Spanish-American War, or World War I, in which not more than 10% of the interments have been made after 1880, in which no interment has been made for 50 years, and for which no funds are available for regular maintenance or preservation.

a. The governing body of a county may annually appropriate an amount not to exceed $10,000.00 for the restoration, maintenance and preservation of historic cemeteries located within its borders; provided, however, that no governing body shall expend annually an amount in excess of $500.00 to restore, maintain or preserve any one cemetery.

b. The governing body of a municipality may annually appropriate an amount not to exceed $3,000.00 for the restoration, maintenance and preservation of historic cemeteries located within its borders; provided, however, that no governing body shall expend annually an amount in excess of $500.00 to restore, maintain or preserve any one cemetery.

C. 40A:4-45.18 Exception from limitations.

4. Any expenditures made by a county or municipality to restore, maintain or preserve historic cemeteries pursuant to P. L. 1983, c. 294 (C. 40:10B–1 et seq.), shall be excepted from the limitations contained in P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.).

5. This act shall take effect immediately.

Approved August 4, 1983.

CHAPTER 295

AN ACT creating a commission to study the practicability and feasibility of establishing a New Jersey Monorail Authority to own and operate a Statewide monorail system and making an appropriation therefor.

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

1. The Legislature finds and determines that:

a. New Jersey is one of the most densely populated states in the nation;

b. New Jersey's highways are overburdened with traffic;

c. The establishment of a Statewide monorail system can make a significant contribution to public transportation and ease highway congestion; and

d. It may be appropriate to establish an authority to fund and operate such a system.

2. There is created a commission to be known as the New Jersey Monorail Authority Study Commission. The commission shall consist of eight members, four to be appointed from the membership of the Senate by the President thereof, not more than two of whom shall be from the same political party, and four to be appointed from the membership of the General Assembly by the Speaker thereof, not more than two of whom shall be from the same political party.

3. The commission shall organize as soon as may be practicable after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

4. It shall be the duty of the commission to study and evaluate the practicability and feasibility of establishing a New Jersey Monorail Authority to own and operate a Statewide monorail system.

5. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes, and to employ such stenographic and clerical assistance and incur

traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

6. The commission may meet and hold hearings at a place or places it designates during the sessions or recesses of the Legislature and within one year of the effective date of this act shall report its findings and recommendations to the Legislature with any legislative bills it may desire to recommend for adoption by the Legislature.

7. There is appropriated $5,000.00 to the commission from the General State Fund to effectuate the purposes of this act.

8. This act shall take effect immediately.

Approved August 4, 1983.

CHAPTER 296

AN ACT providing for the licensing of physical therapists and physical therapist assistants and repealing certain sections of P. L. 1963, c. 169 and P. L. 1975, c. 185.

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

C. 45:9-37.11 Short title.

1. This act shall be known and may be cited as the "Physical Therapist Licensing Act of 1983."

C. 45:9-37.12 Findings, declarations.

2. The Legislature finds and declares that the public interest requires the regulation of the practice of physical therapy and the establishment of clear licensure standards for physical therapists; and that the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified and legally authorized to practice physical therapy.

C. 45:9-37.13 Definitions.

3. As used in this act:

a. "Board" means the State Board of Physical Therapy established pursuant to section 5 of this act.

b. "Physical therapist" means a person who is licensed to practice physical therapy pursuant to the provisions of this act. A physical therapist shall provide physical therapy treatment to an individual upon the direction of a licensed physician, dentist or other health care practitioner authorized to prescribe treatment.

c. "Physical therapist assistant" means a person who is licensed pursuant to the provisions of this act and who assists a licensed physical therapist under his direct supervision in accordance with this act.

d. "Physical therapy" means the health specialty concerned with the prevention of physical disability and the habilitation or rehabilitation of congenital or acquired physical disabilities resulting from, or secondary to, injury or disease.

C. 45:9-37.14 Practice of physical therapy defined.

4. a. The practice of physical therapy shall include examination, treatment, or instruction to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease or other physical condition.

Physical therapy shall also include the evaluation, administration and modification of treatment and instruction, including, but not limited to, the use of physical measures, activities, agents and devices for preventive and therapeutic purposes; neurodevelopmental procedures; the performance and evaluation of tests and measurements; and the provision of consultative, educational and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction and pain consistent with the practice of physical therapy.

b. Nothing in this section shall authorize the diagnosis of disease or the practice of medicine and surgery or chiropractic by any person not licensed to do so pursuant to chapter 9 of Title 45 of the Revised Statutes.

c. Nothing in this section shall authorize the practice of dentistry by any person not licensed to do so pursuant to chapter 6 of Title 45 of the Revised Statutes.

C. 45:9-37.15 Membership of State Board of Physical Therapy.

5. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Physical Therapy. The board shall consist of 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P. L. 1971, c. 60 (C. 45:1–2.1

et seq.). Of the remaining eight members six shall be licensed physical therapists who have been actively engaged in the practice of physical therapy in this State for at least five years immediately preceding their appointment, one shall be the administrator of a hospital licensed pursuant to P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and one shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes.

The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the physical therapist members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed.

C. 45:9-37.16 Compensation.

6. Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P. L. 1977, c. 285 (C. 45:1–2.5).

C. 45:9-37.17 Election of officers; meetings.

7. The board shall annually elect from among its members a chairman, vice-chairman and a secretary. The board shall meet twice per year and may hold additional meetings as necessary to discharge its duties.

C. 45:9-37.18 Duties of board.

8. The board shall:

a. Review the qualifications of applicants for licensure;

b. Insure the proper conduct and standards of examinations;

c. Issue and renew licenses to physical therapists and physical therapist assistants pursuant to this act;

d. Suspend, revoke or fail to renew the license of a physical therapist or physical therapist assistant pursuant to the provisions of P. L. 1978, c. 73 (C. 45:1–14 et seq.);

e. Maintain a record of every physical therapist and physical therapist assistant licensed in this State, his place of business, his place of residence, and the date and number of his license; and

f. Promulgate rules and regulations necessary for the performance of its duties and the implementation of this act.

C. 45:9-37.19 License required; exemptions.

9. No person shall practice physical therapy or act as a physical therapist assistant, whether or not compensation is received or expected, unless he holds a valid license to practice in this State; however, nothing in this section shall be construed to:

a. Prohibit any student enrolled in a school or post-graduate course of physical therapy recognized by the board from performing physical therapy which is necessary to his course of study;

b. Prohibit any person licensed to practice in this State under any other law from engaging in the practice for which he is licensed; or

c. Prohibit any person employed by an agency, bureau or division of the Federal Government from practicing physical therapy within the scope of his official duties.

C. 45:9-37.20 Supervision of physical therapist assistants.

10. No physical therapist shall supervise more physical therapist assistants at any one time than in the opinion of the board can be adequately supervised. Under usual circumstances the maximum number of physical therapist assistants that may be supervised by a physical therapist shall be two, except that, upon application, the board may permit the supervision of a greater number of physical therapist assistants if it feels there would be adequate supervision and the public health and safety would be served.

C. 45:9-37.21 Fee-splitting prohibited.

11. No physical therapist or physical therapist assistant shall engage directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or shall profit by means of a credit or other valuable consideration as an unearned commission, discount or gratuity with any person who refers a patient or with any relative or business associate of the referring person; however, nothing in this section shall be construed to prohibit physical therapists who are members of a business entity, properly organized pursuant to law, from making a division of fees among themselves as determined by contract to be necessary to defray joint operating costs.

C. 45:9-37.22 Eligibility for licensure.

12. To be eligible for licensure as a physical therapist or physical therapist assistant, an applicant shall submit to the board satisfactory evidence that:

a. He has graduated from a program in physical therapy which has been approved for the education and training of physical

therapists or physical therapist assistants by an accrediting agency recognized by the Council on Post-Secondary Accreditation and the United States Department of Education; and

b. He has successfully completed a written examination administered by the board to determine his competence to practice physical therapy or to act as a physical therapist assistant.

C. 45:9-37.23 Requirements for graduate of foreign school.

13. An applicant for licensure who is a graduate of a foreign school of physical therapy shall furnish evidence satisfactory to the board that:

a. He has completed a course of study in physical therapy which is substantially equivalent to that provided in an accredited program as described in section 12a. of this act; and

b. He has successfully completed a written examination as provided for in section 12b. of this act.

C. 45:9-37.24 License fees.

14. A fee shall accompany each application for licensure. Licenses shall expire biennially on January 31 and may be renewed upon submission of a renewal application provided by the board and payment of a fee. If the renewal fee is not paid by that date, the license shall automatically expire; but may be renewed within two years of its expiration date on payment to the board of a sum determined by it for each year or part thereof during which the license was expired and an additional restoration fee. After a two year period, a license may only be renewed by complying with the provisions of this act regarding initial licensure.

C. 45:9-37.25 Written examination.

15. The written examination provided for in sections 12 and 13 of this act shall test the applicant's knowledge of basic and clinical sciences as they relate to physical therapy and physical therapy theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice physical therapy or act as a physical therapist assistant. Examinations shall be held within the State at least twice per year at a time and place to be determined by the board. The board shall give adequate written notice of the exam to applicants for licensure and examination.

If an applicant fails his first examination, he may take a second exam not less than six months or more than two years from the date of his initial exam. Additional examinations shall be in accordance with standards set by the board.

C. 45:9-37.26 Alternate standards.

16. The board may establish alternate standards for the examination of an applicant as a physical therapist assistant.

C. 45:9-37.27 Issuance of license.

17. The board shall issue a license to each applicant for licensure as a physical therapist or physical therapist assistant who qualifies pursuant to this act and any rules and regulations promulgated by the board and who is not disqualified for licensure pursuant to the provisions of P. L. 1978, c. 73 (C. 45:1–14 et seq.).

C. 45:9-37.28 Reciprocity.

18. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board shall issue without examination a license to a physical therapist or physical therapist assistant who holds a valid license issued by another state or possession of the United States or the District of Columbia which has education and experience requirements substantially equivalent to the requirements of this act; provided, however, the applicant has not previously failed the board exam referred to in section 15 of this act, in which case licensing shall be at the discretion of the board.

C. 45:9-37.29 Temporary license.

19. a. Upon submission of a written application on forms provided by it, the board shall issue a temporary license to a person who has applied for licensure pursuant to this act and who, in the judgment of the board, is eligible for examination. A temporary license shall be available to an applicant with his initial application for examination and he may practice only under the direct supervision of a licensed physical therapist. A temporary license shall expire automatically upon failure of the licensure exam but may be renewed for an additional six month period until the date of the next exam at which time it shall automatically expire and be surrendered to the board.

b. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue without examination a temporary license to practice physical therapy in this State to a person who provides evidence that he is in the State on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment relating to physical therapy practice. A temporary license shall expire one year from its date of issue, however, it may be renewed by the board for an additional one year period. A temporary license shall be surrendered to the board upon its expiration.

C. 45:9-37.30 Use of titles restricted to licensees.

20. No person, business entity or its employees, agents or representatives shall use the titles "physical therapist," "physiotherapist," "registered physical therapist," "licensed physical therapist," "physical therapist assistant," "registered physical therapist assistant," "licensed physical therapist assistant," "physical therapy assistant," or the abbreviations "PT," "RPT," "LPT," "PTA," "RPTA," "LPTA," or any other title, designation, words, letters, abbreviations, or insignia indicating the practice of physical therapy unless licensed to practice physical therapy under the provisions of this act.

C. 45:9-37.31 Permitted titles.

21. Any person who holds a license as a physical therapist pursuant to this act may use the title "physical therapist," or "licensed physical therapist," or the abbreviations "PT" or "LPT." Any person who holds a license as a physical therapist assistant pursuant to this act may use the title "physical therapist assistant" or the abbreviations "PTA" or "LPTA".

C. 45:9-37.32 Prior registrants.

22. Any person who is registered in this State as a physical therapist or a physical therapist assistant on the effective date of this act may continue to practice physical therapy under his current registration until its expiration, and to obtain a license under this act without examination upon payment of a fee.

C. 45:9-37.33 Medical Examiners' authority continued.

23. This act shall not affect the orders, rules and regulations regarding physical therapists or physical therapist assistants made or promulgated by the New Jersey State Board of Medical Examiners consistent with the purposes and provisions of this act which shall continue with full force and effect until amended, modified or repealed by the board established pursuant to this act.

C. 45:9-37.34 Other laws applicable.

24. The provisions of P. L. 1978, c. 73 (C. 45:1–14 et seq.) and P. L. 1974, c. 46 (C. 45:1–3.1 et seq.) shall apply to this act.

Repealer.

25. The following are repealed:

P. L. 1963, c. 169, §§ 2-7, 9, 10 (C. 45:9–37.1 through C. 45:9–37.6, C. 45:9–37.8, C. 45:9–37.9); P. L. 1975, c. 185, §§ 5-8 (C. 45:9–37.4a to C. 45:9–37.4d).

26. This act shall take effect on the one hundred and eightieth day following enactment.

Approved August 4, 1983.

CHAPTER 297

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, 1983, and regulating the disbursement thereof," approved June 30, 1982 (P. L. 1982, c. 49).

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

1. In addition to the amounts appropriated by P. L. 1982, c. 49, there is appropriated the following sum for the following purpose:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Economic Planning, Development and Security

55 Related Social Services Programs—State Aid

05-8050 Human Resources	$90,000
State Aid:	
Cultural development for ethnic groups	($90,000)

2. This act shall take effect immediately and be retroactive to July 1, 1982.

Approved August 8, 1983.

CHAPTER 298

AN ACT to amend the title of "An act concerning the authorization, acquisition, financing, selling, and leasing of industrial pollution control facilities; authorizing the creating of industrial pollution control financing authorities; defining the powers thereof; authorizing the issuance of bonds and notes by such authorities for financing industrial pollution control facilities; and providing for the terms and security thereof," approved January 9, 1974 (P. L. 1973, c. 376), so that the same shall read "An act concern-

ing the authorization, acquisition, financing, selling, and leasing of pollution control facilities; authorizing the creating of pollution control financing authorities; defining the powers thereof; authorizing the issuance of bonds and notes by such authorities for financing pollution control facilities; and providing for the terms and security thereof," and to amend the body of said act.

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

1. The title of P. L. 1973, c. 376 is amended to read as follows:

Title amended.

An act concerning the authorization, acquisition, financing, selling, and leasing of pollution control facilities; authorizing the creating of pollution control financing authorities; defining the powers thereof; authorizing the issuance of bonds and notes by such authorities for financing pollution control facilities; and providing for the terms and security thereof.

2. Section 1 of P. L. 1973, c. 376 (C. 40:37C–1) is amended to read as follows:

C. 40:37C-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Pollution Control Financing Law."

3. Section 2 of P. L. 1973, c. 376 (C. 40:37C–2) is amended to read as follows:

C. 40:37C-2 Findings, declarations.

2. The Legislature hereby finds and declares that there is an urgent need to protect and enhance the quality of the natural environment; that to reduce, abate and prevent environmental pollution, quality standards have been and will be established necessitating the employment of devices, equipment and facilities for the collection, reduction, treatment and disposal of gaseous, liquid and solid wastes or other contaminants deriving from the operation of public utility, industrial, manufacturing, warehousing, commercial, office and research facilities, and residential units; that the prompt construction of pollution control facilities, including resource recovery facilities, is in the public interest; that it is desirable to provide additional and alternative methods of financing the costs of the acquisition and installation of the devices, equipment and facilities required to comply with the quality standards

which will accelerate the abatement process; and that the alternative method of financing provided in this act is in the public interest and serves a public purpose in encouraging the protection of the health, welfare and safety of the citizens of this State.

4. Section 3 of P. L. 1973, c. 376 (C. 40:37C–3) is amended to read as follows:

C. 40:37C-3 Definitions.

3. In this act, unless the context otherwise clearly requires, the terms used herein shall have the meanings ascribed to them as follows:

"Act" means this New Jersey Pollution Control Financing Law.

"Authority" means a pollution control financing authority created pursuant to this act.

"Bonds" means any notes, bonds and other evidences of indebtedness or obligations of any agency.

"County" means any county of any class.

"Governing body" means the board of chosen freeholders.

"Person" means any individual, partnership, firm, company, corporation, public utility, association, trust, estate, or any other legal entity, or their legal representative, agent or assigns.

"Pollution" means any form of environmental pollution deriving from the operation of public utility, industrial, manufacturing, warehousing, commercial, office or research facilities, or deriving from the disposal of solid waste generated at residences, hotels, apartments or any other public or private buildings, including, but not limited to, water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution as determined by the various standards prescribed by this State or the Federal Government and including, but not limited to, anything which is considered as pollution or environmental damage pursuant to the laws, rules and regulations administered by the Department of Environmental Protection as established by P. L. 1970, c. 33 (C. 13:1D–1 et seq.), and any amendments and supplements thereto.

"Pollution control facilities" means any structures, facilities, systems, fixtures, lands and rights in lands, improvements, appurtenances, machinery, equipment or any combination thereof designed and utilized for the purpose of resource recovery or for the purpose of reducing, abating or preventing pollution, deriving from

the operation of public utility, industrial, manufacturing, warehousing, commercial, office or research facilities; and provided that the State Department of Environmental Protection and the governing body of the county certify that any such facility does not conflict with, overlap or duplicate any other planned or existing pollution control facilities undertaken or planned by another public agency or authority.

"Project costs" as applied to pollution control facilities financed under the provisions of this act means the sum total of all reasonable or necessary costs incident to the acquisition, construction, reconstruction, repair, alteration, improvement and extension of such pollution control facilities including, but not limited to, the cost of studies and surveys; plans, specifications, architectural and engineering services; organization, marketing or other special services; legal financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair or remodeling of existing buildings, fixtures, machinery and equipment; insurance premiums; and all other necessary and incidental expenses including an initial bond and interest reserve together with interest on bonds issued to finance such pollution control facilities to a date 6 months subsequent to the estimated date of completion and such other reserves as may be required by resolution of an agency.

"Resource recovery" means the collection, separation, recycling and recovery of metals, glass, paper and other materials for reuse or for energy production.

5. Section 4 of P. L. 1973, c. 376 (C. 40:37C–4) is amended to read as follows:

C. 40:37C-4 Creation of county authority; membership.

4. a. Any county may create an authority under the provisions of this act which shall be a public body corporate and politic and a political subdivision of the State for the purpose of acquiring, constructing, reconstructing, repairing, altering, improving, extending, owning, leasing, financing, selling, maintaining, operating and disposing of pollution control facilities within such county; provided that, with respect to any pollution control facility which is not engaged in resource recovery, the Department of Environmental Protection certifies that the proposed undertaking of the authority is the proper method of solving the problem under consideration; and provided further that, with respect to any pollution control facility which is engaged in resource recovery, the facility con-

forms to the Statewide solid waste management plan and the applicable district solid waste management plan and has an approved registration statement and engineering design pursuant to section 5 of P. L. 1970, c. 39 (C. 13:1E–5).

b. The authority shall be created by resolution and shall be known as the "Pollution Control Financing Authority of ....," inserting all or any significant part of the name of the county creating the authority. The authority shall constitute an agency and instrumentality of the county creating it.

c. An authority shall consist of five members appointed by resolution of the governing body of the county which created such authority.

Members shall serve for terms of 5 years, provided that the members first appointed shall be designated by the resolution of appointment to serve for terms expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after such appointment. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment but for the unexpired term only.

d. The governing body of any county which has created an authority may dissolve the authority by resolution on condition that the authority has no debts or obligations outstanding or that provision has been made for the retirement of such debts or obligations. Upon any such dissolution, all property, funds and assets of the authority shall be vested in the county which created the authority.

e. A certified copy of each resolution creating or dissolving an authority and each resolution appointing members thereto shall be filed in the office of the Secretary of State. A copy of any such certified resolution, certified by or on behalf of the Secretary of State, shall be conclusive evidence of the due and proper creation or dissolution of the authority or the due and proper appointment of the member or members named therein.

f. The powers of an authority shall be vested in the members thereof from time to time and three members shall constitute a quorum. Action may be taken and motions and resolutions adopted by an agency at any meeting thereof by the affirmative vote of at least three members of the authority.

No vacancy in the membership of an authority shall impair the right of a quorum of the members thereof to exercise all the powers and perform all the duties of the authority.

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g. At the first meeting of any authority and thereafter on or after February 1 in each year, the members shall elect from among their number a chairman and vice chairman who shall hold office until February 1 next ensuing and until their respective successors have been appointed and qualified. Every authority also may appoint, without regard to the provisions of Title 11 of the Revised Statutes, a secretary, treasurer and such other officers, agents and employees as it may require.

h. The members of an authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their official duties.

i. No member, officer or employee of an authority, nor member of their family, shall have or acquire any interest, direct or indirect in any pollution control facilities undertaken or planned by the authority or in any contract or proposed contract for materials or services to be furnished to or used by the authority, but neither the holding of any office or employment in the government of any county or municipality or under any law of the State shall be deemed a disqualification for membership in or employment by an authority, except as may be specifically provided by law, and members of the governing body of a county may be appointed by such governing body and may serve as members of the authority. A member may be removed only by the governing body by which he was appointed for inefficiency or neglect of duty or misconduct in office or conviction of a crime, and after he shall have been given a copy of the charges against him and, not sooner than 10 days thereafter, had the opportunity in person or by counsel to be heard thereon by such governing body.

6. Section 5 of P. L. 1973, c. 376 (C. 40:37C–5) is amended to read as follows:

C. 40:37C-5 Powers of authority.

5. The authority shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

a. To have perpetual succession as a public body corporate and politic;

b. To adopt bylaws for the regulation of its affairs and the conduct of its business;

c. To sue and to be sued;

d. To have and to use a corporate seal and to alter the same at pleasure;

e. To maintain an office at such place or places within the county as it may designate;

f. To acquire after a public notice has been given at least 20 days prior thereto in a newspaper of general circulation in the area served by the authority, in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper any land and other property which it may determine is reasonably necessary for any of its pollution control facilities;

g. To determine, with the approval of the State Department of Environmental Protection, the location and manner of construction of pollution control facilities to be financed under the provisions of this act, and to acquire, construct, reconstruct, repair, alter, improve, extend, own, lease, finance, sell, maintain and dispose of the same and to enter into contracts for any and all of such purposes, and to designate persons as its employees and agents to accomplish the same;

h. To lease to a person or persons any or all of the pollution control facilities upon such terms, conditions and guarantees as the authority shall deem proper, and to charge and collect rent and fees therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the lessee or lessees thereof, and any guarantor of such lease, shall have upon the termination of the lease term options to renew the term of the lease for such period or periods and at such rent as shall be determined by the authority or to purchase any or all of the pollution control facilities for a nominal amount or otherwise or that upon payment of all of the indebtedness incurred by the authority for the financing of such pollution control facilities of the authority may convey any or all of the pollution control facilities to the lessee or lessees thereof;

i. To sell to a person or persons any or all of the pollution control facilities upon such terms and conditions as the authority shall deem proper including the right to receive for such sale the note or notes of the person or persons purchasing the facility;

j. To acquire, hold, pledge, mortgage and dispose of real and personal property in the exercise of its powers and performance of its duties under this act;

k. To invest and reinvest bond proceeds pending application to the purposes for which such bonds were issued and other funds under its control, subject only to the provisions of any bond resolution, lease or other agreement entered into by such authority;

l. To issue bonds in such principal amounts as, in the opinion of such authority, shall be necessary to provide sufficient funds to carry out the purpose of this act, including the planning, financing, acquisition, construction and other project costs of pollution control facilities, the payment of interest on the bonds of the authority, the provision for working capital and all other expenditures of the agency incident to and necessary or convenient for carrying out its purposes and powers and to refund the same, all as provided for in this act;

m. To employ engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents, without regard to the provisions of Title 11 of the Revised Statutes, as may be necessary in its judgment and to fix their compensation;

n. To receive and accept from any public agency loans or grants for or in aid of the construction of pollution control facilities and any portion thereof, or for equipping the same, and to receive and accept grants, gifts or other contributions from any source;

o. To refund, after public notice has been given, outstanding obligations incurred by any agency or any person to finance the cost of pollution control facilities, including obligations incurred for pollution control facilities undertaken and completed after the enactment of this act when the authority finds that such financing is in the public interest;

p. To extend credit or make loans to any person in order to pay or provide for the payment of any project costs of a pollution control facility; and

q. To do all things necessary and convenient to carry out the purposes of this act.

7. Section 8 of P. L. 1973, c. 376 (C. 40:37C–8) is amended to read as follows:

C. 40:37C-8 Issuance of bonds.

8. All bonds issued by an authority may be issued as serial bonds or as term bonds or a combination of both types. Such bonds shall be payable solely out of the revenues and receipts derived from the leasing or sale by the authority of the pollution control facilities acquired with the proceeds thereof as may be designated in the

proceedings under which the bonds shall be authorized to be issued or from the loan and security agreements or other instruments entered into between an authority and the person to whom the proceeds of the bonds have been loaned for the purpose of paying any of the project costs of a pollution control facility. Such bonds may be executed and delivered by the authority at any time and from time to time, bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, be executed by the manual or facsimile signatures of such officers of the authority and contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the authority. If deemed advisable by the authority, there may be retained in the proceedings under which any bonds are authorized to be issued a right or option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings, but nothing herein contained shall be construed to confer on any authority the right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds may be sold at public or private sale for such price or prices and in such manner and at such time or times as may be determined by the authority and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance thereof. Issuance by the authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same pollution control facilities or any other pollution control facilities or for any other purpose hereunder, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge made for any prior issue of bonds. Any bonds at any time outstanding may at any time and from time to time be refunded by the issuance of refunding bonds in such amount as the authority may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any premiums, commissions, service fees and other expenses necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or

shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of all or so many of the holders of the bonds so to be refunded as may be determined and regardless of whether or not the bonds to be refunded were issued in connection with the same pollution control facilities or separate pollution control facilities or for any other purpose hereunder, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise. All such bonds and the interest coupons applicable thereto, if any, are hereby made and shall be construed to be negotiable instruments within the meaning, and for all purposes, of Title 12A, Commercial Transactions, of the New Jersey Statutes (N. J. S. 12A:1–101 et seq.) with the exception of any provisions thereof pertaining to registration.

8. Section 9 of P. L. 1973, c. 376 (C. 40:37C–9) is amended to read as follows:

C. 40:37C-9 Security for bonds.

9. The principal of and interest and premiums, if any, on any bonds issued by an authority shall be secured by a mortgage or pledge of the revenues and receipts out of which the same shall be made payable and may be secured by the pledge of all or any part of the assets of such authority, subject to such agreements with bondholders as may then prevail, or such bonds of the authority may be secured by loan and security agreements or any other instrument upon terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds; provided that any such agreement or instrument shall provide for payments at least adequate to pay the principal of and interest and premiums, if any, on bonds issued to finance pollution control facilities as they become due and payable. The resolution under which the bonds are authorized to be issued may contain any agreements and provisions respecting the maintenance of the properties covered thereby; the fixing, collection and use of rents for any portions thereof leased by the authority to others; the determination, collection and application of payments to be received for the sale of any properties covered thereby; the creation and maintenance of special funds from such revenues or receipts and the limitations on the

purpose to which the proceeds from the sale of the bonds may be applied and pledging such proceeds to secure the payment of the bonds; the limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds; the procedure, if any, by which the terms of any such agreement may be amended or abrogated; and the rights and remedies available in the event of default, including the designation of a trustee, all as the authority shall deem advisable and not in conflict with the provisions hereof. Each pledge and agreement made for the benefit or security of any of the bonds of the authority shall continue effective until the principal of and interest and premiums, if any, on the bonds for the benefit of which the same were made shall have been fully paid or provision for such payment duly made. In the event of default in such payment or in any agreement of the authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any indenture executed as security therefor, said payment or agreement may be enforced by suit, action in lieu of prerogative writ, or the appointment of a receiver in equity, or any one or more of said remedies.

As further security for the bonds, an authority may enter into contracts of insurance assuring that the principal of and interest on such bonds will be paid and that rental payments, installment payments or other payments to be made by the user of the facilities will be made; provided, however, that the authority shall not be obligated under the terms of such policy to any greater extent than allowed by the provisions of this act. The cost of any such insurance contract may be paid out of the proceeds of the sale of the bonds so insured.

9. This act shall take effect immediately.

Approved August 8, 1983.

CHAPTER 299

AN ACT concerning the entering of Superior Court Judgments, and amending N. J. S. 2A:16–11.

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

1. N. J. S. 2A:16–11 is amended to read as follows:

Civil judgment, order docket.

2A:16–11. The Clerk of the Superior Court shall keep a book known as a civil judgment and order docket in which shall be entered, without any request, an abstract of each judgment or order for the payment of money, including a judgment or order to pay counsel fees and other fees or costs, entered from, or made in, the Superior Court. A judgment or order for the payment of money is one which has been reduced to a fixed dollar amount. Any judgment for periodic payments where a total amount has not been fixed shall not be considered as having been reduced to a fixed dollar amount unless a judgment fixing arrearages has been entered.

The entry required by this section shall constitute the record of the judgment, order or decree and a transcript thereof duly certified by the clerk of the court shall be a plenary evidence of such judgment, order or decree.

The clerk shall also make an entry upon the civil judgment and order docket indicating the nature of every judgment or order and an entry on return showing execution of process and the date when such judgment or order was entered.

2. This act shall take effect immediately.

Approved August 8, 1983.

CHAPTER 300

AN ACT concerning prosecutors and assistant prosecutors in certain counties and amending P. L. 1970, c. 6 and P. L. 1976, c. 15.

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

1. Section 1 of P. L. 1970, c. 6 (C. 2A:158–1.1) is amended to read as follows:

C. 2A:158-1.1 All prosecutors to serve full-time.

1. Any person appointed to the office of county prosecutor shall devote his entire time to the duties of his office and shall not engage in the practice of law or other gainful employment, except those

appointed to that office in counties of the third class having a population between 65,000 and 85,000. No exception to the requirement that a prosecutor serve on a full-time basis shall be permitted on or after April 14, 1986.

2. Section 2 of P. L. 1976, c. 15 (C. 2A:158–15.1a) is amended to read as follows:

C. 2A:158-15.1a Assistant prosecutors.

2. The provisions of P. L. 1970, c. 6, s. 3 (C. 2A:158–15.1) shall not apply to any assistant prosecutor in a county of the fifth class having a population between 300,000 and 500,000 or to any assistant prosecutor in a county of the sixth class, or to any assistant prosecutor in a county of the third class having a population of less than 85,000, or to any assistant prosecutor in a county of the third class having a population in excess of 115,000; provided, however, that the county prosecutor of any such county, whether or not such county prosecutor is required to devote his entire time to the duties of such office, where there appears to be a reasonable necessity therefor and where approved by order of the assignment judge, may direct that any assistant prosecutor devote his entire time to the duties of such office and not engage in the practice of law or other gainful employment.

3. This act shall take effect July 1, 1983.

Approved August 8, 1983.

CHAPTER 301

AN ACT concerning automobile insurance and amending P. L. 1944, c. 27 and P. L. 1983, c. 65.

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

1. Section 1 of P. L. 1944, c. 27 (C. 17:29A–1) is amended to read as follows:

C. 17:29A-1 Definitions.

1. As used in this act,

(a) "Rate" means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium.

(b) "Premium" means the consideration paid or to be paid to an insurer for the issuance and delivery of any binder or policy of insurance.

(c) "Rate-making" means the examination and analysis of factors and influences related to and bearing upon the hazard and risk made the subject of insurance; the collection and collation of such factors and influences into rating-systems; and the application of such rating-systems to individual risks.

(d) "Rating-system" means every schedule, class, classification, rule, guide, standard, manual, table, rating plan, or compilation, by whatever name described, containing the rates used by any rating organization or by any insurer, or used by any insurer or by any rating organization in determining or ascertaining a rate.

(e) "Policy of insurance," without otherwise limiting its meaning, shall include guaranty and surety bonds.

(f) "Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of rate-making for two or more insurers.

(g) "Insurer" means any person or persons, corporation, association, partnership or company authorized by the laws of this State to transact the business of insurance in this State.

(h) "Commissioner" means the Commissioner of Insurance of New Jersey.

(i) "Risk," as the context may require, means, (1) as to fire insurance or any other kind of insurance which, by law, may be embraced in a policy of fire insurance, as part thereof or as supplemental thereto, any property, real or personal, described in a policy, exposed to any hazard or peril named in such policy; and (2) as to all other kinds of insurance not specifically included in subsection (i) (1) of this section, the hazard or peril named in a policy of insurance.

(j) "Filer" means a rating organization or any insurer making its own rates.

(k) "Commission" means the commission paid by the insurer to the producer or, for those insurers whose sales compensation, as reported on the insurer's expense exhibits, is not classified as a commission, such compensation shall be treated as a commission.

2. Section 14 of P. L. 1944, c. 27 (C. 17:29A–14) is amended to read as follows:

C. 17:29A-14 Filing of rate alterations; hearings.

14. a. With regard to all property and casualty lines, a filer may, from time to time, alter, supplement, or amend its rates, rating-systems, or any part thereof, by filing with the commissioner copies of such alterations, supplements, or amendments, together with a statement of the reason or reasons for such alteration, supplement, or amendment, in a manner and with such information as may be required by the commissioner. If such alteration, supplement or amendment shall have the effect of increasing or decreasing rates, the commissioner shall determine whether the rates as altered thereby are reasonable, adequate, and not unfairly discriminatory. If the commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate, or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate, or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment.

b. With regard to private passenger automobile insurance, in addition to or concurrently with the procedure prescribed for all other property and casualty lines, a filer may, from time to time, alter, supplement or amend its rates, rating systems or any part thereof by making an informational filing with the commissioner of alterations, supplements or amendments, together with a statement of the reason or reasons therefor, including but not limited to the claim and expense experience of the individual filer, in accordance with the provisions of subsection d. of this section.

c. If an insurer or rating organization files a proposed alteration, supplement or amendment to its rating system, or any part thereof, which would result in a change in rates, the commissioner may, or upon the request of the filer or the Public Advocate shall, certify the matter for a hearing. The hearing shall, at the commissioner's discretion, be conducted by himself or by the Office of Administrative Law, created by P. L. 1978, c. 67 (C. 52:14F–1 et seq.), as a contested case. The following requirements shall apply to the hearing:

(1) The hearing shall commence within 30 days of the date of the request or decision that a hearing is to be held. The hearing shall be held on consecutive working days. If the hearing is conducted by an administrative law judge, the administrative law judge shall submit his findings and recommendations to the commissioner within 30 days of the close of the hearing. A decision shall be rendered by the commissioner not later than 60 days from the close of the hearing. A filing shall be deemed to be approved

unless rejected or modified by the commissioner within the time period provided herein.

(2) The commissioner, or the Director of the Office of Administrative Law, as appropriate, shall notify all interested parties, including the Public Advocate on behalf of insurance consumers, of the date set for commencement of the hearing, on the date of the filing of the request for a hearing, or within 10 days of the decision that a hearing is to be held.

(3) The insurer or rating organization making a filing on which a hearing is held shall bear the costs of the hearing.

(4) The commissioner may promulgate rules and regulations (a) to establish standards for the submission of proposed filings, amendments, additions, deletions and alterations to the rating systems of filers, which may include forms to be submitted by each filer; and (b) making such other provisions as he deems necessary for effective implementation of this act, except that all requests for information shall be limited to the kinds of detail required by the commissioner under section 5 of P. L. 1944, c. 27 (C. 17:29A–5).

d. (1) With regard to private passenger automobile insurance, the commissioner shall annually promulgate, on or before February 1, separately for each coverage, a maximum annualized percentage change in rate level which a filer may implement, in whole or in part, in a single or multiple filings, in connection with the informational filing procedure of subsection b. of this section. The maximum annualized percentage change in rate level shall be based on rates promulgated by the rating bureau which files rates for the greatest number of insurers in the voluntary private passenger automobile insurance market in the State, exclusive of the residual market equalization charge, as defined in subsection o. of section 15 of the "New Jersey Automobile Full Insurance Availability Act" (P. L. 1983, c. 65; C. 17:30E–3).

(2) The maximum annualized percentage change which a filer may implement pursuant to paragraph (1) of this subsection shall be equal to the arithmetic average of the full annualized percentage changes implemented during the preceding three calendar years in which a rate increase was implemented by the rating bureau which files rates for the greatest number of insurers in the voluntary private passenger automobile insurance market in the State. For purposes of this paragraph, the full annualized rate level percentage change implemented in any one calendar year shall be equal to the sum of all full annualized rate level percentage changes implemented during the same calendar year.

(3) Rates filed under this subsection should take effect on the date of the informational filing with the commissioner.

3. Section 17 of P. L. 1983, c. 65 (C. 17:30E–5) is amended to read as follows:

C. 17:30E-5 Board of directors.

17. a. Within 45 days after the effective date of this act, there shall be appointed a board of directors, and within 30 days after the appointment of the board, the commissioner shall call the first, or organizational, meeting of the association, which shall seat the board of directors. The board shall consist of 17 persons, 14 of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the General Assembly, and one by the President of the Senate; the Director of the Division of Motor Vehicles in the Department of Law and Public Safety shall be an ex officio member of the board. Of the board members appointed by the Governor, eight shall represent member companies, three shall represent producers, and three shall be public members. Members of the board shall be compensated from the moneys of the association for their services, pursuant to standards and procedures set forth in the plan of operation. In appointing the representatives of the member companies, the Governor shall select two persons from a list of not fewer than three persons nominated by the American Insurance Association, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; two persons from a list of not fewer than three persons nominated by the Alliance of American Insurers, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; two persons from a list of not less than three persons nominated by the National Association of Independent Insurers, or its successor organization, from the officers or employees of insurers which are licensed to transact automobile insurance in this State and which are members or subscribers of that organization; and two persons from the officers or employees of any insurers which are licensed in this State and are not members or subscribers of any of the above mentioned organizations. All nominations made by the associations shall include at least one representative of an insurer which does not intend to be a servicing carrier. In appointing the producer representatives, the Governor shall select one person from a list of not fewer than three nominated by the Pro-

fessional Insurance Agents Association or its successor organization; one person from a list of not fewer than three nominated by the Independent Insurance Agents Association or its successor organization; and one person from a list of not fewer than three nominated by the Insurance Brokers Association or its successor organization. The Governor shall name two surrogates for each director on the board from a list submitted to him by each appointee. The Governor shall, with the advice and consent of the Senate, also appoint three public members to the board. The Speaker of the General Assembly and the President of the Senate shall each appoint a public member. The commissioner or his designated representative shall be entitled to attend and participate in all meetings of the board or any of its committees.

Each trade association and producer association shall have 15 days from the effective date of this act to submit its prescribed list of board of director candidates to the Governor. The Governor shall have 30 days from receipt of each list to select permanent board members from it. If any of the associations named in this section fails to submit the lists from which the Governor is to select members of the board of directors within time, the Governor shall appoint temporary board members to represent each association that has failed to submit its list. In selecting temporary board members, the Governor shall be guided by the selection criteria set forth herein. Upon subsequent receipt of the list from the association, the Governor shall select permanent board members to replace the temporary board members within 30 days. Such replacement shall become effective immediately.

The initial appointment of four insurer directors, one producer-group director, and one public member appointed by the Governor shall be for a term of one year. The initial appointments of all other directors shall be for terms of two years. After the initial appointments all directors shall be appointed for terms of two years and shall serve until their successors are appointed and qualified. All appointive vacancies on the board shall be filled in accordance with the above-mentioned procedures and classifications. Appointments to fill vacancies shall be for the unexpired term of the director to be replaced. Except in the case of the Director of the Division of Motor Vehicles, directors may be reimbursed from the moneys of the association for reasonable expenses incurred by them as members.

b. After the board has been appointed, it shall elect from its membership a chairman and shall then meet thereafter at least

annually, and as often as the chairman or the plan of operation shall require, or at the request of any five members of the board or the commissioner. Each member of the board shall be entitled to one vote. The commissioner, or his designated representative, shall have no right to vote. Nine voting members of the board shall constitute a quorum. A majority of the voting members shall determine any action of the board. No member may serve as chairman for more than two consecutive years.

c. The board shall have and exercise all powers of the association not reserved to the members by the plan of operation or as otherwise provided in this act.

4. Section 19 of P. L. 1983, c. 65 (C. 17:30E–7) is amended to read as follows:

C. 17:30E-7 Powers, duties of association.

19. Pursuant to the plan of operation, the association shall have the power and duty to:

a. Enter into contracts as are necessary or proper to carry out the provisions and purposes of this act;

b. Sue or be sued in the name of the association, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against members. A judgment against the association shall not create any direct liability against the servicing carrier, board of directors or the individual members, or the individual participating members of the association;

c. Indemnify its directors and employees for any and all claims, suits, costs of investigations, costs of defense, settlements or judgments against them on account of an act or omission in the scope of a director's duties or employee's employment. The association shall refuse to indemnify if it determines that the act or failure to act was because of actual fraud, willful misconduct or actual malice;

d. Take such action as is necessary to prevent and avoid the payment of improper claims against the association or the coverage provided by or through the association;

e. Arrange for the issuance of automobile insurance to any qualified applicant through servicing carriers. Each servicing carrier shall issue policies in the name of the servicing carrier, on behalf of the association, to the extent the plan of operation provides. Servicing carriers, as agents of the association, shall have no individual liability for claims or policies written by the association;

f. Appoint from among its members appropriate legal, actuarial, claims, investment and other committees as necessary to provide

technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association;

g. Establish standards for, and review operating practices of, servicing carriers and producers to determine whether such practices are adequate to properly service association business, and to take appropriate action to eliminate inadequate operating practices and develop adequate operating practices, and to appoint an audit committee to review operating practices. The audit committee shall be composed of servicing carriers, producers, and member companies who are not servicing carriers;

h. Develop criteria and establish a monitoring system to ensure that: (1) servicing carriers do not obtain an unfair advantage, because of their servicing carrier relationship with producers, over other member companies which are not servicing carriers; and (2) member companies do not obtain an unfair advantage over producers of record without a contractual relationship with a voluntary market company, as a result of an offer of voluntary market coverage to an insured of the association;

i. Order the reporting of such statistics by the members of the association as it deems necessary;

j. Reimburse servicing carriers from association funds;

k. Adopt bylaws for the regulation of its internal affairs;

l. Employ a general manager, who shall serve at its pleasure and be responsible for the conduct of the administrative affairs of the association. The board may employ other necessary personnel and may delegate to the general manager and other personnel such authority as it deems necessary to assure proper administration and operation of the association consistent with the plan of operation. The board shall arrange and contract if necessary for suitable quarters within the State of New Jersey for operations of the association; for such equipment, goods and services; and incur such expenses as it deems necessary to assure efficient administration of the association consistent with the plan of operation. If required by the plan of operation, the board may establish service centers in underserviced areas, which service centers shall provide for the dissemination of full information on the coverages available under this act and for referrals to appropriate outlets for the acquisition of such coverage;

m. Hear and determine complaints of any member or producer concerning the operation of the association, in accordance with procedures prescribed in section 28 of this act;

n. Annually report to the commissioner on the operation of the association;

o. Record and investigate complaints involving the conduct of producers and to take appropriate corrective action or to recommend to the commissioner appropriate disciplinary action, including suspension or revocation of authority to write association business;

p. Review servicing practices of servicing carriers to determine whether such practices are adequate to properly service the risks written by the association; and upon finding that the practices of any servicing carrier are inadequate, establish a program for that member which will assist the servicing carrier in the performance of its duties and charge that servicing carrier a reasonable fee for establishing and operating such a program;

q. Audit the operations of members for the purpose of determining compliance with this act;

r. Develop methods and standards for the establishment of adequate, actuarially sound reserves for unpaid losses and loss adjustment expenses, including provision for incurred but not reported losses; and

s. Take such other action as is necessary to effectuate the purposes of this act.

5. Section 20 of P. L. 1983, c. 65 (C. 17:30E–8) is amended to read as follows:

C. 17:30E-8 Sources of income; filing of experience; residual market equalization charge.

20. a. The association shall derive income from the following sources for the payment of expenses, losses, and the provision of adequate, actuarially sound reserves for unpaid losses and loss adjustment expenses, including incurred but not reported losses, in connection with association business: (1) net premiums earned; (2) income generated from any association accident surcharge system permitted or required by law; (3) that percentage of surcharges collected by the Division of Motor Vehicles and deposited with the association pursuant to subsection b. of section 6 of the "New Jersey Automobile Insurance Reform Act of 1982" (P. L. 1983, c. 65; C. 17:29A–35), and that collected and retained by the association pursuant to subsection c. of said section 6; (4) income collected by members of the association and by the association from the residual market equalization charge; and (5) income from investment of moneys collected pursuant to subsections (1), (2), and (3)

of this subsection. Premiums received as a residual market equalization charge on behalf of the association, net of commissions paid, and net of all premium taxes, shall on a monthly basis be certified to by the carrier and shall be transferred to the association in accordance with the plan of operation. All premiums received by servicing carriers on behalf of the association, net of commissions paid, net of all premium taxes, and servicing carrier compensation, shall on a monthly basis be certified to by the carrier and shall be transferred to the association in accordance with the plan of operation.

All claims and claim expense payments paid on association business shall be disbursed by the servicing carriers or the association through drafts drawn on association funds in accordance with the plan of operation. Servicing carriers, as agents of the association, shall have no individual liability on claims or policies written by the association.

b. At least annually, the board shall file its experience with the commissioner, which experience shall include the projected income, expenses, losses and reserve requirements of the association for the ensuing year, any adjustment in previously established reserves for unpaid losses and loss adjustment expenses necessary to make such reserves adequate and actuarially sound, and the initial filing shall include the experience of the automobile insurance plan established pursuant to P. L. 1970, c. 215 (C. 17:29D–1). The board shall include in its filing with the commissioner, for his approval, a computation of the residual market equalization charge per insured vehicle to be collected by each member from its voluntary insureds, exclusive of principal operators 65 years of age or older, and by each servicing carrier from association insureds, exclusive of principal operators 65 years of age or older, to offset the anticipated losses of the association.

At the end of the first 12 months of the operation of the association and at least annually thereafter, the board shall also include in its filing with the commissioner a review of the previous year's experience, setting forth the income, losses, and reserve requirements, including any adjustment in previously established reserves for unpaid losses and loss adjustment expenses necessary to make such reserves adequate and actuarially sound, and expenses of the association during the previous year. If a profit is found by the commissioner to have been realized, such amount shall reduce the residual market equalization charge levied on policyholders pur-

suant to subsection d. of this section. If a loss is found by the commissioner to have occurred, such amount shall increase the charge levied on policyholders pursuant to subsection d. of this section. The filing shall be accompanied by such statistics and other information as the commissioner may deem necessary. The commissioner shall, within 60 days of such filing, approve or disapprove the filing. Failure to act within 60 days shall be deemed approval of the filing, except that the running of the 60-day period shall be tolled by a request for additional information by the commissioner or until the association notifies the commissioner that it will not provide such additional information, together with the reason for not supplying the information. Failure to comply with a reasonable request for information may be a ground for disapproving all or part of the filing. If the commissioner disapproves all or part of the filing, he shall state the reasons for such disapproval, and indicate such portion of the filing he approves. Such disapproval shall be subject to review by the Appellate Division of the Superior Court.

c. The residual market equalization charge last approved by the commissioner shall continue to apply while the application for the revised charge is being processed by the commissioner pursuant to this section.

d. The residual market equalization charge per insured vehicle shall be collected following the effective date of such approval, by the insurer from its policyholders, exclusive of principal operators 65 years of age or older, on a uniform net direct car year of liability exposure basis and a net direct car year of physical damage exposure basis. Any insurer or rating organization making a residual market equalization charge pursuant to this subsection shall, 15 days prior to the date of the implementation of the proposed rate adjustment, make an informational filing with the commissioner, documenting compliance with the established method of distributing such residual market equalization charge.

e. Any insurer licensed to transact automobile insurance after the effective date of this act shall become a member of the association upon receiving such license and the determination of any such insurer's participation in the association shall be made as of the date of such membership in the same manner as for all other members of the association.

6. This act shall take effect immediately.

Approved August 8, 1983.

CHAPTER 302

AN ACT concerning liability of parents or guardians for damage done to school property by their children, and amending N. J. S. 18A:37–3.

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

1. N. J. S. 18A:37–3 is amended to read as follows:

Parental liability.

18A:37–3. The parents or guardian of any minor who shall injure any public or nonpublic school property shall be liable for damages for the amount of injury to be collected by the board of education of the district or the owner of the premises in any court of competent jurisdiction, together with costs of suit.

2. This act shall take effect immediately.

Approved August 11, 1983.

CHAPTER 303

AN ACT to provide for the establishment of "Urban Enterprise Zones" in certain areas of economic distress, authorizing various measures to stimulate economic activity within zones so designated, providing for the relaxation of various State and municipal regulations in those areas, establishing the New Jersey Urban Enterprise Zone Authority, and amending P. L. 1980, c. 105.

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

C. 52:27H-60 Short title.

1. This act shall be known and may be cited as the "New Jersey Urban Enterprise Zones Act."

C. 52:27H-61 Findings, declarations.

2. The Legislature finds:

a. That there persist in this State, particularly in its urban centers, areas of economic distress characterized by high unemployment, low investment of new capital, blighted conditions, obsolete or abandoned industrial or commercial structures, and deteriorating tax bases.

b. That the severe and persistent deterioration of these areas demands vigorous and coordinated efforts by private and public entities to restore their prosperity and enable them to resume significant contributions to the economic and social life of the State.

c. That the economic revitalization of these areas requires application of the skills and entrepreneurial vigor of private enterprise; and it is the responsibility of government to provide a framework within which encouragement be given to private capital investment in these areas, disincentives to investment be removed or abated, and mechanisms be provided for the coordination and cooperation of private and public agencies in restoring the economic viability and prosperity of these areas.

C. 52:27H-62 Definitions.

3. As used in this act:

a. "Enterprise zone" or "zone" means an urban enterprise zone designated by the authority pursuant to this act;

b. "Authority" means the New Jersey Urban Enterprise Zone Authority created by this act;

c. "Qualified business" means any entity authorized to do business in the State of New Jersey which, at the time of designation as an enterprise zone, is engaged in the active conduct of a trade or business in that zone; or an entity which, after that designation but during the designation period, becomes newly engaged in the active conduct of a trade or business in that zone and has at least 25% of its full-time employees employed at a business location in the zone, meeting one or more of the following criteria:

(1) Residents within the zone or within the municipality within which the zone is located; or

(2) Unemployed for at least a year prior to being hired and residing in New Jersey, and recipients of New Jersey public assistance programs for at least one year prior to being hired, or either of the aforesaid; or

(3) Determined to be economically disadvantaged pursuant to the Jobs Training Partnership Act, Pub. L. 97–300 (29 U. S. C. § 1501 et seq.);

d. "Qualifying municipality" means any municipality in which there was, in the last full calendar year immediately preceding

the year in which application for enterprise zone designation is submitted pursuant to section 14 of this act, an annual average of at least 2,000 unemployed persons, and in which the municipal average annual unemployment rate for that year exceeded the State average annual unemployment rate; except that any municipality which qualifies for State aid pursuant to P. L. 1978, c. 14 (C. 52:27D–178 et seq.) shall qualify if its municipal average annual unemployment rate for that year exceeded the State average annual unemployment rate. The annual average of unemployed persons and the average annual unemployment rates shall be estimated for the relevant calendar year by the Office of Labor Statistics, Division of Planning and Research of the State Department of Labor;

e. "Public assistance" means income maintenance funds administered by the Department of Human Services or by a county welfare agency;

f. "Zone development corporation" means a nonprofit corporation or association created by the governing body of a qualifying municipality to formulate and propose a preliminary zone development plan pursuant to section 9 of this act;

g. "Zone development plan" means a plan adopted by the governing body of a qualifying municipality for the development of an enterprise zone therein, and for the direction and coordination of activities of the municipality, zone businesses and community organizations within the enterprise zone toward the economic betterment of the residents of the zone and the municipality;

h. "Zone neighborhood association" means a corporation or association of persons who either are residents of, or have their principal place of employment in, a municipality in which an enterprise zone has been designated pursuant to this act; which is organized under the provisions of Title 15 of the Revised Statutes; and which has for its principal purpose the encouragement and support of community activities within, or on behalf of, the zone so as to (1) stimulate economic activity, (2) increase or preserve residential amenities, or (3) otherwise encourage community cooperation in achieving the goals of the zone development plan; and

i. "Enterprise zone assistance fund" or "assistance fund" means the fund created by section 29 of this act.

C. 52:27H-63 Urban Enterprise Zone Authority.

4. a. There is created the New Jersey Urban Enterprise Zone Authority, which shall consist of:

(1) The Commissioner of the Department of Commerce and Economic Development, who shall be chairman of the authority;

(2) The Commissioner of the Department of Community Affairs;

(3) The Commissioner of the Department of Labor;

(4) The State Treasurer; and

(5) Five public members not holding any other office, position or employment in the State Government, nor any local elective office, who shall be appointed by the Governor with the advice and consent of the Senate, and who shall be qualified for their appointments by training and experience in the areas of local government finance, economic development and redevelopment, or volunteer civic service and community organization. No more than three public members shall be of the same political party.

b. The public members of the authority shall serve for terms of five years, except that of the members first appointed, one shall serve for a term of one year, one shall serve for a term of two years, one shall serve for a term of three years, one shall serve for a term of four years, and one shall serve for a term of five years. Vacancies in the public membership shall be filled in the manner of the original appointments but for the unexpired terms.

C. 52:27H-64 Allocated to Commerce and Economic Development.

5. For purposes of compliance with Article V, Section IV, paragraph 1 of the Constitution of the State of New Jersey, the authority created by this act is allocated to the Department of Commerce and Economic Development. All clerical and professional assistants, and all personnel, procurement, budgetary and other administrative services necessary or incidental to its proper functioning shall be provided by and through that department.

C. 52:27H-65 Duties of authority.

6. It shall be the duty of the authority to:

a. Promulgate criteria for the designation of zones pursuant to the provisions of this act;

b. Receive and evaluate applications of municipalities for the designation of zones;

c. Enter into discussions with applying municipalities regarding zone development proposals;

d. Act as agent of the State with respect to zone development plans, and in determining the State-furnished components to be included in those plans;

e. Designate zones in accordance with the provisions of this act and promulgate rules and regulations necessary to carry out its duties under this act;

f. Exercise continuing review and supervision of the implementation of zone development plans;

g. Receive and evaluate proposals of qualifying municipalities in which enterprise zones are designated for funding of projects and increased eligible municipal services from the enterprise zone assistance fund, and to certify annually to the State Treasurer amounts to be paid from the enterprise zone assistance fund to support approved projects and increased eligible municipal services in designated enterprise zones;

h. Assist and represent qualifying municipalities in any negotiations with, or proceedings before, other agencies of State Government or of the federal government, to secure necessary or appropriate assistance, support and cooperation of those agencies in the implementation of zone development plans in accordance with the provisions of this act and any other applicable State or federal law;

i. Upon request, assist agencies of municipal government in gathering, compiling and organizing data to support an application for designation of a zone, and in identifying and coordinating the elements of a zone development proposal suitable for the zone sought to be designated;

j. Provide assistance to State and local government agencies relating to application for and security of permits, licenses and other regulatory approvals required by those agencies, to assure consideration and expeditious handling of regulatory requirements of any zone business, zone business association or zone neighborhood association; regulatory agencies of the State and its agencies and instrumentalities may agree to any simplification, consolidation or other liberalization of procedural requirements which may be requested by the authority and which is not inconsistent with provisions of law;

k. Assist the State in applying to, or entering into negotiations or agreements with, the federal government, for federal enterprise zone designations; and

l. Exercise continuing review of the implementation of this act, and to report annually to the Governor and the Legislature on the effectiveness of enterprise zones in addressing the conditions cited in this act, including any recommendations for legislation to improve the effectiveness of operation of those zones. The report

shall be submitted one year from the effective date of this act, and annually thereafter.

C. 52:27H-66 Designation of enterprise zones.

7. The authority shall designate enterprise zones from among those areas of qualifying municipalities determined to be eligible pursuant to this act. No more than two enterprise zones shall be designated in any one year; no more than 10 enterprise zones shall be in effect at any one time. No more than one enterprise zone shall be designated in any one municipality. Any designation granted shall be for a period of 20 years and shall not be renewed at the end of that period. In designating enterprise zones the authority shall seek to avoid excessive geographic concentration of zones in any particular region of the State, and of the initial four enterprise zones designated by the authority, two shall be located in the 10 southernmost counties of the State. Of the next two enterprise zones designated thereafter, at least one shall be located in one of the five counties next most northern to those 10 counties.

C. 52:27H-67 Municipal zone development corporations.

8. The governing body of any qualifying municipality may, by ordinance, create a nonprofit corporation pursuant to the provisions of Title 15 of the Revised Statutes to act as the zone development corporation for the municipality. Any zone development corporation so created shall include on its board of directors representatives of the government of the qualifying municipality, members of the business community thereof, and representatives of community organizations in the municipality, and the total membership of the board of directors shall be broadly representative of businesses and communities within the municipality.

Notwithstanding the provisions of any other law to the contrary, a zone development corporation shall be considered to be a local development corporation for the purpose of receiving any State financial or technical assistance as may be available, and the creation of a zone development corporation shall not preclude a qualifying municipality from creating another local development corporation for the municipality with responsibilities not related to the enterprise zone, nor preclude that other corporation from receiving State financial or technical assistance.

C. 52:27H-68 Preliminary zone development plan.

9. The zone development corporation shall formulate and propose a preliminary zone development plan to the governing body of the

qualifying municipality. The preliminary zone development plan shall set forth the boundaries of the proposed enterprise zone, findings of fact concerning the economic and social conditions existing in the area proposed for an enterprise zone, and the municipality's policy and intentions for addressing these conditions, and may include proposals respecting:

a. Utilizing the powers conferred on the municipality by law for the purpose of stimulating investment in and economic development of the proposed zone;

b. Utilizing State assistance through the provisions of this act relating to exemptions from, and credits against, State taxes;

c. Securing the involvement in, and commitment to, zone economic development by private entities, including zone neighborhood associations, voluntary community organizations supported by residents and businesses in the zone;

d. Utilizing the powers conferred by law to revise municipal planning and zoning ordinances and other land use regulations as they pertain to the zone, in order to enhance the attraction of the zone to prospective developers;

e. Increasing the availability and efficiency of support services, public and private, generally used by and necessary to the efficient functioning of commercial and industrial facilities in the area, and the extent to which the increase or improvement is to be provided and financed by the municipal government or by other entities.

C. 52:27H-69 Areas eligible for designation.

10. An area defined by a continuous border within a qualifying municipality shall be eligible for designation as a zone if:

a. It has been designated an "area in need of rehabilitation" pursuant to Article VIII, Section I, paragraph 6 of the Constitution of the State of New Jersey and P. L. 1977, c. 12 (C. 54:4–3.95 et seq.); or is qualified for that designation in the judgment of the authority; and

b. It meets the criteria established by the authority pursuant to this act relating to the incidence of poverty, unemployment and general economic distress.

C. 52:27H-70 Criteria for first two designations.

11. The first two areas and municipalities designated as enterprise zones by the authority shall meet all the following criteria:

a. A rate of unemployment among residents in the area and among residents of the municipality exceeding one and one-half times the national unemployment rate as determined by the

most recently available data from the Bureau of Labor Statistics in the United States Department of Labor;

b. At least 20% of the population of the area and population of the municipality receive incomes below the poverty level, as defined by the United States Department of Labor;

c. At least 20% of the residents of the area and residents of the municipality depend upon public assistance as their primary source of income.

C. 52:27H-71 Modification of criteria.

12. After the designation of the first two enterprise zones, the authority may by regulation, from time to time modify, replace or supplement the criteria set forth in subsections c. and d. of section 3 and in sections 10 and 11 of this act so as to develop a complete set of criteria for the qualification of businesses for the benefits of this act, and for the designation of enterprise zones in qualifying municipalities.

No regulation to modify, replace or supplement a criterion shall be adopted by the authority unless the authority has prior to adoption issued a written report to the Governor and the Legislature setting forth: the text of the proposed modification, replacement or supplement; a statement of the authority's reasons for the proposal; the written statement of any authority member dissenting from the authority's proposal; and a statement of the manner in which the proposal will further the legislative intent of this act. Not less than 60 days after the authority's report is placed upon the desk of each member of the Legislature, the authority shall hold a public hearing at which any interested person shall be heard. Upon the completion of the public hearing, the regulation may be adopted by the authority in the manner otherwise prescribed by law.

The authority may modify, replace or supplement criteria pursuant to this section, if it finds that:

a. The criteria set forth in this act do not accurately determine the relative burden of poverty, unemployment and general distress among and between areas under consideration for designation as enterprise zones;

b. The criteria do not utilize newly available data, or do utilize data not available or not complete and accurate;

c. The criteria would not assure the eligibility of designated zones for federal government assistance under programs now or hereafter undertaken by the federal government, for which those areas and the municipalities in which they are located would not be eligible in the absence of that designation.

C. 52:27H-72 Preference to certain development plans.

13. a. In designating eligible areas as enterprise zones, the authority shall accord preference to zone development plans which:

(1) Have the greatest potential for success in stimulating primarily new economic activity in the area;

(2) Are designed to address the greatest degree of urban distress, as measured by existing levels of unemployment, poverty, and property tax arrearages;

(3) Demonstrate the most substantial and reliable commitments of resources by zone businesses, zone neighborhood associations, voluntary community organizations and other private entities to the economic success of the zone;

(4) Demonstrate the most substantial effort and commitment by the municipality to encourage economic activity in the area and to remove disincentives for job creation compatible with the fiscal condition of the municipality.

b. In addition to the considerations set forth in subsection a. of this section, the authority in evaluating a zone development plan for designation purposes shall consider:

(1) The likelihood of attracting federal assistance to projects in the eligible area, and of obtaining federal designation of the area as an enterprise zone for federal tax purposes;

(2) The adverse or beneficial effects of an enterprise zone located at the proposed area upon economic development activities or projects of State or other public agencies which are in operation, or are approved for operation, in the qualifying municipality;

(3) The degree of commitment made by public and private entities to utilize minority contractors and assure equal opportunities for employment in connection with any construction or reconstruction to be undertaken in the eligible area;

(4) The impact of the zone development plan upon the social, natural and historic environment of the eligible area;

(5) The degree to which the implementation of the plan involves the relocation of residents from the eligible area, and the adequacy of commitments and provisions with respect thereto.

C. 52:27H-73 Application for assistance.

14. a. Any qualifying municipality may designate any area set forth in the zone development plan as an enterprise zone. The municipality may then make written application to the authority to have the area selected for State and federal assistance offered to enterprise zones or either type of assistance. The

application shall include the zone development plan adopted for the area and any other information as the authority may require.

b. Upon receipt of an application from the qualifying municipality the authority shall review the application to determine whether the area described in the application qualifies for State assistance under the criteria of this act.

c. Upon organization the authority shall establish a date for the receipt of initial applications for designations under this act, which shall be within one year of the effective date of this act. Thereafter, the authority shall complete its review within 90 days of receipt of an application, but may extend this time period by an additional 60 days if necessary. If the authority denies the application, it shall inform the municipality of that fact in writing setting forth the reasons for the denial.

d. The designation of an enterprise zone by the authority shall take effect upon the adoption by the qualifying municipality of an ordinance accepting that designation.

C. 52:27H-74 Applicable benefits.

15. Except as otherwise specified in this act, a qualified business in an enterprise zone shall be eligible to receive from among those benefits authorized in sections 16 through 20 of this act as are determined by the authority. The authority shall state in writing to the qualifying municipality at the time of designation its determinations as to which of those benefits are to apply in an enterprise zone.

C. 52:27H-75 Award based upon unemployment insurance tax.

16. A qualified business shall be eligible for an award based upon the amount of unemployment insurance tax it has paid for those new employees who meet the criteria set forth in subsection c. of section 3 of this act. The award shall apply only to those new employees whose gross salaries are less than $1,500.00 per month, and shall be based on the following schedule:

a. First four years in zone ... an amount equal to 50% of the employer's unemployment insurance payment;

b. Second four years in zone .. an amount equal to 40% of the employer's unemployment insurance payment;

c. Third four years in zone ... an amount equal to 30% of the employer's unemployment insurance payment;

d. Fourth four years in zone . . an amount equal to 20% of the employer's unemployment insurance payment;

e. Fifth four years in zone . . . an amount equal to 10% of the employer's unemployment insurance payment.

No qualified business with an unemployment insurance rating of more than 4.1% shall qualify for this award so long as it shall maintain that rating.

C. 52:27H-76 Tax exemptions.

17. Any qualified business subject to the provisions of the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A–1 et seq.), as employing a larger number of persons at a place of business located within an enterprise zone designated pursuant to this act than at all other places of business of the taxpayer within the State, shall be exempt from the net worth tax imposed pursuant to subsection (a) of section 5 of P. L. 1945, c. 162 (C. 54:10A–5 (a)), and from the tax imposed by subsection (f) of that section (C. 54:10A–5 (f)), for a period of 20 tax years from the date of designation of the enterprise zone, or for a period of 20 tax years from the date upon which the taxpayer is first subject to the provisions of the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A–1 et seq.), whichever date is later. The termination of the designation of an enterprise zone at the end of a 20 year designation period shall not terminate the exemption provided under this section if the exemption was granted prior to the end of the designation period. The provisions of this section are subject to the phase-out provisions of P. L. 1982, c. 55 (C. 54:10A–4 et seq.).

C. 52:27H-77 Maximum tax credit.

18. Enterprise zone employee tax credits provided under section 19 of this act shall not reduce a taxpayer's tax liability under the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A–1 et seq.) in any tax year by more than 50% of the amount otherwise due, but any tax credits remaining and unused in a tax year may be carried forward by the taxpayer to the next succeeding tax year and applied against 50% of the amount of tax otherwise due in that succeeding tax year.

C. 52:27H-78 Employee tax credit.

19. Any qualified business subject to the provisions of the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C.

54:10A–1 et seq.), as actively engaged in the conduct of business from a location within an enterprise zone designated pursuant to this act, which business at that location consists primarily of manufacturing or other business which is not retail sales or warehousing oriented, shall receive an enterprise zone employee tax credit against the amount of tax imposed under the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A–1 et seq.), as hereinafter provided:

a. A credit of $1,500.00 for each new employee employed at that location who is a resident of the qualifying municipality in which the designated enterprise zone is located, and who immediately prior to employment by the taxpayer was unemployed for at least 90 days, or was dependent upon public assistance as the primary source of income;

b. A credit of $500.00 for each new employee employed at that location who is a resident of a qualifying municipality in which a designated enterprise zone is located, who does not meet the requirements of subsection a. of this section, and who was not, immediately prior to employment by the taxpayer, employed at a location within the qualifying municipality;

c. The enterprise zone employee tax credit shall be allowed in the tax year immediately following the tax year in which the new employee was first employed by the taxpayer, and shall be permitted in any tax year of a 20 year period from the date of designation of the enterprise zone, or of a period of 20 tax years from the date within that designation period upon which the taxpayer is first subject to the provisions of the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A–1 et seq.), whichever date is later and the termination of the designation of an enterprise zone at the end of a 20 year designation period shall not terminate the eligibility period provided under this section;

d. A tax credit shall be permitted under this section only for those new employees who have been employed for at least six continuous months by the taxpayer during the tax year for which the tax credit is claimed.

C. 52:27H-79 Sales to zone businesses tax-exempt.

20. Retail sales of tangible personal property (except motor vehicles) and sales of 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.).

C. 52:27H-80 50% tax exemption for retail sales.

21. Receipts of retail sales, except retail sales of motor vehicles and of manufacturing machinery, equipment or apparatus, 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 seq.), 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, on or before October 1 of the pre-tax year, 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. Any certification so issued shall be for a one year period of a 20 year enterprise zone designation period, and may be renewed annually by the director upon reapplication of the vendor. A certification made pursuant to this section shall apply to the next full calendar year following certification. 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, this section shall apply to two of the first five enterprise zones designated under the provisions of this act, and to no more than four of all zones so designated. Notwithstanding any other provisions of law to the contrary, 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, shall be deposited immediately upon collection by the Department of the Treasury, as follows:

a. In the first five year period of the enterprise zone designation, all such revenues shall be deposited in the enterprise zone assistance fund created pursuant to section 29 of this act;

b. In the second five year period of the enterprise zone designation, 66⅔% of all those revenues shall be deposited in the enter-

prise zone assistance fund, and 33⅓% shall be deposited in the General Fund;

c. In the third five year period of the enterprise zone designation, 33⅓% of all those revenues shall be deposited in the enterprise zone assistance fund, and 66⅔% shall be deposited in the General Fund;

d. In the final five year period of the enterprise zone designation, all those revenues shall be deposited in the General Fund.

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 this act, subject to annual appropriations being made for those purposes and uses.

C. 52:27H-81 Rules, regulations.

22. The Director of the Division of Taxation in the Department of the Treasury shall promulgate such rules and regulations as may be necessary to effectuate the provisions of sections 17 through 21 of this act. The Commissioner of the Department of Commerce and Economic Development shall promulgate such rules and regulations as may be necessary to effectuate the provisions of section 16 of this act.

C. 52:27H-82 Financing fund priority.

23. Notwithstanding any provisions of the "New Jersey Local Development Financing Fund Act," P. L. 1983, c. 190 (C. 34:1B–36 et seq.), to the contrary, projects which are otherwise eligible under that act, but which are located in a municipality in which an enterprise zone is designated pursuant to the "New Jersey Urban Enterprise Zones Act," P. L. 1983, c. 303 (C. 52:27H–60 et seq.), shall, upon the written recommendation of the authority, be accorded priority in receiving assistance from the New Jersey Local Development Financing Fund, over eligible projects which are not so located.

C. 52:27H-83 Skill training programs.

24. The New Jersey Department of Labor shall develop and coordinate the delivery of skill training programs necessary to meet the needs of qualifying businesses.

C. 52:27H-84 Exemptions from regulations.

25. In order to carry out the purposes of this act, any municipality or State agency may exempt designated enterprise zones from the provisions of any regulation, in whole or in part, promulgated by that entity or agency, but enterprise zones shall not

be exempted from the provisions of any regulation, except upon finding by the State or municipal agency, as appropriate, that the exemption would not endanger the health and safety of the citizens of the State.

C. 52:27H-85 Continuing review.

26. The authority shall conduct a continuing review of all State regulations and shall recommend to the appropriate administrative bodies the modification or waiver of regulations promulgated by that agency in order to contribute to the implementation of this act.

C. 52:27H-86 Eligibility for incentives.

27. To be eligible for any of the incentives provided under this act a qualifying business must demonstrate to the satisfaction of the authority that:

a. The business will create new employment in the municipality; and

b. The business will not create unemployment in other areas of the State, including the municipality in which the zone is located.

C. 52:27H-87 Certification of firms receiving benefits.

28. Any firm that receives any benefits set forth in sections 16 through 24 of this act shall annually certify to the authority that it is a qualified business under subsection c. of section 3 of this act. Failure to supply the certification or willful falsification of data in the certification will result in a fine of not more than ten times the benefits received, nor more than two years in prison.

C. 52:27H-88 Enterprise zone assistance fund.

29. a. There is created an enterprise zone assistance fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 21 of this act or moneys appropriated annually to the fund. All moneys deposited in the fund shall be held and disbursed in the amounts necessary to fulfill the purposes of this section and subject to the requirements hereinafter prescribed. The State Treasurer may invest and reinvest any moneys in the fund, or any portion thereof, in legal obligations of the United States or of the State or of any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

The State Treasurer shall maintain separate accounts for each enterprise zone designated under this act, and shall credit to each account an amount of the moneys deposited in the fund equal to the amount of revenues collected from the taxation of retail sales

made in the zone and appropriated to the enterprise zone assistance fund, or that amount of moneys appropriated to the fund and required to be credited to the enterprise zone account of the qualifying municipality.

The State Treasurer shall promulgate the rules and regulations necessary to govern the administration of the fund for the purposes of this section.

b. The enterprise zone assistance fund shall be used for the purpose of assisting qualifying municipalities in which enterprise zones are designated in undertaking public improvements and in upgrading eligible municipal services in designated enterprise zones.

c. The governing body of a qualifying municipality in which an enterprise zone is designated and the zone development corporation created by the municipality for that enterprise zone may, by resolution jointly adopted after public hearing, propose to undertake a project for the public improvement of the enterprise zone or to increase eligible municipal services in the enterprise zone, and to fund that project or increase in eligible municipal services from moneys deposited in the enterprise zone assistance fund and credited to the account maintained by the State Treasurer for the enterprise zone.

The proposal so adopted shall set forth a plan for the project or for the increase in eligible municipal services and shall include:

(1) A description of the proposed project or of the municipal services to be increased;

(2) An estimate of the total project costs, or of the total costs of increasing the municipal services, and an estimate of the amounts of funding necessary annually from the enterprise zone account;

(3) A statement of any other revenue sources to be used to finance the project or to fund the increase in eligible municipal services;

(4) A statement of the time necessary to complete the project, or of the time during which the increased municipal services are to be maintained; and

(5) A statement of the manner in which the proposed project or increase in municipal services furthers the municipality's policy and intentions for addressing the economic and social conditions existing in the area of the enterprise zone as set forth in the zone development plan approved by the authority.

As used in this section, "project" means the purchasing, leasing, condemning, or otherwise acquiring of land or other property, or

an interest therein, in the enterprise zone or as necessary for a right-of-way or other easement to or from the enterprise zone; the relocating and moving of persons displaced by the acquisition of land or property; the rehabilitation and redevelopment of land or property, including demolition, clearance, removal, relocation, renovation, alteration, construction, reconstruction, installation or repair of a land or a building, street, highway, alley, utility, service or other structure or improvement; the acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, except buildings and facilities for the general conduct of government and schools; and the costs associated therewith including the costs of an administrative appraisal, economic and environmental analyses or engineering, planning, design, architectural, surveying or other professional services necessary to effectuate the project.

As used in this section, "eligible municipal services" means the hiring of additional policemen or firemen assigned duties in the enterprise zone, or the purchasing or leasing of additional police or fire vehicles, equipment or apparatus to be used for the provision of augmented or upgrated public safety services in the enterprise zone and its immediate vicinities.

d. Upon adoption by the governing body of the qualifying municipality and by the zone development corporation, the proposal shall be sent to the authority for its evaluation and approval. The authority shall approve the proposal if it shall find:

(1) In the case of a project, that the proposed project furthers the policy and intentions of the zone development plan approved by the authority, and that the estimated annual payments for the project from the enterprise zone account to which the proposal pertains are not likely to result in a deficit in that account;

(2) In the case of an increase in eligible municipal services, that the proposal furthers the policy and intentions of the zone development plan approved by the authority; that the qualifying municipality has furnished satisfactory assurances that the additional policemen or firemen to be hired, or the additional vehicles, equipment or apparatus to be purchased or leased, shall be used to augment or upgrade public safety in the enterprise zone, and shall not be used in other areas of the municipality; that the qualifying municipality shall annually appropriate for the increased eligible municipal services an amount equal to 20% of the amount of annual payments for the eligible municipal services from the enterprise zone account; and that the estimated annual payments for the

eligible municipal services from the enterprise zone account to which the proposal pertains are not likely to result in a deficit in that account.

e. If the authority shall approve the proposal, it shall annually, upon its receipt of a written statement from the governing body of the qualifying municipality and the zone development corporation, certify to the State Treasurer the amount to be paid in that year from the enterprise zone account in the enterprise zone assistance fund with respect to each project or increase in eligible municipal services approved. The authority may at any time revoke its approval of a project or an increase in eligible municipal services if it finds that the annual payments made from the enterprise zone assistance fund are not being used as required by this section.

f. Upon certification by the authority of the annual amount to be paid to a qualifying municipality with respect to any project or increase in eligible municipal services, the State Treasurer shall pay in each year to the qualifying municipality from the amounts deposited in the enterprise zone assistance fund the amount so certified, within the limits of the amounts credited to the enterprise zone account of the qualifying municipality.

C. 52:27H-89 10-year limit.

30. No enterprise zones shall be designated after the date occurring ten years from the effective date of this act.

31. Section 34 of P. L. 1980, c. 105 (C. 54:32B–8.22) is amended to read as follows:

C. 54:32B-8.22 Tax exemption for sales to contractors.

34. Receipts from sales made to contractors or repairmen of materials, supplies or services for exclusive use in erecting structures or building on, or otherwise improving, altering or repairing real property of organizations described in subsections (a) and (b) of section 9 of the "Sales and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B–9), and of qualified businesses within an enterprise zone as authorized in section 20 of the "New Jersey Urban Enterprise Zones Act," P. L. 1983, c. 303 (C. 52:27H–79), are exempt from the tax imposed under that act, provided any person seeking to qualify for the exemption shall do so pursuant to such rules and regulations and upon forms as shall be prescribed by the director.

32. This act shall take effect immediately.

Approved August 15, 1983.

CHAPTER 304

A SUPPLEMENT to the "Narcotic and Drug Abuse Control Act of 1969," approved August 11, 1969 (P. L. 1969, c. 152, C. 26:2G–1 et seq.).

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

C. 26:2G-4.1 Short title.

1. This act shall be known and may be cited as the "New Jersey Drug Abuse Advisory Council Act of 1982."

C. 26:2G-4.2 Drug Abuse Advisory Council.

2. There is established within the Department of Health a Drug Abuse Advisory Council, which shall consist of 14 ex officio members as hereinafter provided, and 16 citizen members as hereinafter provided.

a. The ex officio members of the council shall be the Attorney General, the Commissioners of the Departments of Labor, Higher Education, Education, Human Services, Health, Community Affairs, Corrections, and Commerce and Economic Development or their duly designated representatives, the Administrative Director of the Courts, and two members of the Senate, to be appointed by the President thereof, no more than one of whom shall be from the same political party and two members of the General Assembly to be appointed by the Speaker thereof, no more than one of whom shall be from the same political party. Ex officio members shall remain members during their continuance in their respective offices. Each ex officio member may designate any officer or employee of the department, or office, which he heads to serve as his alternate and to exercise his functions and duties as a member of the Drug Abuse Advisory Council.

b. The citizen members shall be appointed by the Governor, with the advice and consent of the Senate. The term of office of each member appointed shall be for 3 years; provided that of the first members appointed by the Governor, five shall be appointed for a term of one year, five shall be appointed for a term of two years and six shall be appointed for a term of three years. Each member shall serve until his successor has been appointed and qualified, and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired terms.

c. Citizen members appointed by the Governor shall include representatives of (1) nongovernmental consumer organizations or groups, and (2) public and private agencies which provide prevention and treatment services for drug abuse and drug dependence to juveniles and adults and which represent different geographical areas of the State. No more than eight persons in either of the two categories above enumerated shall serve upon the council at any one time. The Governor in making his appointments shall specify in which of the two categories each appointee belongs.

d. The council shall organize by electing a chairman and vice-chairman from among its members, and a secretary who need not be a member.

e. The citizen members of the council shall receive no compensation for their services, but shall be reimbursed for their expenses incurred in the discharge of their duties.

f. The council shall meet at least four times during each year, and at such other times as shall be deemed appropriate at the call of the chairman or at the request of three other members. The Department of Health shall provide housekeeping, secretarial and consultant services to the council.

C. 26:2G-4.3 Advice on annual plan.

3. The Drug Abuse Advisory Council shall consult with and advise the Director of the Division of Narcotic and Drug Abuse Control in the Department of Health or his duly designated representative within the division in connection with:

a. The preparation and implementation of an annual drug abuse prevention and treatment plan for this State; and

b. Any other assistance as may be requested by the Governor, the Director of the Division of Narcotic and Drug Abuse Control or as initiated by the council.

4. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 305

AN ACT to amend the title of "An act authorizing counties and municipalities to enter into agreements with employees to provide for currently deferring a portion of the total compensation paid to such employees, supplementing Title 43 of the Revised Statutes," approved February 8, 1978 (P. L. 1977, c. 381), so that the same shall read "An act authorizing counties, municipalities, and authorities thereof to enter into agreements with employees to provide for currently deferring a portion of the total compensation paid to such employees, and supplementing Title 43 of the Revised Statutes," and to amend the body of that act.

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

Title amended.

1. The title of P. L. 1977, c. 381 is amended to read as follows: An act authorizing counties, municipalities, and authorities thereof to enter into agreements with employees to provide for currently deferring a portion of the total compensation paid to such employees, and supplementing Title 43 of the Revised Statutes.

2. Section 1 of P. L. 1977, c. 381 (C. 43:15B–1) is amended to read as follows:

C. 43:15B-1 Deferred compensation plan.

1. Any municipality, county, or an authority created by one or more counties or municipalities (hereinafter "employer") may establish a deferred compensation plan (hereinafter "plan") whereby the employer may enter into a written agreement with any of its employees (hereinafter "participants") constituting a contract for a voluntary deferral of salary. Such contract shall remain in effect until the employee's service is terminated or until a new contract is executed by the employee and employer. Not more than one contract shall be executed in any one fiscal year of the employer with any one employee. Pursuant to such contract the employer shall credit from time to time a specific amount per pay period, as deferred salary, to a participant's account. This account shall be known as the Employee's Deferred Salary Account, and shall be credited from time to time to reflect gains realized on

the investment of the moneys in the deferred salary account. An accounting summary of the individual deferred salary accounts of all employee participants shall be maintained to reflect the employer's total deferred liability under the plan and the individual balances of all participants. Any employer which establishes such a plan shall designate one or a group of its public officials, or the county's or municipality's governing body, as defined in N. J. S. 40A:4–2 of the Local Budget Law, or an authority's governing body, as the case may be, as the named fiduciary responsible for the administration of said plan and investment of and accounting for the funds maintained thereunder.

3. Section 3 of P. L. 1977, c. 381 (C. 43:15B–3) is amended to read as follows:

C. 43:15B-3 Investments; contracts with private organizations; State 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 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 investments 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 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 U. S. Internal Revenue Service. 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 the 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 U. S. Internal Revenue Service.

4. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 306

AN ACT concerning intoxication as a defense to a criminal charge and amending N. J. S. 2C:2–8.

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

1. N. J. S. 2C:2–8 is amended to read as follows:

Intoxication.

2C:2–8. Intoxication. a. Except as provided in subsection d. of this section, intoxication of the actor is not a defense unless it negatives an element of the offense.

b. When recklessness establishes an element of the offense, if the actor, due to self-induced intoxication, is unaware of a risk of which he would have been aware had he been sober, such unawareness is immaterial.

c. Intoxication does not, in itself, constitute mental disease within the meaning of chapter 4.

d. Intoxication which (1) is not self-induced or (2) is pathological is an affirmative defense if by reason of such intoxication the actor at the time of his conduct did not know the nature and quality of the act he was doing, or if he did know it, that he did not know what he was doing was wrong. Intoxication under this subsection must be proved by clear and convincing evidence.

e. Definitions. In this section unless a different meaning plainly is required:

(1) "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body;

(2) "Self-induced intoxication" means intoxication caused by substances which the actor knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such circumstances as would afford a defense to a charge of crime;

(3) "Pathological intoxication" means intoxication grossly excessive in degree, given the amount of the intoxicant, to which the actor does not know he is susceptible.

2. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 307

AN ACT prohibiting the consumption of alcoholic beverages while operating a motor vehicle 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. 39:4-51a No consumption of alcoholic beverages while operating motor vehicle.

1. a. A person shall not consume an alcoholic beverage while operating a motor vehicle. A passenger in a motor vehicle shall not consume an alcoholic beverage while the motor vehicle is being operated. This subsection shall not apply to a passenger of a charter or special bus operated as defined under R. S. 48:4–1 or an autocab, limousine or livery service.

b. A person shall be presumed to have consumed an alcoholic beverage in violation of this section if an unsealed container of an alcoholic beverage is located in the passenger compartment of the motor vehicle, the contents of the alcoholic beverage have been partially consumed and the physical appearance or conduct of the operator of the motor vehicle or a passenger may be associated with the consumption of an alcoholic beverage. For the purposes of this section, the term "unsealed" shall mean a container with its original seal broken or a container such as a glass or cup.

c. For the first offense, a person convicted of violating this section shall be fined $200.00 and shall be informed by the court of the penalties for a second or subsequent violation of this section. For a second or subsequent offense, a person convicted of violating this section shall be fined $250.00 or shall be ordered by the court to perform community service for a period of 10 days in such form and on such terms as the court shall deem appropriate under the circumstances.

2. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 308

AN ACT concerning certificates of death and the corrections thereto, amending sections 26:6–7, 26:6–8 and 26:8–52 of the Revised Statutes and supplementing chapter 6 of Title 26 of the Revised Statutes.

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

1. R. S. 26:6–7 is amended to read as follows:

Contents of death certificate.

26:6–7. The certificate of death shall contain such items as shall be listed on death certificate forms provided or approved by the department under the authority of subsection c. of R. S. 26:8–24. The certificate of death shall include a space for the signature of the person who makes the actual determination and pronouncement of death and a box that designates the person's official capacity as attending physician, attending registered professional nurse or medical examiner.

2. R. S. 26:6–8 is amended to read as follows:

Supplying of particulars.

26:6–8. In the execution of a death certificate, the personal particulars shall be obtained by the funeral director from the person best qualified to supply them. The death and last sickness particulars shall be supplied by the attending physician; or if there is no attending physician, by an attending registered professional nurse licensed by the New Jersey Board of Nursing under P. L. 1947, c. 262 (C. 45:11–23 et seq.); or if there is no attending physician or attending registered professional nurse, by the county medical examiner. Within a reasonable time, not to exceed 24 hours after the pronouncement of death, the attending physician or the county medical examiner shall execute the death certification. The burial particulars shall be supplied by the funeral director. The attending physician, the attending registered professional nurse, or the county medical examiner and the funeral director shall certify to the particulars supplied by them by signing their names below the list of items furnished.

3. R. S. 26:8–52 is amended to read as follows:

Corrections.

26:8–52. Corrections to death certificates shall be signed by the physician, registered professional nurse, county medical examiner, funeral director or informant, whose name appears upon the certificate; however, any individual having personal knowledge and substantiating documentary proof of the matters sought to be corrected may apply under oath to have the certificate corrected. The authority to sign corrections or amendments to causes or duration of causes of death is restricted to the physician or county medical examiner.

C. 26:6-8.1 Death determination by registered nurse.

4. (New section) Where there has been an apparent death, a registered professional nurse licensed by the New Jersey Board of Nursing under P. L. 1947, c. 262 (C. 45:11–23 et seq.) may make the actual determination and pronouncement of death and shall attest to this pronouncement by signing in the space designated for this signature on the certificate of death under R. S. 26:6–7, except that this provision shall only apply in the case of a death which occurs in the home or place of residence of the deceased, in a hospice, or in a long-term care facility or nursing home.

5. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 309

AN ACT providing for the exemption from taxation of automatic fire suppression systems and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

C. 54:4-3.130 Definitions.

1. As used in this act:

a. "Automatic fire suppression system" means a mechanical system designed and equipped to detect a fire, activate an alarm, and suppress or control a fire without the necessity of human intervention and activated as a result of a predetermined temperature rise, rate of rise of temperature, or increase in the level of combustion products.

b. "Commissioner" means the Commissioner of the Department of Community Affairs.

c. "Enforcing agency" means the enforcing agency in any municipality provided for under the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.) and regulations promulgated thereunder.

d. "Board of appeals" means the municipal or county board provided for under the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.) and regulations promulgated thereunder.

C. 54:4-3.131 Automatic fire suppression system exempt from taxation.

2. An automatic fire suppression system installed after the effective date of this act in a residential, commercial, or industrial building and certified by the enforcing agency as an automatic fire suppression system shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes.

C. 54:4-3.132 Application for exemption.

3. The enforcing agency shall grant a certification pursuant to section 2 of this act upon receipt of a written application made under oath on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury. The form shall be made available to claimants by the enforcing agency. The enforcing agency may at any time inquire into the right of a claimant to the exemption and for that purpose may require the filing of a new application or the submission of any proof necessary to determine the right of the claimant to the continuation of the exemption. The enforcing agency shall have the right to make an inspection of the premises which are the subject of the claim for exemption under this act.

C. 54:4-3.133 Certification.

4. The enforcing agency shall certify that an automatic fire suppression system is exempt from taxation pursuant to section 2 of this act when the equipment, facility, or system installed was designed primarily as an automatic fire suppression system in accordance with regulations prescribed by the commissioner. The certificate shall contain information identifying the system and its cost and shall conform to any other requirements prescribed by the Director of the Division of Taxation. The certificate shall be submitted to the claimant; one copy of the certificate shall be retained on file by the enforcing agency and one copy shall be sent to the assessor of the taxing district in which the building equipped

with the automatic fire suppression system is located. The exemption from taxation for the automatic fire suppression system shall commence in the tax year following the year in which certification has been granted.

C. 54:4-3.134 Revocation of certificate.

5. The enforcing agency, after giving notice to the holder of an automatic fire suppression system certificate, may revoke the certificate whenever any of the following appears:

a. The certificate was obtained by fraud or misrepresentation;

b. The claimant for tax exemption has failed substantially to proceed with the construction, reconstruction, installation or acquisition of an automatic fire suppression system;

c. The mechanical system to which the certificate relates has ceased to be used for the primary purpose of providing automatic fire suppression and is being used for a different primary purpose;

d. The claimant for tax exemption hereunder has so departed from the equipment, design and construction previously certified by the enforcing agency that, in the opinion of the enforcing agency, the automatic fire suppression system is not suitable and reasonably adequate for the purpose of providing automatic fire suppression.

C. 54:4-3.135 Appeals.

6. a. A person aggrieved by an action of the enforcing agency may seek review before the board of appeals.

b. A person aggrieved by an action of the Director of the Division of Taxation may seek a review before the Director of the Division of Taxation pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

c. A person aggrieved by an action of the assessor may appeal to the county board of taxation or the tax court, as appropriate.

C. 54:4-3.136 Calculation of exemption.

7. The owner of real property equipped with a certified automatic fire suppression system may have exempted annually from the assessed valuation of the real property a sum equal to the remainder of the assessed valuation of the real property with the automatic fire suppression system included, minus the assessed valuation of the real property without the automatic fire suppression system.

C. 54:4-3.137 Rules, regulations.

8. Subject to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.):

a. The Director of the Division of Taxation shall adopt rules and regulations necessary for the proper certification of a tax exemption and the form of a certificate to be issued;

b. The commissioner shall adopt rules and regulations establishing technical standards for automatic fire suppression systems necessary to qualify those systems for exemption from taxation pursuant to this act.

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

Approved August 26, 1983.

CHAPTER 310

AN ACT concerning certain members of county boards of taxation and supplementing chapter 3 of Title 54 of the Revised Statutes.

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

1. Notwithstanding any provisions of R. S. 54:3–2 to the contrary, a member of a county board of taxation who was appointed after the effective date of P. L. 1981, c. 192 and not later than one month following the effective date of P. L. 1981, c. 516, shall furnish proof that he has received certificates indicating satisfactory completion of training courses designated in section 4 of P. L. 1967, c. 44 (C. 54:1–35.28) or that he possesses an assessor's certificate issued pursuant to P. L. 1967, c. 44, by January 15, 1984.

2. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 311

AN ACT concerning the establishment of an office of register of deeds and mortgages in certain counties and amending N. J. S. 40A:9–81.

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

1. N. J. S. 40A:9–81 is amended to read as follows:

Register of deeds and mortgages.

40A:9–81. In every county having a population of more than 250,000 there may be a register of deeds and mortgages in and for such county. In any such county wherein the office of register of deeds and mortgages has not been established, the question of the establishment of such office may be submitted to the legal voters of the county upon the adoption of a resolution by the governing body of the county authorizing the placement of that question on the ballot. Where the question of the establishment of such office is to be submitted, it shall be submitted at the general election preceding the one at which the county clerk is to be elected in that county. The county clerk of every such county shall cause the question to be placed upon the official ballot to be used at the general election in the manner provided by law in substantially the following form: "Shall the office of the register of deeds and mortgages be established and a register be elected in .....
..... county next year?" Immediately to the
(insert name of county)
left of the question there shall be printed the words "Yes" and "No", each with a square, in either of which the voter may make a cross (×), or a plus sign (+) or check mark (√) according to his choice. There shall also be printed the following: "Place a cross (×), or a plus sign (+) or check mark (√) in one of the above squares indicating your choice." If voting machines are used, a vote of "Yes" or "No" shall be equivalent to such markings, respectively.

The votes shall be canvassed and returned in the manner provided by law. If a majority of the legal voters, voting on the question, shall vote "Yes," the office of register of deeds and mortgages shall be established and a register of deeds and mortgages shall be elected in such county at the next general election.

If a majority of the legal voters voting on the question shall vote "No," the office shall not be established and the county clerk shall continue to perform the duties of a county recording officer and the question shall not be submitted again to the legal voters of that county except upon a petition signed by 10% of the registered voters of the county and not until five years shall have elapsed since the prior referendum.

2. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 312

AN ACT concerning limitations imposed upon increases in municipal final appropriations and county tax levies, amending P. L. 1983, c. 49, and supplementing P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.).

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

1. Section 7 of P. L. 1983, c. 49 (C. 40A:4–45.14) is amended to read as follows:

C. 40A:4-45.14 Permissible increase in appropriations.

7. Notwithstanding the provisions of section 2, 3 or 4 of P. L. 1976, c. 68 (C. 40A:4–45.2, 40A:4–45.3 and 40A:4–45.4) to the contrary, in any year for which the index rate exceeds 5%, a municipality may, by ordinance, or a county may, by ordinance or resolution, as appropriate, provide that in the local budget year to which the ordinance or resolution applies, the final appropriations of the municipality, or the tax levy of the county, shall be increased by a percentage rate greater than 5%, but not to exceed the index rate, over the previous year's final appropriations, or county tax levy, as the case may be.

The ordinance or resolution, as appropriate, shall be introduced after January 1 of the local budget year to which it applies and prior to the date provided by law for the introduction and approval of the annual budget of the municipality or county. The ordinance or resolution shall state the greater percentage rate to be adopted and the additional amount of increased final appropriations or tax

levy which that greater percentage rate represents over that which the 5% rate represents, and the individual appropriations items to which the additional amount applies, setting forth for each applicable appropriations item the amount to be appropriated: a. if the greater percentage rate is adopted; and b. if the greater percentage rate is not adopted. The ordinance or resolution may, thereafter, be adopted, after publication and a public hearing separately afforded upon 10 days' notice duly published, by a majority vote of the authorized membership of the governing body. Any procedures provided in a form of local government for the exercise of veto powers by a mayor or county executive with respect to ordinances generally shall pertain. An ordinance or resolution so adopted shall, notwithstanding any other provision of law, take effect immediately upon adoption.

Upon adoption of the ordinance or resolution, the permissible final appropriations of the municipality, or permissible county tax levy of the county, shall be calculated for the year as provided in section 3 or 4 of P. L. 1976, c. 68 (C. 40A:4–45.3 or 40A:4–45.4), except that the percentage rate so adopted shall be used. The final appropriations or county tax levy so calculated shall be used in the immediately following year for the purposes of section 2 of P. L. 1976, c. 68 (C. 40A:4–45.2).

A copy of any ordinance or resolution introduced pursuant to this section shall be filed with the Director of the Division of Local Government Services within five days of introduction, and a copy of the ordinance or resolution adopted shall be filed with the director within five days of adoption.

In any year for which an ordinance is adopted by a municipality pursuant to this section, no referendum shall be held in that municipality pursuant to subsection i. of section 3 of P. L. 1976, c. 68 (C. 40A:4–45.3).

No municipality adopting an ordinance pursuant to this section shall, in the year for which that ordinance is adopted, be entitled to an exception authorized pursuant to subsection m. of section 3 of P. L. 1976, c. 68 (C. 40A:4–45.3), greater than the amount of exception to which it would otherwise have been entitled if there had been no increase in appropriation in that year over the preceding year.

No county adopting an ordinance or resolution, as appropriate, pursuant to this section shall, in the year for which that ordinance or resolution is adopted, be entitled to an exception authorized

pursuant to subsection h. of section 4 of P. L. 1976, c. 68 (C. 40A:4–45.4), greater than the amount of exception to which it would otherwise have been entitled if there had been no increase in appropriation in that year over the preceding year.

C. 40A:4-45.19 New programs.

2. (New section) a. In the first local budget year in which a county or municipality shall commence to fund a new service or program, which it is required to provide as a result of a binding referendum initiated and approved by the voters of the county or municipality, there shall be added to the final appropriations upon which the permissible municipal expenditures are calculated, or upon which the permissible county tax levy is calculated, the amount determined by the county or municipal governing body to be necessary to fund the service or program in that local budget year.

b. Notwithstanding the provisions of any other law to the contrary, whenever, on or after the effective date of this act, a binding referendum question is required to be submitted in a county or municipality as a result of a petition initiated by the voters thereof, the approval of which by the voters would require the county or municipality to provide a new service or program, the governing body of the county or municipality shall cause to be set forth in an accompanying explanatory statement to the public question to appear on the ballot the amount of appropriations determined by the governing body to be necessary to fund the service or program in the first local budget year following approval of the question, and such other relevant information as the governing body may wish to include therein. The amount so set forth shall be the amount added to the county or municipal final appropriations pursuant to subsection a. of this section in the first local budget year in which the county or municipality shall commence to fund the service or program approved by the voters.

c. For the purposes of subsections a. and b. of this section, in determining the amount of appropriations necessary to fund the provision of a new service or program, the county or municipal governing body shall deduct an amount equal to the amount of any revenues anticipated to be derived from service fees to be imposed for the service or program in the first local budget year in which the county or municipality shall commence to fund the service or program. If in any local budget year thereafter, the county or municipality shall impose new service fees or increased service fees for the service or program, the amount of final appropriations upon which the permissible municipal expenditures are calculated,

or upon which the permissible county tax levy is calculated, shall be reduced in the first full local budget year to which the new or increased service fees pertain, by the amount to be derived in that year from the new service fees or the increase in service fees.

3. This act shall take effect immediately, and apply to the 1983 local budget year and thereafter.

Approved August 26, 1983.

CHAPTER 313

AN ACT to provide for State controls over the creation and financial affairs of local authorities of this State, assigning necessary powers and responsibilities with respect thereto, and supppplementing Title 40A of the New Jersey Statutes.

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

C. 40A:5A-1 Short title.

1. This act shall be known and may be cited as the "Local Authorities Fiscal Control Law."

C. 40A:5A-2 Declarations.

2. The Legislature declares it to be in the public interest of the citizens of this State to maintain, support, foster, and promote the financial integrity and stability of local authorities in the State and of counties and municipalities served by these local authorities, by providing for State review of project financing of local authorities and for State supervision over the financial operations of local authorities.

The Legislature declares that it is the purpose and object of this act to implement this policy by providing that the creation of a local authority be subject to Local Finance Board approval, that project financing of a local authority be submitted to the Local Finance Board for hearing and review, that annual budgets of a local authority be submitted to the Division of Local Government Services in the Department of Community Affairs for approval, that financial reports be prepared and submitted by a local authority to the division in the form and at the time or times as shall be prescribed by rule or regulation of the Local Finance Board or of the Director of the Division of Local Government Services. In

addition, the Local Finance Board may take remedial action to address an emergency situation with respect to the financial condition and operation of a local authority or to respond to an undue financial burden imposed by a local authority on residents of the State, including the power to order the dissolution of a local authority if it is in the public interest.

C. 40A:5A-3 Definitions.

3. As used in this act:

a. "Authority" means a body, public and corporate, created by one or more municipalities or counties pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

(1) To adopt and use a corporate seal;

(2) To sue and be used;

(3) To acquire and hold real or personal property for its purposes; and

(4) To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real property within its district, or to impose charges for the use of its facilities, or any combination thereof;

but shall not include any public body for which federal or State fiscal controls differing from those imposed by this act have been explicitly established by law, but only to the extent of that difference.

b. "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

c. "Financing agreement" means an agreement of a local unit or units intended to provide security for an issue of obligations of an authority, including, but not limited to, a contract providing for payments by a local unit or units with respect to use, services or provision of a project, facility or public improvement of an authority or payments for debt service therefor.

d. "Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

e. "Local unit or units" means a county or municipality which created or joined in the creation of an authority, or which proposes to create or join in the creation thereof, or which proposes to enter into a financing agreement with an authority.

f. "Project financing" means the financing by an authority of a facility for the benefit of the inhabitants of a local unit or units and includes payment for the design and plan for the facility.

g. "Security agreement" means a bond resolution of an authority, or a trust indenture to be executed by an authority, or other similar proceeding or document.

C. 40A:5A-4 Application to Local Finance Board.

4. On and after the effective date of this act, no authority shall be created by any local unit or units without the prior approval of the Local Finance Board. Prior to the introduction of an ordinance or the adoption of a resolution to create an authority, the local unit or units proposing this creation shall make application to the Local Finance Board for its approval. The application shall contain:

a. A copy of the proposed ordinance or resolution creating the authority;

b. A statement, in brief and general terms, of the project or projects to be undertaken, the estimated project cost, the manner of project financing, and the area to be served by the project;

c. A proposed budget for the first year of authority operation, including a table of organization, personnel requirements, the level of staff required for supervision of the operation of the authority and the proposed source or sources of the authority's funding; and

d. A statement, in the form prescribed by the Local Finance Board, indicating that the local unit or units have considered alternative means of undertaking and financing the proposed project or projects and have determined that the creation of an authority is the most efficient and feasible means of providing and financing the project or projects.

The Local Finance Board may consider estimates, computations or calculations made in connection with an application, may require the production of papers, documents, witnesses or information, may make or cause to be made an audit or investigation, and may take any other appropriate action necessary to its consideration of whether or not to approve the creation of an authority.

C. 40A:5A-5 Approval.

5. The Local Finance Board shall, within 60 days of its receipt of an application pursuant to section 4 of this act, approve in writing the creation of the proposed authority, if it shall determine that the creation of the proposed authority is an efficient and feasible means of providing and financing this project or projects, given the needs of, and the financial burdens to be placed upon, the inhabitants of the local unit or units.

If the application is not disapproved within 60 days of its submission to the Local Finance Board, it shall be deemed to be approved, and the local unit or units may proceed to adopt the proposed ordinance or resolution. If the Local Finance Board shall not approve the creation of the authority, it shall specify in writing the reason or reasons therefor, and shall file its statement with the clerk or clerks of the local unit or units. A local unit shall not adopt any ordinance or resolution which is disapproved by the Local Finance Board within the 60 days, but may resubmit the application to the board with such changes as the local unit deems appropriate, and the review and approval of the resubmitted application shall be subject to the limitations set forth above.

C. 40A:5A-6 Review of financing.

6. Prior to the adoption of a security agreement by an authority, or an ordinance or resolution of a local unit or units authorizing a financing agreement, the proposed project financing shall be submitted to the Local Finance Board for its review. The Local Finance Board shall, in the course of its review, give consideration to:

a. The nature, purpose, and scope of the proposed project financing;

b. The engineering and feasibility studies prepared in connection therewith;

c. The terms and provisions of the proposed financing agreements, security agreements and, in the instance of a negotiated offering, the proposed or maximum terms and conditions of sale;

d. The proposed or maximum schedule of debt service payments required, and the impact thereof on the budget and financial condition of the authority and of the local unit;

e. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report or feasibility studies; and

f. The initial rate, rent, fee, or charge schedule proposed by the authority, or any other proposed method of raising the amounts required to finance the operations and payments of debt service on the obligations of the authority.

The Local Finance Board may examine the estimates, computations or calculations made in connection with the submission, may require the production of papers, documents, witnesses or information, may make or cause to be made an audit or investigation and may take any other action which it may deem necessary to its review of the submission.

C. 40A:5A-7 Hearing; findings.

7. The Local Finance Board shall, within 31 days of its receipt of the proposed project financing, hold a hearing at which any interested party may furnish additional information regarding the proposal. Within 10 days after the hearing, the board shall issue its findings on the proposed financing including therein its findings as to whether: (a) the project cost has been determined by reasonable and accepted methods; (b) the method proposed for the funding or the project cost, proposed or maximum terms and provisions of the financing and of a proposed financing agreement are not unreasonable nor impracticable, and would not impose an undue and unnecessary financial burden on the inhabitants of the local unit or units, which have created or have joined in the creation of the authority or which may enter into a financing agreement with the authority, or would not materially impair the ability of the local unit or units or the authority to pay promptly the principal of and interest on the outstanding indebtedness thereof or to provide essential public services to the inhabitants thereof; and (c) in the case of a negotiated offering, the proposed or maximum terms and conditions of sale are, in light of current market conditions for obligations of similar quality, reasonable. The findings shall be in writing and shall be filed with the clerk or clerks of the local unit or units and with the secretary of the authority.

The times set forth in this section may be extended by mutual agreement of the authority and the Local Finance Board.

The governing body of the authority shall, within 15 days of receipt of the Local Finance Board's findings and recommendations on the proposed project financing, certify by resolution to the Local Finance Board that each member thereof has personally reviewed the findings and recommendations and has evidenced same by group affidavit in the form prescribed by the Local Finance Board. Failure to comply with this paragraph may subject the members of the authority to the penalty provisions of section 52 of P. L. 1947, c. 151 (C. 52:27BB–52).

C. 40A:5A-8 Recommendations.

8. The Local Board may recommend in its findings with respect to a proposed project financing:

a. That the debt service reserve fund in an amount established by the board be funded from the proceeds of the sale of the authority's bonds;

b. The incurrence of indebtedness and the issuance of obligations by the local unit or units to finance a portion of the proposed project cost. Except as otherwise provided in this act, these obligations shall be authorized and issued in the manner provided for in Title 40 of the Revised Statutes or Title 40A of the New Jersey Statutes;

c. That the local unit or units execute a financing agreement with the authority;

d. That the local unit or units not execute a financing agreement with the authority, if the Local Finance Board determines that the agreement would impose an inappropriate risk on the local unit;

e. That an amount not to exceed the outstanding principal each year for the proposed financing of the authority be included in the net debt of a local unit, under N. J. S. 40A:2–1 et seq., if the local unit executes a financing agreement with the authority;

f. In addition to the above, any other conditions that the Local Finance Board considers appropriate to provide sound financial support for the project financing.

C. 40A:5A-9 Power to incur indebtedness, issue obligations.

9. To the extent not otherwise provided for in Title 40 of the Revised Statutes or Title 40A of the New Jersey Statutes and in order to satisfy the provisions of section 8 of this act, any local unit or units having created or joined an authority, or which may hereafter join, create or join in the creation of an authority or which are now or hereafter under contract with an authority in connection with a project financing, are authorized and shall have the power to incur indebtedness and issue obligations for any purpose for which an authority may issue obligations and to donate the proceeds of those obligations to an authority to be expended for the purpose for which the funds were borrowed. Except as otherwise provided in this act, all obligations shall be authorized and issued in the manner provided for in Title 40 or Title 40A.

C. 40A:5A-10 Submission of budget.

10. a. Each authority shall submit a budget for each fiscal year to the director prior to its adoption thereof. The budget shall comply with the terms and provisions of any security agreements, and shall be in such form and detail as to items of revenue, expenditure and other content as shall be required by law or by rules and regulations of the Local Finance Board.

b. The Local Finance Board shall prescribe by rule or regulation the procedure for the adoption of budgets by authorities. The rules and regulations may include or be similar to any provisions of the

"Local Budget Law" (N. J. S. 40A:4–1 et seq.) which the Local Finance Board shall deem to be practicable or necessary, and may further include any other provisions and requirements which the Local Finance Board shall deem appropriate or necessary. The rules and regulations shall provide for approval or disapproval of a budget within 45 days of the director's receipt thereof.

c. The Local Finance Board shall also prescribe by rule or regulation the procedures and requirements for execution of any budget after adoption, and for the administration of financial affairs of authorities. The rules and regulations may include, without limitation, any provisions of the "Local Budget Law" (N. J. S. 40A:4–1 et seq.), and the "Local Fiscal Affairs Law" (N. J. S. 40A:5–1 et seq.), which the Local Finance Board shall deem to be practicable and necessary.

C. 40A:5A-11 Budget approval.

11. No authority budget shall be finally adopted until the director shall have approved same. In granting the approval, the director shall consider whether or not:

a. All estimates of revenue are reasonable, accurate and correctly stated;

b. Items of appropriation are properly set forth;

c. In itemization, form and content, the budget will permit the exercise of the comptroller function within the authority;

d. The schedule of rates, fees and charges then in effect will produce sufficient revenues, together with all other anticipated revenues, to satisfy all obligations to the holders of bonds of the authority, to meet operating expenses, capital outlays, debt service requirements, and to provide for such reserves, all as may be required by law, regulation or terms of contracts and agreements.

The director may require such documentation, records and other information, and undertake any audit or investigation, as he may deem necessary in connection with his review.

If the director finds that all requirements of law and the rules and regulations of the Local Finance Board have been met, he shall, within 45 days of his receipt of the budget, approve it; otherwise he shall within that time refuse to approve it. The director, in refusing to approve the budget, shall not substitute his discretion with respect to the amount of an appropriation when that amount is not made mandatory by law or regulation.

Any decision of the director in the course of budget review under this section may be appealed to the Local Finance Board in the manner generally provided by law.

C. 40A:5A-12 Funding of deficit.

12. The Local Finance Board shall have the power, in the case of a financing agreement between an authority and a local unit or units, to enforce, by appropriate order, the terms and provisions thereof with respect to the funding of a deficit, whether in existence or anticipated. If the Local Finance Board has reason to believe that an authority is faced with financial difficulty, it shall have the power to order an increase in rents, rates, fees or other charges of the authority, and this order shall be valid and enforceable, notwithstanding any provisions to the contrary in R. S. 48:2–1 et seq. The Local Finance Board, before issuing this order, shall first hold a hearing consistent with section 18 of this act. The Local Finance Board also shall have authority to provide that a requirement that a local unit or units pay a deficit under a financing agreement be funded through the issuance of authority deficit funding notes as provided in this act. Any order so issued shall be deemed conclusive and final, and upon receipt of this order all persons shall be estopped from contesting the order or the provisions thereof. Any authority or local unit or units affected by the order shall promptly take the action necessary to comply with this order.

C. 40A:5A-13 Temporary funding notes.

13. To the extent not otherwise provided for by law, an authority is authorized and shall have the power to issue obligations to be designated "Authority Temporary Funding Notes" in an amount not exceeding the realized deficit in revenues for the preceding fiscal year and an estimated deficit in revenues for the current fiscal year. The notes may be renewed from time to time. All notes and any renewals thereof shall mature not later than the close of the succeeding fiscal year and shall be payable in that fiscal year. Payment shall, however, be subordinate to the payment of principal and interest on, or sinking fund payments with respect to, bonds or other obligations (other than "Authority Temporary Funding Notes") of the authority.

The proceeds of the sale of "Authority Temporary Funding Notes" shall be deposited in the fund or funds in which a deficiency exists, or is expected to exist, as set forth in the resolution under which the notes are issued.

An authority shall notify the Local Finance Board in writing of its intention to issue "Authority Temporary Funding Notes" pursuant to this section, including therein a statement of the deficits which the proceeds of the notes are intended to fund, and a statement of the manner in which the authority plans to either retire or refinance the notes on or before the close of the succeeding fiscal year. The notification shall be made at least 30 days prior to issuance, or within such lesser time period as the Local Finance Board shall permit.

C. 40A:5A-14 Deficit funding notes.

14. If the issuance of "Authority Temporary Funding Notes" is not permitted by the terms of a security agreement, then the local unit or units, if obligated to make payments on account of a deficiency in revenues under the terms of a financing agreement, may issue emergency notes pursuant to the provisions of sections 40A:4–46 through 40A:4–50 of the New Jersey Statutes to fund this payment or portions thereof. These obligations shall be designated "Authority Deficit Funding Notes" and shall be general obligations of the issuer. Each note shall be authorized by resolution of the governing body and may be renewed from time to time. All notes and the renewals thereof shall mature not later than the last day of the fiscal year next succeeding the fiscal year in which these notes were issued and the emergency appropriation authorized.

A local unit shall notify the Local Finance Board in writing of its intention to issue "Authority Deficit Funding Notes" pursuant to this section at least 30 days prior to the issuance, or within such lesser time period as the Local Finance Board shall permit, including therein a statement of the deficit which the proceeds of the notes are intended to fund, and a statement of the manner in which the local unit plans to either retire or refinance the notes on or before the close of the succeeding fiscal year.

C. 40A:5A-15 Annual audit.

15. Notwithstanding the provisions of N. J. S. 40A:5–1 et seq., each authority shall cause an annual audit of its accounts to be made, and for this purpose it shall contract with the Division of Local Government Services or employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the authority within four months after the close of the fiscal year of the authority. A certified duplicate copy thereof shall be filed with the governing

body of each local unit having created the authority and with the director within five days after the original report is filed with the authority. The Local Finance Board shall by rule or regulation prescribe the accounting principles and policies, auditing procedures, and financial reporting practices applicable to authorities and authority audits conducted pursuant to this section. The rules and regulations may include or be similar to any provisions of the "Local Fiscal Affairs Law" (N. J. S. 40A:5–1 et seq.), which the Local Finance Board shall deem to be practicable or necessary.

C. 40A:5A-16 Publication of synopsis.

16. A synopsis of the annual audit shall be prepared by the chairman of the authority and published at least once in a newspaper circulating in the district of the authority. A copy of the synopsis shall be filed with the director within 10 days after publication.

C. 40A:5A-17 Certification of review of audit.

17. The governing body of each authority shall, within 45 days of receipt of the annual audit, certify by resolution to the Local Finance Board that each member thereof has personally reviewed the annual audit report, and specifically the sections of the audit report entitled General Comments and Recommendations, and has evidenced same by group affidavit in the form prescribed by the Local Finance Board. Failure to comply with this provision may subject the members of the authority to the penalty provisions of section 52 of P. L. 1947, c. 151 (C. 52:27BB–52).

C. 40A:5A-18 Hearing for authority in financial difficulty.

18. If at any time, as a result of exercising his responsibilities under this act, the director has reason to believe that an authority is faced with financial difficulty, the director shall summon appropriate officials of the authority and the local unit or units or either of the aforesaid to a hearing before the Local Finance Board. The Local Finance Board may require the production of papers, documents, witnesses or information and may make or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called.

C. 40A:5A-19 Ordering of financial plan.

19. If the Local Finance Board determines that financial difficulties exist which (1) jeopardize the payment of operating expenses and debt service on obligations of the authority or either of the aforesaid; or place an undue financial burden on the inhabitants of the local unit or units or the users of the system or facilities of

an authority; and (2) that these difficulties are likely to recur and, if they continue, will impair the credit of the authority and local unit or units or either of the aforesaid to the detriment of the inhabitants thereof; and (3) no financial plan designed to prevent a recurrence of these conditions and which is deemed to be practicable and feasible by the director has been undertaken by the authority or the local unit or units, the Local Finance Board shall order the implementation of a financial plan which will assure the payment of debt service on obligations of the authority, or provide relief from undue financial burden. The order shall be deemed conclusive and final and upon receipt of the order all persons shall be estopped from contesting the order or the provisions thereof and the authority or local unit or units affected thereby shall take the action to comply with the order.

C. 40A:5A-20 Dissolution of authority.

20. Notwithstanding the provisions of any other law to the contrary, the governing body of a local unit which has established an authority shall have the power and is authorized by ordinance in the case of a municipality, and ordinance or resolution, as appropriate, in the case of a county, to dissolve the authority, except that the ordinance or resolution, as the case may be, shall be approved by the Local Finance Board prior to adoption. Any authority established by more than one municipality or county may be dissolved by the adoption of parallel ordinances or resolutions, as appropriate. The Local Finance Board shall approve the dissolution if it finds that the ordinance or resolution makes adequate provision in accordance with a security agreement or otherwise for the payment of all creditors or obligees of the authority and that adequate provision is made for the assumption of those services provided by the authority which are necessary for the health, safety and welfare of the recipients of those services. The ordinance or resolution shall be introduced and adopted in the manner provided by law, shall take effect immediately after final adoption, and shall not be subject to referendum. A copy of the ordinance or resolution as adopted shall be filed immediately with the Local Finance Board and with the Secretary of State. In the event that an authority has obligations outstanding at the time of the taking effect of the ordinance or resolution to dissolve the authority, the local unit or units dissolving the authority are authorized to issue obligations in furtherance of the dissolution, and the obligations shall have a period of usefulness not exceeding 40 years from the date of issuance. The bonds shall be authorized by a bond ordinance

to be introduced and adopted in accordance with the provisions of the "Local Bond Law" (N. J. S. 40A:2–1 et seq.), except for the provisions of sections 40A:2–11, 40A:2–26, 40A:2–27 and 40A:2–31 of the New Jersey Statutes, and except that the bond ordinance shall take effect immediately after final adoption and shall not be subject to referendum. The bonds may be deducted from the gross debt of the local unit by action of the Local Finance Board in accordance with subsection d. of N. J. S. 40A:2–7. Bonds issued for this purpose shall be sold under the direction and supervision of the Local Finance Board, and may be sold at either public or private sale as the board shall prescribe.

Nothing contained in this section or in this act shall limit the powers accorded under any other law to any county or municipality to dissolve any authority which it has created or of which it has joined in the creation, nor limit any general reorganization powers accorded under law to any county or municipality to alter or abolish its agencies, but the provisions of this section and this act shall be supplementary to the powers accorded under any other law.

C. 40A:5A-21 Ordering of dissolution.

21. The Local Finance Board may order the dissolution of a local authority if, after holding a hearing consistent with section 18 of this act, it determines that, due to financial difficulties or mismanagement, the dissolution of an authority will be in the public interest and will serve the health, welfare, or convenience of the inhabitants of the local unit or units, and the dissolution will achieve a more efficient means for providing and financing local public facilities, except that an order dissolving an authority shall assure adequate provision in accordance with a security agreement or otherwise for all creditors or obligees of the authority. Any order so adopted by the Local Finance Board to provide for the dissolution of an authority shall take effect only upon its approval by the Commissioner of the Department of Community Affairs, the State Treasurer and the Attorney General. Upon approval, the order shall be immediately transmitted to the authority, to the clerk of the governing body of the local unit or units, and to the Secretary of State.

C. 40A:5A-22 Public records.

22. Records of minutes, accounts, bills, vouchers, contracts or other papers connected with or used or filed with any authority or with any officer or employee acting for or in its behalf are declared to be public records, and shall be open to public inspection in ac-

cordance with P. L. 1963, c. 73 (C. 47:1A–1 et seq.) and regulations of the authority.

C. 40A:5A-23 Examination by State Auditor.

23. Notwithstanding the provisions of any law to the contrary, the State Auditor or his legally authorized representative may examine the accounts and books of any authority subject to the provisions of this act.

C. 40A:5A-24 Temporary obligations.

24. Notwithstanding any other law to the contrary, any authority, in anticipation of the issuance of bonds, may borrow money and issue temporary obligations if the security agreement so provides. A temporary obligation shall be designated "bond anticipation note" or "project note" and shall contain a recital that it is issued in anticipation of the issuance of bonds. The notes may be issued for a period of not exceeding five years, or the period of construction as certified by the consulting engineer plus 12 months, whichever shall be less, and may be renewed from time to time with the approval of the Local Finance Board.

C. 40A:5A-25 Municipal public utilities.

25. If the Local Finance Board has reason to believe that a municipal public utility is faced with financial difficulty, it shall have the power to order an increase in rents, rates, fees or other charges of the utility, and this order shall be valid and enforceable notwithstanding any provisions of the contrary in R. S. 48:2–1 et seq., but the Local Finance Board, before issuing this order, shall first hold a hearing to which the Director of the Division of Local Government Services shall summon appropriate officials of the municipality. The Local Finance Board may require the production of papers, documents, witnesses or information and may make or cause to be made an audit or investigation of the circumstances with respect to which the hearing was called.

The Local Finance Board may except municipal and county funding for a deficit of a municipal public utility or authority from the expenditure limitations of P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.).

C. 40A:5A-26 Rules, regulations.

26. a. The Local Finance Board is authorized to adopt, amend and repeal rules and regulations to effectuate the purposes of this act.

b. This act shall not limit the powers of the Local Finance Board or the director to regulate the financial affairs of authorities in the manner authorized by P. L. 1947, c. 151 (C. 52:27BB–1 et seq.).

C. 40A:5A-27 Actions to be consistent with security, financing agreement.

27. The Local Finance Board, the director, and local units and local authorities shall not act under this act in a manner inconsistent with a security or financing agreement in effect at the time of the action.

28. This act shall take effect 90 days following enactment, except that sections 10, 11, 15, 16, and 17 shall apply to the first fiscal year of an authority which commences 180 days following the promulgation by the Local Finance Board of rules and regulations to govern the adoption and approval of authority budgets and the conduct of annual audits by authorities pursuant to those sections.

Approved August 26, 1983.

CHAPTER 314

AN ACT to amend "An act to create a commission to study sex discrimination in the statutes, prescribing its membership, powers and duties and making an appropriation therefor," approved July 6, 1978 (P. L. 1978, c. 68).

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

1. Section 11 of P. L. 1978, c. 68 is amended to read as follows:

11. This act shall take effect immediately and shall expire on January 14, 1986.

2. This act shall take effect immediately.

Approved August 26, 1983.

CHAPTER 315

AN ACT concerning certain hazardous substances in the workplace and the community, and making an appropriation.

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

C. 34:5A-1 Short title.

1. This act shall be known and may be cited as the "Worker and Community Right to Know Act."

C. 34:5A-2 Findings, declarations.

2. The Legislature finds and declares that the proliferation of hazardous substances in the environment poses a growing threat to the public health, safety, and welfare; that the constantly increasing number and variety of hazardous substances, and the many routes of exposure to them make it difficult and expensive to adequately monitor and detect any adverse health effects attributable thereto; that individuals themselves are often able to detect and thus minimize effects of exposure to hazardous substances if they are aware of the identity of the substances and the early symptoms of unsafe exposure; and that individuals have an inherent right to know the full range of the risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions.

The Legislature further declares that local health, fire, police, safety and other government officials require detailed information about the identity, characteristics, and quantities of hazardous substances used and stored in communities within their jurisdictions, in order to adequately plan for, and respond to, emergencies, and enforce compliance with applicable laws and regulations concerning these substances.

The Legislature further declares that the extent of the toxic contamination of the air, water, and land in this State has caused a high degree of concern among its residents; and that much of this concern is needlessly aggravated by the unfamiliarity of these substances to residents.

The Legislature therefore determines that it is in the public interest to establish a comprehensive program for the disclosure of information about hazardous substances in the workplace and

the community, and to provide a procedure whereby residents of this State may gain access to this information.

C. 34:5A-3 Definitions.

3. As used in this act:

a. "Chemical Abstracts Service number" means the unique identification number assigned by the Chemical Abstracts Service to chemicals.

b. "Chemical name" is the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service rules of nomenclature.

c. "Common name" means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

d. "Container" means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. "Container" shall not include process containers.

e. "Council" means the Right to Know Advisory Council created pursuant to section 18 of this act.

f. "County health department" means a county health agency established pursuant to P. L. 1975, c. 329 (C. 26:3A2–1 et seq.), or the office of a county clerk in a county which has not established a department.

g. "Employee representative" means a certified collective bargaining agent or an attorney whom an employee authorizes to exercise his rights to request information pursuant to the provisions of this act, or a parent or legal guardian of a minor employee.

h. "Employer" means any person or corporation in the State engaged in business operations having a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the Federal Office of Management and Budget, within Major Group numbers 20 through 39 inclusive (manufacturing industries), numbers 46 through 49 inclusive (pipelines, transportation services, communications, and electric, gas, and sanitary services), number 51 (wholesale trade, nondurable goods), number 75 (automotive repair, services, and garages), number 76 (miscellaneous repair services), number 80 (health services), number 82 (educational services), and number 84 (museums, art galleries, botanical and zoological gardens). Except for

the purposes of section 26 of this act, "employer" means the State and local governments, or any agency, authority, department, bureau, or instrumentality thereof.

i. "Environmental hazardous substance" means any substance on the environmental hazardous substance list.

j. "Environmental hazardous substance list" means the list of environmental hazardous substances developed by the Department of Environmental Protection pursuant to section 4 of this act.

k. "Environmental survey" means a written form prepared by the Department of Environmental Protection and transmitted to an employer, on which the employer shall provide certain information concerning each of the environmental hazardous substances at his facility, including, but not limited to, the following:

(1) The chemical name and Chemical Abstracts Service number of the environmental hazardous substance;

(2) A description of the use of the environmental hazardous substance at the facility;

(3) The quantity of the environmental hazardous substance produced at the facility;

(4) The quantity of the environmental hazardous substance brought into the facility;

(5) The quantity of the environmental hazardous substance consumed at the facility;

(6) The quantity of the environmental hazardous substance shipped out of the facility as or in products;

(7) The maximum inventory of the environmental hazardous substance stored at the facility, the method of storage, and the frequency and methods of transfer;

(8) The total stack or point-source emissions of the environmental hazardous substance;

(9) The total estimated fugitive or non-point-source emissions of the environmental hazardous substance;

(10) The total discharge of the environmental hazardous substance into the surface or groundwater, the treatment methods, and the raw wastewater volume and loadings;

(11) The total discharge of the environmental hazardous substance into publicly owned treatment works;

(12) The quantity, and methods of disposal, of any wastes containing an environmental hazardous substance, the method of on-site storage of these wastes, the location or locations of the final disposal site for these wastes, and the identity of the hauler of the wastes.

l. "Facility" means the building, equipment and contiguous area at a single location used for the conduct of business. Except for the purposes of subsection c. of section 13, section 14, and subsection b. of section 25 of this act, "facility" shall not include a research and development laboratory.

m. "Hazardous substance" means any substance, or substance contained in a mixture, included on the workplace hazardous substance list developed by the Department of Health pursuant to section 5 of this act, introduced by an employer to be used, studied, produced, or otherwise handled at a facility. "Hazardous substance" shall not include:

(1) Any article containing a hazardous substance if the hazardous substance is present in a solid form which does not pose any acute or chronic health hazard to an employee exposed to it;

(2) Any hazardous substance constituting less than 1% of a mixture unless the hazardous substance is present in an aggregate amount of 500 pounds or more at a facility;

(3) Any hazardous substance which is a special health hazard substance constituting less than the threshold percentage established by the Department of Health for that special health hazard substance when present in a mixture; or

(4) Any hazardous substance present in the same form and concentration as a product packaged for distribution and use by the general public to which an employee's exposure during handling is not significantly greater than a consumer's exposure during the principal use of the toxic substance.

n. "Hazardous substance fact sheet" means a written document prepared by the Department of Health for each hazardous substance and transmitted by the department to employers pursuant to the provisions of this act, which shall include, but not be limited to, the following information:

(1) The chemical name, the Chemical Abstracts Service number, the trade name, and common names of the hazardous substance;

(2) A reference to all relevant information on the hazardous substance from the most recent edition of the National Institute for Occupational Safety and Health's Registry of Toxic Effects of Chemical Substances;

(3) The hazardous substance's solubility in water, vapor pressure at standard conditions of temperature and pressure, and flash point;

(4) The hazard posed by the hazardous substance, including its toxicity, carcinogenicity, mutagenicity, teratogenicity, flamma-

bility, explosiveness, corrosivity and reactivity, including specific information on its reactivity with water;

(5) A description, in nontechnical language, of the acute and chronic health effects of exposure to the hazardous substance, including the medical conditions that might be aggravated by exposure, and any permissible exposure limits established by the federal Occupational Safety and Health Administration;

(6) The potential routes and symptoms of exposure to the hazardous substance;

(7) The proper precautions, practices, necessary personal protective equipment, recommended engineering controls, and any other necessary and appropriate measures for the safe handling of the hazardous substance, including specific information on how to extinguish or control a fire that involves the hazardous substance; and

(8) The appropriate emergency and first aid procedures for spills, fires, potential explosions, and accidental or unplanned emissions involving the hazardous substance.

o. "Label" means a sign, emblem, sticker, or marker affixed to or stenciled onto a container listing the information required pursuant to section 14 of this act.

p. "Mixture" means a combination of two or more substances not involving a chemical reaction.

q. "Process container" means a container, excluding a pipeline, the content of which is changed frequently; a container of 10 gallons or less in capacity, into which substances are transferred from labeled containers, and which is intended only for the immediate use of the employee who performs the transfer; a container on which a label would be obscured by heat, spillage or other factors; or a test tube, beaker, vial, or other container which is routinely used and reused.

r. "Research and development laboratory" means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which hazardous substances or environmental hazardous substances are used by or under the direct supervision of a technically qualified person.

s. "Special health hazard substance" means any hazardous substance on the special health hazard substance list.

t. "Special health hazard substance list" means the list of special health hazard substances developed by the Department of Health

pursuant to section 5 of this act for which an employer may not make a trade secret claim.

u. "Trade secret" means any formula, plan, pattern, process, production data, information, or compilation of information, which is not patented, which is known only to an employer and certain other individuals, and which is used in the fabrication and production of an article of trade or service, and which gives the employer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors. In determining whether a trade secret is valid pursuant to section 15 of this act, the Department of Health, or the Department of Environmental Protection, as the case may be, shall consider material provided by the employer concerning (1) the extent to which the information for which the trade secret claim is made is known outside the employer's business; (2) the extent to which the information is known by employees and others involved in the employer's business; (3) the extent of measures taken by the employer to guard the secrecy of the information; (4) the value of the information, to the employer or the employer's competitor; (5) the amount of effort or money expended by the employer in developing the information; and (6) the ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

v. "Trade secret registry number" means a code number temporarily or permanently assigned to the identity of a substance in a container by the Department of Health pursuant to section 15 of this act.

w. "Trade secret claim" means a written request, made by an employer pursuant to section 15 of this act, to withhold the public disclosure of information on the grounds that the disclosure would reveal a trade secret.

x. "Workplace hazardous substance list" means the list of hazardous substances developed by the Department of Health pursuant to section 5 of this act.

y. "Workplace survey" means a written document, prepared by the Department of Health and completed by an employer pursuant to this act, on which the employer shall report each hazardous substance present at his facility.

C. 34:5A-4 Environmental hazardous substance list; survey.

4. a. The Department of Environmental Protection shall develop an environmental hazardous substance list which shall include, but not be limited to, substances used, manufactured, stored, packaged, repackaged, or disposed of or released into the environment of the State which, in the department's determination, may be linked to the incidence of cancer; genetic mutations; physiological malfunctions, including malfunctions in reproduction; and other diseases; or which, by virtue of their physical properties, may pose a threat to the public health and safety. The department shall base the environmental hazardous substance list on the list of substances developed and used by the department for the purposes of the Industrial Survey Project, established pursuant to P. L. 1970, c. 33 (C. 13:1D–1 et seq.) and P. L. 1977, c. 74 (C. 58:10A–1 et seq.), and may include other substances which the department, based on documented scientific evidence, determines pose a threat to the public health and safety.

b. The department shall develop an environmental survey, which shall be designed to enable employers to report information about environmental hazardous substances at their facilities.

c. The department shall prepare and, upon request, make available to employers, county health departments, or the public a Spanish translation of the environmental survey. The department shall also prepare and make available a Spanish translation of any written material prepared by the department to inform the public of the information available pursuant to the provisions of this act.

d. Three months prior to the effective date of this act the department shall adopt, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), the environmental hazardous substance list.

C. 34:5A-5 Workplace hazardous substance list.

5. a. The Department of Health shall develop a workplace hazardous substance list which shall include:

(1) Any substance or substance contained in a mixture regulated by the federal Occupational Safety and Health Administration under Title 29 of the Code of Federal Regulations, Part 1910, subpart z;

(2) Any environmental hazardous substance; and

(3) Any other substance which the department, based on documented scientific evidence, determines poses a threat to the health or safety of an employee.

b. The department shall develop a special health hazard substance list comprising hazardous substances which, because of their known carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity, or reactivity pose a special hazard to health and safety, and for which an employer shall not be permitted to make a trade secret claim.

c. The department shall develop a workplace survey designed to facilitate the reporting by employers of those hazardous substances present at their facilities. The workplace survey shall include a copy of the special health hazard substance list.

d. The department shall develop a hazardous substance fact sheet for each hazardous substance on the workplace hazardous substance list.

e. The department shall prepare and, upon request, make available to employers, county health departments, and the public a Spanish translation of the workplace survey and each hazardous substance fact sheet. The department shall also prepare and make available a Spanish translation of any written material prepared by the department to inform employees of their rights under this act.

f. Three months prior to the effective date of this act, the department shall adopt, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), a workplace hazardous substance list.

C. 34:5A-6 Workplace, environmental surveys.

6. a. Within five days of the effective date of this act, the Department of Health shall transmit copies of the workplace survey to the Department of Labor. Upon receipt of the workplace survey, the Department of Labor shall transmit the workplace survey to each employer in the State.

b. Within five days of the effective date of this act, the Department of Environmental Protection shall transmit an environmental survey to each employer whose business activities, according to criteria developed by the department, warrant the reporting of the information required on the environmental survey. The department may transmit an environmental survey to every employer.

C. 34:5A-7 Employers to complete surveys.

7. a. Except as otherwise provided in section 15 of this act, within 90 days of receipt of a workplace survey, an employer shall complete the survey and transmit a copy of the completed survey to the Department of Health, the health department of the county in which the employer's facility is located, the local fire depart-

ment, and the local police department. If an employer has reason to believe that a mixture present at his facility contains a hazardous substance as a component, but is unable to obtain from the manufacturer or supplier of the mixture the chemical names and Chemical Abstracts Service numbers of the components of the mixture, he shall list the mixture by its common name in the space provided on the survey. The department shall have the responsibility to obtain the chemical names and Chemical Abstracts Service numbers of the components of the mixture so listed, and, upon obtaining this information, shall transmit it to the employer along with any appropriate hazardous substance fact sheet or sheets and directions to the employer on how to communicate this information to his employees.

b. Except as otherwise provided in section 15 of this act, within 90 days of receipt of an environmental survey, an employer shall complete the survey and transmit a copy of the completed survey to the Department of Environmental Protection and the health department of the county in which the employer's facility is located, and pertinent sections of the survey to the local fire department and the local police department.

C. 34:5A-8 Hazardous substance fact sheets; exemptions.

8. a. Upon receipt of a completed workplace survey from an employer, the Department of Health shall transmit to that employer a hazardous substance fact sheet for each hazardous substance reported by the employer on the workplace survey. If an employer makes a trade secret claim for information on the workplace survey pursuant to section 15 of this act, the department shall transmit a hazardous substance fact sheet for that substance with the identity of the substance concealed.

b. Any employer having a Standard Industrial Classification within certain subgroups of Major Group number 20, 51, or 80, as designated by the Department of Health pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), whose workplace survey transmitted to the Department of Health pursuant to section 7 of this act indicates that no hazardous substances are present at the facility, shall be exempt from the provisions of this act, except for the requirement to annually update the workplace survey pursuant to section 10 of this act, and except for the provisions of section 33 of this act. Any employer exempted from the provisions of this act pursuant to this subsection who transmits to the Department of Health an update of the workplace survey which indicates that a hazardous substance is present at

the employer's facility shall immediately be subject to the provisions of this act.

C. 34:5A-9 Retention of environmental surveys.

9. a. The Department of Environmental Protection shall maintain a file of all completed environmental surveys received from employers. Each environmental survey received by the department shall be retained by the department for 30 years.

b. The department may require an employer to submit information clarifying any statement made on the environmental survey. The department, subject to the provisions of section 15 of this act if applicable, shall transmit this clarifying information to the appropriate county health department, local fire department, and local police department as it deems necessary.

c. The department shall require every employer to update the environmental survey for his facility every other year. If there is any significant change during a nonreporting year in the information reported on his environmental survey, the employer shall inform the department of the change. The department may require an employer to update the environmental survey for his facility every year.

d. Any person may request in writing from the department a copy of an environmental survey for a facility, and the department shall transmit any survey so requested within 30 days of the request therefor.

C. 34:5A-10 Retention of workplace surveys.

10. a. The Department of Health shall maintain a file of all completed workplace surveys received from employers. Each workplace survey received shall be retained by the department for 30 years. The department shall also retain for 30 years each hazardous substance fact sheet.

b. The department shall require every employer to annually update the workplace survey for his facility, and shall supply each employer with any necessary additional hazardous substance fact sheets.

c. Upon request by the department, an employer shall provide the department with copies of employee health and exposure records, including those maintained for, and supplied to, the federal government.

d. Any person may request in writing from the department a copy of a workplace survey for a facility, together with the appropriate hazardous substance fact sheets, and the department shall transmit any material so requested within 30 days of the request

therefor. Any request by an employee for material pertaining to the facility where he is employed made pursuant to this subsection shall be treated by the department as confidential.

C. 34:5A-11 Spanish translation.

11. a. An employer shall, upon request, provide an employee whose native language is Spanish with a Spanish translation of a workplace survey, hazardous substance fact sheet, and, if applicable, an environmental survey obtained from the Department of Health or the Department of Environmental Protection, as the case may be. An employer shall, upon request, provide employees whose native language is Spanish with the education and training program required pursuant to section 13 of this act in Spanish.

b. A county health department shall, upon request, provide copies of the environmental survey and the workplace survey in a Spanish translation provided by the Department of Health and Department of Environmental Protection.

C. 34:5A-12 Employer files.

12. Every employer shall establish and maintain a central file at his facility in which he shall retain a workplace survey for the facility, appropriate hazardous substance fact sheets, and, if applicable, a copy of the environmental survey for the facility. Every employer shall post on bulletin boards readily accessible to employees a notice of the availability of the information in the file. Every employer employing employees whose native language is Spanish shall also post the notice in Spanish. Every employer shall supply employees with any material designed and provided by the Department of Health, the Department of Environmental Protection, or the Department of Labor to inform employees of their rights under this act. An employer shall provide an employee with access to a workplace survey, appropriate hazardous substance fact sheets, and, if applicable, an environmental survey, within five working days of a request therefor.

C. 34:5A-13 Employee education, training program.

13. a. Every employer shall establish an education and training program for his employees, which shall be designed to inform employees in writing and orally of the nature of the hazardous substances to which they are exposed in the course of their employment and the potential health risks which the hazardous substances pose, and to train them in the proper and safe procedures for handling the hazardous substances under all circumstances. An employer shall provide current employees with the education and

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training program within six months of the effective date of this act, and annually thereafter. Beginning six months after the effective date of this act, all new employees shall be provided with the training and education program within the first month of employment. Prior to entering an employment agreement with a prospective employee an employer shall notify a prospective employee of the availability of workplace surveys and appropriate hazardous substance fact sheets for the facility at which the prospective employee will be employed.

b. Any employer who has established an employee education and training program for hazardous substances prior to the effective date of this act may request the Department of Health to certify that education and training program, which certification shall constitute compliance with subsection a. of this section.

c. Every employer shall establish an education and training program for his employees who work in a research and development laboratory, which shall be designed to inform employees in writing and orally of the nature of the hazardous substances to which they are exposed in the course of their employment and the potential health risks which the hazardous substances pose, and to train them in the proper and safe procedure for handling the hazardous substances under all circumstances. An employer shall provide current employees with the education and training program within six months of the effective date of this act, and annually thereafter. Beginning six months after the effective date of this date, all new employees shall be provided with the training and education program within the first month of employment.

C. 34:5A-14 Labeling of containers.

14. a. Within six months of the effective date of this act, every employer shall take any action necessary to assure that every container at his facility containing a hazardous substance shall bear a label indicating the chemical name and Chemical Abstracts Service number of the hazardous substance or the trade secret registry number assigned to the hazardous substance. Employers may label containers in a research and development laboratory by means of a code or number system, if the code or number system will enable an employee to readily make a cross-reference to a hazardous substance fact sheet which will provide the employee with the chemical name and Chemical Abstracts Service number of the hazardous substance contained in the container, or the trade secret registry number assigned to the hazardous substance. The code or number system shall be designed to allow the employee free

and ready access at all times to the chemical name and Chemical Abstracts Service number of the hazardous substance in the container, shall be designed to allow the employee access to this information without the permission or assistance of management, and shall be available to the employee at close proximity to his specific job location or locations. Employers shall be required to label pipelines only at the valve or valves located at the point at which a hazardous substance enters a facility's pipeline system, and at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a hazardous substance from the pipeline.

b. Within two years of the effective date of this act, every employer shall take any action necessary to assure that every container at his facility bears a label indicating the chemical name and Chemical Abstracts Service number of the substance in the container, except as provided in subsection d. of this section, or the trade secret registry number assigned to the substance. Employers may label containers in a research and development laboratory by means of a code or number system, if the code or number system will enable an employee to readily make a cross-reference to documentary material retained on file by the employer at the facility which will provide the employee with the chemical name and Chemical Abstracts Service number of the substance contained in the container, except as provided in subsection d. of this section, or the trade secret registry number assigned to the substance. The code or number system shall be designed to allow the employee free and ready access at all times to the chemical name and Chemical Abstracts Service number of the substance in the container, shall be designed to allow the employee access to this information without the permission or assistance of management, and shall be available to the employee at close proximity to his specific job location or locations. If a container contains a mixture, an employer shall be required to insure that the label identify the chemical names and Chemical Abstracts Service numbers, except as provided in subsection d. of this section, or the trade secret registry numbers, of the five most predominant substances contained in the mixture. The provisions of this subsection shall not apply to any substance constituting less than 1% of a mixture unless the substance is present at the facility in an aggregate amount of 500 pounds or more. Employers shall be required to label pipelines only at the valve or valves located at the point at which a substance enters a facility's pipeline system, and at normally operated valves,

outlets, vents, drains and sample connections designed to allow the release of a substance from the pipeline. One year after the effective date of this act the Department of Health shall establish criteria for containers which, because of the finished and durable characteristics of their contents, shall be exempt from the provisions of this subsection. These standards shall be consistent with the intent of this subsection to provide for the labeling of every container which may contain a substance which is potentially hazardous.

c. The labeling requirements of subsections a. and b. of this section shall not apply to containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (7 U.S.C. § 121 et al.). The Department of Health may, by rule and regulation, certify containers labeled pursuant to any other federal act as labeled in compliance with the provisions of this section.

d. One year after the effective date of this act the Department of Health shall adopt, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), a list of substances the containers of which may be labeled with the common name and Chemical Abstracts Service number of their contents. The department shall include on the list adopted pursuant to this subsection only substances which are widely recognized by their common names. An employer shall provide the chemical name of a substance in a container labeled pursuant to this subsection within five working days of the request therefor.

C. 34:5A-15 Trade secret claim.

15. a. If an employer believes that disclosing information required by this act will reveal a trade secret, he may file with the appropriate department a trade secret claim as herein provided. As used in this section, "department" means either the Department of Health or Department of Environmental Protection, as the case may be.

b. If an employer claims that disclosing information on either the workplace survey or the environmental survey would reveal a trade secret, he shall file with the appropriate department a trade secret claim within 90 days of receipt of the survey. An employer making a trade secret claim shall submit two copies of the survey to the department, one with the information for which a trade secret claim is being made concealed, and one in an envelope marked "Confidential" containing the information for which a trade secret claim is being made, which the department, during the pendency of the trade secret claim, shall keep in a locked file or room. On the copies of the survey sent to the county health department, local

fire department, and local police department, and retained on file at the facility, the employer shall conceal the information for which he is making a trade secret claim.

c. If an employer claims that labeling a container pursuant to the provisions of section 14 of his act would reveal a trade secret, he shall file a trade secret claim with the Department of Health. Upon receipt of the trade secret claim, the department shall assign a trade secret registry number to the claim, and transmit the trade secret registry number to the employer. Upon receipt of the trade secret registry number, the employer shall affix the trade secret registry number to each container containing a substance for which the trade secret claim was made.

d. The department shall act to make a determination on the validity of a trade secret claim when a request is made pursuant to the provisions of this act for the disclosure of the information for which the trade secret claim was made, or at any time that the department deems appropriate. Upon making a determination on the validity of a trade secret claim, the department shall inform the employer of the determination by certified mail. If the department determines that the employer's trade secret claim is not valid, the employer shall have 45 days from the receipt of the department's determination to file with the department a written request for an administrative hearing on the determination. If the employer does not file such a request within 45 days, the department shall take action to provide that the information for which the trade secret claim was made be disclosed pursuant to the provisions of this act. If an employer requests an administrative hearing pursuant to the provisions of this subsection, the department shall refer the matter to the Office of Administrative Law, for a hearing thereon. At the hearing the employer shall have the burden to show that the trade secret claim is valid. Within 45 days of receipt of the administrative law judge's recommendation, the department shall affirm, reject, or modify the recommendation. The department's action shall be considered the final agency action for the purposes of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), and shall be subject only to judicial review as provided in the Rules of Court. The department shall inform the employer of its decision on the administrative law judge's recommendation by certified mail. If the department determines that the trade secret claim is not valid, the employer shall have 45 days to notify the department in writing that he has filed to appeal the department's decision in the courts. If the employer

does not so notify the department, the department shall take action to provide that the information for which the trade secret claim was made be disclosed pursuant to the provisions of this act.

e. The department shall provide any information for which a trade secret claim is pending or has been approved pursuant to this section to a physician or osteopath when such information is needed for medical diagnosis or treatment. The department shall require the physician or osteopath to sign an agreement protecting the confidentiality of information disclosed pursuant to this subsection.

f. Any workplace survey or environmental survey containing information for which a trade secret claim is pending or has been approved shall be made available to the public with that information concealed.

g. The subject of any trade secret claim pending or approved shall be treated as confidential information. Except as provided in subsection e. of this section, the department shall not disclose any confidential information to any person except an officer or employee of the State in connection with the official duties of the officer or employee under any law for the protection of public health, or to the contractors of the State and their employees if in the opinion of the department the disclosure is necessary for the completion of any work contracted for in connection with the implementation of this act. Any officer or employee of the State, contractor of the State, physician or osteopath, or employee of a county health department, local fire department, or local police department who has access to any confidential information, and who willingly and knowingly discloses the confidential information to any person not authorized to receive it, is guilty of a crime of the third degree.

h. The provisions of this section shall not apply to the disclosure of information concerning emissions, and shall not apply to the disclosure of any information required pursuant to any other act.

i. The Department of Health and the Department of Environmental Protection shall jointly adopt rules and regulations to implement the provisions of this section.

C. 34:5A-16 Employees' rights.

16. a. Any employee or employee representative may request, in writing, from his employer, a copy of a workplace survey, hazardous substance fact sheet, or, where applicable, an environmental survey filed pursuant to the provisions of this act for the facility at which he is employed. The employer shall supply this material

within five working days of the request. Any employee or employee representative may request, in writing, the chemical name and Chemical Abstracts Service number of the substance contained in any container which is not labeled pursuant to the provisions of section 14 of this act, and the employer shall supply the employee or employee representative with this information within five working days of the request. An employee shall have the right to refuse to work with a hazardous substance for which a request was made and not honored without loss of pay or forfeit of any other privilege until the request is honored.

b. Any employee or employee representative who believes that an employer has not complied with the provisions of subsection a. of this section may file a complaint with the Commissioner of the Department of Labor. Upon receipt of the complaint, the commissioner shall investigate the allegations contained in the complaint. If the commissioner, following an administrative hearing conducted pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), finds that the employer has violated the provisions of subsection a. of this section, he shall initiate a civil action by summary proceeding pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). Any employer violating the provisions of subsection a. of this section is liable to a penalty of not less than $2,500.00 for each offense.

C. 34:5A-17 No retaliation for exercising rights.

17. a. No employer shall discharge, cause to be discharged, or otherwise discipline, penalize, or discriminate against any employee because the employee or his employee representative has exercised any right established in this act.

b. Any employee who believes that he has been discharged, or otherwise disciplined, penalized, or discriminated against by an employer in violation of subsection a. of this section may, within 30 days of the violation, or within 30 days of obtaining knowledge that a violation occurred, file a complaint with the Commissioner of the Department of Labor alleging the violation. Within 30 days of the receipt of a complaint, the commissioner shall conduct an investigation of the complaint. If after the investigation the commissioner determines that there is probable cause that the complaint is valid, he may refer the complaint to the Office of Administrative Law, which, upon the referral, shall commence an adjudicatory proceeding on the complaint, to be conducted as a contested case pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), and P. L. 1978, c. 67 (C. 52:14F–1 et

seq.). If the Commissioner of Labor or the employee introduces evidence that prior to the alleged violation the employee exercised any right provided in this act, the employer shall have the burden to show just cause for his action by clear and convincing evidence. Within 45 days of the receipt of the recommendations of the administrative law judge, the commissioner shall adopt, reject, or modify the recommendations. The final decision of the commissioner shall be considered the final agency action thereon for the purposes of the "Administrative Procedure Act" and shall be subject only to judicial review as provided in the Rules of Court.

C. 34:5A-18 Right to Know Advisory Council.

18. a. There is established in the Department of Health a Right to Know Advisory Council, which shall consist of 11 members appointed by the Governor with the advice and consent of the Senate. Each of these members shall be appointed for a term of three years, provided that of the members of the council first appointed by the Governor, four shall serve for terms of one year, four shall serve for terms of two years, and three shall serve for terms of three years. Of these members, one shall be appointed from persons having training and experience in industrial hygiene recommended by recognized labor unions; one from persons recommended by recognized environmental organizations; one from persons recommended by recognized public interest organizations; one from persons recommended by recognized organizations of chemical industries; one from persons recommended by recognized community organizations; one from persons recommended by recognized organizations of petroleum industries; one from persons recommended by recognized organizations of firefighters; one from persons recommended by recognized business or trade organizations; one from persons recommended by recognized organizations of small business; one from persons holding an M.D. degree recommended by recognized public health organizations; and one from persons with training and experience in environmental epidemiology recommended by recognized research or academic organizations. In the event that no recommendations for a particular category of membership are made to the Governor three months prior to the effective date of this act in the case of the initial appointments, or within 60 days of the date of the expiration of the term of office of any member or the occurrence of any vacancy in the case of subsequent appointments, the Governor shall appoint as a member for that category of membership a person whom he believes will be representative thereof.

b. A majority of the membership of the council shall constitute a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the members of the council present and voting.

c. The council shall meet regularly as it may determine, and shall also meet at the call of the Commissioner of the Department of Health, the Commissioner of the Department of Environmental Protection, or the Commissioner of the Department of Labor.

d. The council shall appoint a chairman and other officers as may be necessary from among its members. The council may, within the limits of any funds appropriated or otherwise made available to it for this purpose, appoint such staff or hire such experts as it may require.

e. Members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available to it for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

C. 34:5A-19 Functions of council.

19. The council shall:

a. Advise the Department of Health on the revision of the workplace hazardous substance list and the Department of Environmental Protection on the revision of the environmental hazardous substance list.

b. Advise the Department of Environmental Protection, the Department of Health, and the Department of Labor on the implementation of this act.

c. Review any matters submitted to it by the Department of Health, Department of Environmental Protection, or the Department of Labor, and state its position within 90 days.

C. 34:5A-20 Additional functions.

20. The council may:

a. Review any aspect of the implementation of this act, and transmit its recommendations to the appropriate department or departments.

b. Hold public meetings or hearings within the State on any matter or matters related to the provisions of this act.

c. Call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, commission, or agency as may be required and made available for such purposes.

C. 34:5A-21 Establishment of procedure.

21. The Department of Health, the Department of Environmental Protection, and the Department of Labor, in conjunction with the council, shall jointly establish a procedure for annually receiving information, advice, testimony, and recommendations from the council, the public, and any other interested party, concerning the implementation of this act. This procedure shall include a mechanism for revising the workplace hazardous substance list and the environmental hazardous substance list. Any revision of the workplace hazardous substance list or environmental hazardous substance list shall be based on documented scientific evidence. The Department of Health and Department of Environmental Protection shall publicly announce any revisions of the workplace hazardous substance list or the environmental hazardous substance list, and any such additions or revisions shall be made pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

C. 34:5A-22 County health department files.

22. Each county health department shall maintain a file of workplace surveys and environmental surveys transmitted to it pursuant to the provisions of this act. These surveys, pursuant to the provisions of subsection f. of section 15 of this act, shall be made available to the public at reasonable hours and at a fee not to exceed the cost of reproducing the surveys.

C. 34:5A-23 Civil action by any person.

23. Any person may bring a civil action in law or equity on his own behalf against any employer for a violation of any provision of this act or any rule and regulation promulgated pursuant thereto or against the Department of Environmental Protection or the Department of Health for failure to enforce the provisions of this act or any rule or regulation promulgated pursuant thereto. The Superior Court shall have jurisdiction over these actions. The court may award, whenever it deems appropriate, costs of litigation, including reasonable attorney and expert witness fees.

C. 34:5A-24 Other liability unaffected.

24. Substances not included on the workplace hazardous substance list or the environmental hazardous substance list shall not be subject to the reporting provisions of this act. However, the absence of any substance from the workplace hazardous substance list or the environmental hazardous substance list, or the provision of any information by an employer to an employee or any other person pursuant to the provisions of this act, shall not in any way

affect any other liability of an employer with regard to safeguarding the health and safety of an employee or any other person exposed to the substance, nor shall it affect any other duty or responsibility of an employer to warn ultimate users of a substance of any potential health hazards associated with the use of the substance pursuant to the provisions of any law or rule or regulation adopted pursuant thereto.

C. 34:5A-25 Surveys confidential.

25. a. No local police department or local fire department receiving workplace surveys or environmental surveys pursuant to the provisions of this act shall make the surveys available to the public. Any county health department, local police department, or local fire department may request from an employer submitting surveys to it further information concerning the surveys, and the employer shall provide the additional information upon the request therefor. The employer may require the requester to sign an agreement protecting the confidentiality of any additional information provided pursuant to this section.

b. Every employer with a research and development laboratory at his facility shall establish a communications program with the local fire department, which shall be designed to assist the fire department in adequately preparing to respond to emergencies at the research and development laboratory.

C. 34:5A-26 Fund established; fees.

26. a. There is established in the Department of the Treasury a nonlapsing, revolving fund to be known as the "Worker and Community Right to Know Fund." The fund shall be credited with all fees collected pursuant to this section and interest on moneys in the fund shall be credited to the fund and all moneys in the fund are appropriated for the purposes of the fund, and no moneys shall be expended for those purposes without the specific appropriation thereof by the Legislature. The State Treasurer shall be the administrator of the fund, and all disbursements from the fund shall be made by the State Treasurer upon the warrant of the Director of the Division of Budget and Accounting.

b. The Department of Labor shall annually assess each employer a fee of not less than $50.00 nor more than an amount equal to $2.00 per employee to provide for the implementation of the provisions of this act. All fees collected by the department pursuant to this section shall be deposited in the fund.

c. The moneys in the fund shall be disbursed only for the following purposes:

(1) Expenses approved by the Director of the Division of Budget and Accounting and incurred by the Department of Health, the Department of Environmental Protection, the Department of Labor, the Department of the Treasury, and the county health departments in implementing the provisions of this act; and

(2) Repayment to the General Fund of any moneys appropriated by law in order to implement the provisions of this act.

d. The State Treasurer shall annually disburse the moneys in the fund for expenditures approved by the Director of the Division of Budget and Accounting pursuant to paragraph (1) of subsection c. of this section, but in no case in an amount to the several departments that is greater than the following percentages of the fund available in any one year: the Department of Health, 40%; the Department of Environmental Protection, 20%; the county health departments, 15%; the Department of Labor, 15%; and the Department of the Treasury, 10%.

e. Beginning two years after the effective date of this act, the State Treasurer shall make an annual audit of the fund to determine the adequacy of moneys on deposit in the fund to support the implementation of the provisions of this act. If the State Treasurer, in consultation with the Department of Health, the Department of Environmental Protection, and the Department of Labor makes a determination that the revenues in the fund are sufficient to warrant a reduction in the fees imposed pursuant to this section for the ensuing year, he may reduce the amount of the fees imposed during that year by an amount warranted by the balance in the fund at the time of the determination.

f. The provisions of this section shall expire five years following the effective date of this act.

C. 34:5A-27 Principal program of State.

27. It is the intent of the Legislature that the program established by this act for the disclosure of information concerning hazardous substances to employees and the public constitute the principal program in this State. To this end, no municipality or county shall enact any law or ordinance requiring the disclosure of information about, or the identification of, hazardous substances in the workplace or the environment to the extent that the disclosure of information or identification is provided for under this act, and, further, the enactment of this act shall supersede any municipal or county law or ordinance enacted subsequent to May 11, 1983 providing for this disclosure or identification.

C. 48:2-21.10 Current operating expense.

28. The Board of Public Utilities shall consider all expenses incurred by a public utility in complying with the provisions of P. L. 1983, c. 315 (C. 34:5A–1 et seq.) as a current expense of providing utility service, which shall be charged to all ratepayers of the utility in the same manner as other current operating expenses of providing utility service.

C. 40A:4-45.20 Expenditure mandated by law.

29. Any expenditure made by a county or municipality to comply with the provisions of P. L. 1983, c. 315 (C. 34:5A–1 et seq.) shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.), be considered an expenditure mandated by State law.

C. 34:5A-28 Report.

30. Within two years of the effective date of this act the Department of Health, the Department of Environmental Protection, and the Department of Labor shall jointly prepare and submit to the Governor and the Legislature a report evaluating the implementation of this act, together with any recommendations for legislative or administrative action deemed necessary or appropriate.

C. 34:5A-29 Right of entry for inspection.

31. a. The Department of Health shall have the right to enter an employer's facility during the normal operating hours of the facility to determine the employer's compliance with the provisions of subsection a. of section 7, and sections 10, 11, 12, 13, and 14 of this act, and any rules and any regulations adopted pursuant thereto.

b. The Department of Environmental Protection shall have the right to enter an employer's facility during the normal operating hours of the facility to determine compliance with subsection b. of section 7 and section 9 of this act, and any rules and any regulations adopted pursuant thereto.

C. 34:5A-30 Rules, regulations.

32. Except as otherwise provided in this act, the Department of Health, the Department of Environmental Protection, the Department of Labor and the Department of the Treasury shall adopt any rules and regulations necessary to carry out their respective responsibilities under this act.

C. 34:5A-31 Remedies for violations.

33. a. Whenever, on the basis of information available to him, the Commissioner of the Department of Environmental Protection finds that an employer is in violation of subsection b. of section 7,

or of subsection b. or c. of section 9 of this act, or any rule and regulation adopted pursuant thereto, or the Commissioner of the Department of Health finds that an employer is in violation of subsection a. of section 7, or of section 10, 11, 12, 13, or 14 of this act, or any rule and regulation adopted pursuant thereto, the Commissioner of the Department of Environmental Protection, or the Commissioner of the Department of Health, as the case may be, shall:

(1) Issue an order in accordance with subsection b. of this section requiring the employer to comply;

(2) Bring a civil action in accordance with subsection c. of this section;

(3) Levy a civil administrative penalty in accordance with subsection d. of this section; or

(4) Bring an action for a civil penalty in accordance with subsection e. of this section.

The exercise of any of the remedies provided in this section shall not preclude recourse to any other remedy so provided.

b. Whenever, on the basis of information available to him, the Commissioner of the Department of Environmental Protection finds that an employer is in violation of subsection b. of section 7, or of subsection b. or c. of section 9 of this act or any rule or regulation adopted pursuant thereto, or the Commissioner of the Department of Health finds that an employer is in violation of subsection a. of section 7, or of section 10, 11, 12, 13, or 14 of this act, or any rule or regulation adopted pursuant thereto, the Commissioner of the Department of Environmental Protection or the Commissioner of the Department of Health, as the case may be, may issue an order (1) specifying the provision or provisions of this act, or the rule or regulation adopted pursuant thereto of which the employer is in violation; (2) citing the action which caused the violation; (3) requiring compliance with the provision of this act or the rules and regulations adopted pursuant thereto of which he is in violation; and (4) giving notice to the employer of his right to a hearing on the matters contained in the order.

c. The Commissioner of the Department of Environmental Protection or the Commissioner of the Department of Health, as appropriate, is authorized to commence a civil action in Superior Court for appropriate relief from a violation of this act. This relief may include an assessment against the violator for the costs of any investigation, inspection, or monitoring survey which led to the

discovery and establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection.

d. The Commissioner of the Department of Environmental Protection or the Commissioner of the Department of Health, as appropriate, is authorized to impose a civil administrative penalty of not more than $2,500.00 for each violation and additional penalties of not more than $1,000.00 for each day during which a violation continues after receipt of an order from the commissioner to cease the violation. Any amount imposed under this subparagraph shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, and duration. No civil administrative penalty shall be imposed until after the employer has been notified by certified mail or personal service. The notice shall include a reference to the section of the act, rule, regulation or order violated; a concise statement of the facts alleged to constitute a violation; a statement of the amount of the civil administrative penalties to be imposed; and a statement of the employer's right to a hearing. The employer shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after imposing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in this act, and the payment of a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied. A civil administrative penalty imposed under this section may be compromised by the commissioner upon the posting of a performance bond by the employer, or upon terms and conditions the commissioner may establish by regulation.

e. An employer who violates this act, an order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay in full a civil administrative penalty levied pursuant to subsection d. of this section, shall be subject, upon order of a court, to a civil penalty not to exceed $2,500.00 for each day during which the violation continues. An employer who willfully or knowingly violates this act, or who willfully or knowingly makes a false statement, representation, or

certification in any document filed or required to be maintained under this act, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device required to be maintained pursuant to this act, is subject upon order of a court, to a civil penalty of not less than $10,000.00, nor more than $5,000.00 per day of violation. Any penalty imposed pursuant to this subsection may be collected, and any costs incurred in connection therewith may be recovered, in a summary proceeding pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). The Superior Court or county district court shall have jurisdiction to enforce "the penalty enforcement law."

34. There is appropriated $1,700,000.00 from the General Fund as a loan to the "Worker and Community Right to Know Fund," created pursuant to section 26 of this act, to implement the provisions of this act. The loan to the "Worker and Community Right to Know Fund" shall be repaid with interest to the General Fund in installments beginning in the first year following enactment and each year thereafter as surplus moneys accrue to the fund. The rate of interest to be paid shall be the same average annual rate as earned by the State in its general investment account for the year in which a loan repayment installment is made. Notwithstanding the provisions of subsection e. of section 26 of this act, the State Treasurer shall not reduce the fee imposed pursuant to this act until the entire loan has been repaid.

35. This act shall take effect one year following enactment except that subsection a. of section 26 and section 34 shall take effect immediately and that the several departments charged with the administration of this act shall take all actions necessary prior to the effective date of this act to implement the provisions of this act on the effective date thereof.

Approved August 29, 1983.

CHAPTER 316

AN ACT providing for the terms of retirement of certain elected public officials who are members of the Public Employees' Retirement System and supplementing P. L. 1954, c. 84 (C. 43:15A–1 et seq.).

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

C. 43:15A-47.1 Retirement while holding elective office.

1. Notwithstanding any contrary provisions of the act to which this act is a supplement, and except as may be otherwise provided in P. L. 1972, c. 167 (C. 43:15A-135 et seq.), a member of the retirement system shall be eligible to retire while holding a public office to which he was elected if no annual salary or remuneration is received by the member for that office.

2. This act shall take effect immediately.

Approved August 29, 1983.

CHAPTER 317

AN ACT concerning sentencing criteria and presentence investigations and amending N. J. S. 2C:44-1 and N. J. S. 2C:44-6.

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

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

Criteria for withholding or imposing sentence of imprisonment.

2C:44-1. Criteria for Withholding or Imposing Sentence of Imprisonment. a. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court shall consider the following aggravating circumstances:

(1) The nature and circumstances of the offense, and the role of the actor therein, including whether or not it was committed in an especially heinous, cruel, or depraved manner;

(2) The gravity and seriousness of harm inflicted on the victim, including whether or not the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance;

(3) The risk that the defendant will commit another offense;

(4) A lesser sentence will depreciate the seriousness of the defendant's offense because it involved a breach of the public

trust under chapters 27 and 30, or the defendant took advantage of a position of trust or confidence to commit the offense;

(5) There is a substantial likelihood that the defendant is involved in organized criminal activity;

(6) The extent of the defendant's prior criminal record and the seriousness of the offenses of which he has been convicted;

(7) The defendant committed the offense pursuant to an agreement that he either pay or be paid for the commission of the offense and the pecuniary incentive was beyond that inherent in the offense itself;

(8) The defendant committed the offense against a police or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority, or the defendant committed the offense because of the status of the victim as a public servant;

(9) The need for deterring the defendant and others from violating the law.

b. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court may properly consider the following mitigating circumstances:

(1) The defendant's conduct neither caused nor threatened serious harm;

(2) The defendant did not contemplate that his conduct would cause or threaten serious harm;

(3) The defendant acted under a strong provocation;

(4) There were substantial grounds tending to excuse or justify the defendant's conduct, though failing to establish a defense;

(5) The victim of the defendant's conduct induced or facilitated its commission;

(6) The defendant has compensated or will compensate the victim of his conduct for the damage or injury that he sustained, or will participate in a program of community service;

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present offense;

(8) The defendant's conduct was the result of circumstances unlikely to recur;

(9) The character and attitude of the defendant indicate that he is unlikely to commit another offense;

(10) The defendant is particularly likely to respond affirmatively to probationary treatment;

(11) The imprisonment of the defendant would entail excessive hardship to himself or his dependents;

(12) The willingness of the defendant to cooperate with law enforcement authorities;

(13) The conduct of a youthful defendant was substantially influenced by another person more mature than the defendant.

c. (1) A plea of guilty by a defendant or failure to so plead shall not be considered in withholding or imposing a sentence of imprisonment.

(2) When imposing a sentence of imprisonment the court shall consider the defendant's eligibility for release under the law governing parole, including time credits awarded pursuant to Title 30 of the Revised Statutes, in determining the appropriate term of imprisonment.

d. Presumption of imprisonment. The court shall deal with a person who has been convicted of a crime of the first or second degree by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

e. The court shall deal with a person convicted of an offense other than a crime of the first or second degree, who has not previously been convicted of an offense, without imposing sentence of imprisonment unless, having regard to the nature and circumstances of the offense and the history, character and condition of the defendant, it is of the opinion that his imprisonment is necessary for the protection of the public under the criteria set forth in subsection a.

f. Presumptive Sentences. (1) When a court determines that a sentence of imprisonment be imposed, it shall, except for murder or kidnapping, sentence the defendant to a term of 15 years for a crime of the first degree, to a term of seven years for a crime of the second degree, to a term of four years for a crime of the third degree and for a term of nine months for a crime of the fourth degree unless the preponderance of aggravating factors or preponderance of mitigating factors, as set forth in subsections a. and b., weighs in favor of higher or lower terms within the limits provided in 2C:43–6.

In imposing a minimum term pursuant to 2C:43–6b, the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

Unless the preponderance of mitigating factors set forth in subsection b. weighs in favor of a lower term within the limits authorized, sentences imposed pursuant to 2C:43–7a(1) shall have a presumptive term of life imprisonment. Unless the preponderance of aggravating and mitigating factors set forth in subsections a. and b. weighs in favor of a higher or lower term within the limits authorized, sentences imposed pursuant to 2C:43–7a(2) shall have a presumptive term of 50 years' imprisonment; sentences imposed pursuant to 2C:43–7a(3) shall have a presumptive term of 15 years' imprisonment; and sentences imposed pursuant to 2C:43–7a (4) shall have a presumptive term of seven years' imprisonment.

In imposing a minimum term pursuant to 2C:43–7b, the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

(2) In cases of convictions for crimes of the first or second degree where the court is clearly convinced that the mitigating factors substantially outweigh the aggravating factors and where the interest of justice demands, the court may sentence the defendant to a term appropriate to a crime of one degree lower than that of the crime for which he was convicted. If the court does impose sentence pursuant to this paragraph, or if the court imposes a noncustodial or probationary sentence upon conviction for a crime of the first or second degree, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

g. Imposition of Noncustodial Sentences in Certain Cases. If the court, in considering the aggravating factors set forth in subsection a., finds the aggravating factor in paragraph a. (2) and does not impose a custodial sentence, the court shall specifically place on the record the mitigating factors which justify the imposition of a noncustodial sentence.

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 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, personal habits, the disposition of any charge made against any codefendants and may include a report on his physical and mental condition and any other matters that the probation officer deems relevant or the court directs to be included. The presentence report may also include 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 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 of his right to make a statement for inclusion in the presentence report if the victim 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 that he be examined as to his medical or mental condition except that he may not be committed to an institution for such examination.

d. Disclosure of any presentence investigation report or psychiatric examination report shall be in accordance with law and the Rules of Court.

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. "Victim" means "victim" as defined by the "Criminal Injuries Compensation Act of 1971," P. L. 1971, c. 317 (C. 52:4B–1 et seq.).

3. This act shall take effect immediately.

Filed August 29, 1983.

CHAPTER 318

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, 1983 and regulating the disbursement thereof," approved June 30, 1982 (P. L. 1982, c. 49).

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

1. In addition to the sums appropriated under P. L. 1982, c. 49, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES

DEPARTMENT OF LAW AND PUBLIC SAFETY

Special Government Services

82 Protection of Citizens' Rights

14–1310	Consumer Affairs	$90,000
Personal Services:		
	Salaries and wages	($82,800)
	Services other than personal	(7,200)

None of the sums hereinabove appropriated shall be expended until the Division of Consumer Affairs adopts regulations, pursuant to P. L. 1960, c. 39 (C. 56:8–1 et seq.) and consistent with section 23B of P. L. 1981, c. 290 (C. 2C:21–7.1).

2. This act shall take effect immediately.

Filed August 29, 1983.

CHAPTER 319

AN ACT concerning promotional appointments during service credit periods granted on the basis of waiver of examination and supplementing P. L. 1981, c. 204.

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

C. 11:9-17.1 Promotional appointment.

1. A person granted a waiver of examination pursuant to section 3 of P. L. 1981, c. 204 (C. 11:9–17), who is permitted to be employed by the President and is entitled to a service credit for temporary or emergency employment as if it had been permanent, full-time employment, shall also be granted a promotional appointment as the President determines would have been reasonably attained during the service credit period and receive the salary differential between the salary paid the individual during the temporary or emergency employment and the salary commensurate with the promotion from the date established by the President for the promotion.

2. This act shall take effect immediately and expire 30 days after enactment.

Approved August 30, 1983.

CHAPTER 320

AN ACT concerning insurance fraud, establishing a certain fund, defining certain civil offenses, establishing a Division of Insurance Fraud Prevention in the Department of Insurance and making an appropriation therefor.

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

C. 17:33A-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Insurance Fraud Prevention Act."

C. 17:33A-2 Purpose.

2. The purpose of this act is to confront aggressively the problem of insurance fraud in New Jersey by facilitating the detection of insurance fraud, eliminating the occurrence of such fraud through the development of fraud prevention programs, requiring the restitution of fraudulently obtained insurance benefits, and reducing the amount of premium dollars used to pay fraudulent claims.

C. 17:33A-3 Definitions.

3. As used in this act:

a. "Attorney General" means the Attorney General of New Jersey or his designated representatives.

b. "Commissioner" means the Commissioner of Insurance.

c. "Director" means the Director of the Division of Insurance Fraud Prevention in the Department of Insurance.

d. "Division" means the Division of Insurance Fraud Prevention established by this act.

e. "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.

f. "Person" means a person as defined in R. S. 1:1–2, and shall include, unless the context otherwise requires, a practitioner.

g. "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.

h. "Producer" means an agent, broker or solicitor licensed to transact the business of insurance in this State.

i. "Statement" includes, but is not limited to, any 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.

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, 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 or any insurance claimant in connection with, or in support of or opposition to any claim for payment or other benefit pursuant to an insurance policy, 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.

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.

C. 17:33A-5 Penalties; fund established.

5. a. If a person or practitioner is found by a court of competent jurisdiction, pursuant to a claim initiated by the commissioner, to have violated any provision of this act, the person or practitioner shall be subject to a civil penalty not to exceed $2,500.00 for the first violation, $5,000.00 for the second violation and $10,000.00 for each subsequent violation. The penalty shall be paid to the commissioner to be used in accordance with subsection b. of this section. The court may also award court costs and reasonable attorney fees to the commissioner.

Nothing in this subsection shall be construed to prohibit, in the case of a first offense, 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 not be used in a subsequent civil or criminal proceeding relating to any violation of this act, nor shall notification thereof be made to a licensing authority as required pursuant to subsection c. of section 10 of this act.

b. The New Jersey Automobile Full Insurance Underwriting Association 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 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.).

C. 17:33A-6 Statements on claim forms; verification.

6. a. Insurance claim forms shall contain a statement in a form approved by the commissioner that clearly states in substance the following: "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties."

b. The commissioner shall promulgate rules and regulations requiring any or all persons or practitioners seeking payment for services or materials which will be reimbursed by an insurer to verify, under oath, that the services and materials furnished were necessary and were, in fact, furnished. The furnishing of a verification required under this subsection shall be a condition precedent to payment by the insurer or recourse against the insured.

C. 17:33A-7 Suits by insurers.

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 may include reasonable investigation expenses, costs of suit and attorney's 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 com-

missioner, 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's fees actually incurred by the commissioner.

C. 17:33A-8 Division of Insurance Fraud Prevention.

8. a. There is established in the Department of Insurance the Division of Insurance Fraud Prevention. The division shall assist the commissioner in administratively investigating allegations of insurance fraud and in developing and implementing programs to prevent insurance fraud and abuse. The division shall promptly notify the Attorney General of any claim which involves criminal activity. When so required by the commissioner and the Attorney General, the division shall cooperate with the Attorney General in the investigation and prosecution of criminal violations.

b. The commissioner shall appoint the full-time supervisory and investigative personnel of the division, including the director, who shall hold their employment at the pleasure of the commissioner without regard to the provisions of Title 11 of the Revised Statutes and shall receive such salaries as the commissioner from time to time designates, and who shall be qualified by training and experience to perform the duties of their position.

c. When so requested by the commissioner, the Attorney General may assign one or more deputy attorneys general to assist the division in the performance of its duties.

d. The commissioner shall also appoint the clerical and other staff necessary for the division to fulfill its responsibilities under this act. The personnel shall be employed subject to the provisions of Title 11 of the Revised Statutes, and other applicable statutes.

e. The commissioner shall appoint an insurance fraud advisory board consisting of eight representatives from insurers doing business in this State. The members of the board shall serve for two year terms and until their successors are appointed and qualified. The members of the board shall receive no compensation. The board shall advise the commissioner with respect to the implementation of this act, when so requested by the commissioner.

f. The Director of the Division of Budget and Accounting in the Department of the Treasury shall, on or before September 1 in each year, ascertain and certify to the commissioner the total

amount of expenses incurred by the State in connection with the administration of this act during the preceding fiscal year, which expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of retirement contributions made and the workers' compensation paid for and on account of personnel, rentals for space occupied in State owned or State leased buildings and all other direct and indirect costs of the administration thereof.

g. The commissioner shall, on or before October 15 in each year, apportion the amount so certified to him among all of the companies writing the class or classes of insurance described in R. S. 17:17–1 within this State in the proportion that the net premiums received by each of them for such insurance written or renewed on risks within this State during the calendar year immediately preceding, as reported to him, bears to the sum total of all such net premiums received by all companies writing that insurance within the State during the year, as reported, except that no one company shall be assessed for more than 5% of the amount apportioned. The commissioner shall certify the sum apportioned to each company on or before November 15 next ensuing, and to the Division of Taxation in the Department of the Treasury. Each company shall pay the amount so certified as apportioned to it to the said Division of Taxation on or before December 31 next ensuing, and the sum paid shall be paid into the State Treasury in reimbursement to the State for the expenses paid.

"Net premiums received" means gross premiums written, less return premiums thereon and dividends credited or paid to policyholders.

h. The total appropriations recoverable under this section for the operation of the division shall not exceed $500,000.00 during its first full fiscal year of operation. During subsequent fiscal years, the appropriations subject to recovery under this section shall not increase by more than the amount by which State expenditures shall increase for that fiscal year, expressed as a percent per annum.

C. 17:33A-9 Alleged violations.

9. a. Any insurance company or producer who believes that a violation of this act has been or is being made shall, within 30 days after discovery of the alleged violation of this act send to the division, on a form prescribed by the commissioner, the information requested and such additional information relative to

the claim and the parties claiming loss or damages as the division may require. The division shall review the reports and select those claims as may require further investigation. It shall then cause an independent examination or evaluation of the facts surrounding the claim to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists in the submission or processing of the claim.

b. No person shall be subject to civil liability for libel, violation of privacy or otherwise by virtue of the filing of reports or furnishing of other information, in good faith and without malice, required by this section or required by the division as a result of the authority conferred upon it by law.

c. The commissioner may, by regulation, require insurance companies licensed to do business in this State to keep such records and other information as he deems necessary for the effective enforcement of this act.

C. 17:33A-10 Subpena power.

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 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.

C. 17:33A-11 Limited public inspection.

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, 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 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.

C. 17:33A-12 Regulations.

12. The commissioner may promulgate such regulations as he deems necessary for the effective implementation of this act.

13. There is appropriated the sum of $250,000.00 to the Department of Insurance for the initial implementation of this act, subject to recovery pursuant to section 8 of this act.

C. 17:33A-13 Report.

14. The commissioner shall report annually to the Senate Labor, Industry and Professions Committee and the Assembly Banking and Insurance Committee as to the activities of the division and the cost effectiveness of the programs established by the division.

C. 17:33A-14 Criminal prosecution.

15. The imposition of any fine or other remedy under this act shall not preclude prosecution for a violation of the criminal law of this State.

16. This act shall take effect 90 days after enactment, except that any appointment and any action permitted or required by this act and necessary to effectuate this act as of such date may be made or undertaken prior to such date.

Approved August 30, 1983.

CHAPTER 321

AN ACT to amend the title of "An act concerning the destruction or other disposition of certain papers on file in the offices of the county clerks, pertaining to the former courts of oyer and terminer, circuit courts, courts of common pleas, courts of quarter sessions and courts of special sessions," approved July 25, 1953 (P. L. 1953, c. 270), so that the same shall read "An act concerning the destruction or other disposition of certain papers on file in the offices of the county clerks, pertaining to the former courts of oyer and terminer, circuit courts, courts of common pleas, courts of quarter sessions, courts of special sessions and county courts" and to amend the body of said act.

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

Title amended.

1. The title of P. L. 1953, c. 270 (C. 47:3–13 et seq.) is amended to read as follows: "An Act concerning the destruction or other disposition of certain papers on file in the offices of the county clerks, pertaining to the former courts of oyer and terminer, circuit courts, courts of common pleas, courts of quarter sessions, courts of special sessions and county courts."

2. Section 1 of P. L. 1953, c. 270 (C. 47:3–13) is amended to read as follows:

C. 47:3-13 Papers pertaining to former courts.

1. Whenever any papers have been on file for more than 25 years in the office of any county clerk, pertaining to the former court of oyer and terminer, circuit court, court of common pleas, court of quarter sessions, court of special sessions and county court of said county, and form no part of the record of an enforceable judgment, the Superior Court Assignment Judge of the county, wherein such papers are on file, may order and direct the clerk of the county to remove or destroy such papers or otherwise effectively obliterate the records therein.

3. This act shall take effect immediately.

Approved September 1, 1983.

CHAPTER 322

AN ACT to amend the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).

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

1. Section 4 of P. L. 1975, c. 291 (C. 40:55D–8) is amended to read as follows:

C. 40:55D-8 Administrative procedures; fees.

4. Administrative procedures; fees. a. Every municipal agency shall adopt and may amend reasonable rules and regulations, not inconsistent with this act or with any applicable ordinance, for the administration of its functions, powers and duties, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the office of the administrative officer.

b. Fees to be charged (1) an applicant for review of an application for development by a municipal agency, and (2) an appellant pursuant to section 8 of this act shall be reasonable and shall be established by ordinance.

c. A municipality may by ordinance exempt, according to uniform standards, charitable, philanthropic, fraternal and religious non-profit organizations holding a tax exempt status under the Federal Internal Revenue Code of 1954 (26 U. S. C. § 501 (c) or (d)) from the payment of any fee charged under this act.

2. This act shall take effect immediately.

Approved September 1, 1983.

CHAPTER 323

AN ACT concerning salvage certificates of title for motor vehicles and supplementing chapter 10 of Title 39 of the Revised Statutes.

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

C. 39:10-31 Salvage certificate of title.

1. As used in this act "salvage certificate of title" means a document issued by the Director of the Division of Motor Vehicles which serves as proof of ownership of a motor vehicle and provides a method of transfer of the vehicle only as a salvage motor vehicle.

C. 39:10-32 Surrender of certificate of ownership.

2. a. If a motor vehicle has either been reported as being stolen or suffered sufficient damage to render it economically impractical to repair, the person in possession of the certificate of ownership for the vehicle shall surrender the certificate of ownership to the director along with a statement setting forth how the person acquired the certificate of ownership.

b. The director, after determining ownership, shall issue a salvage certificate of title to a person who surrenders a certificate of ownership pursuant to subsection a. of this section.

C. 39:10-33 Recovery of stolen vehicle.

3. If a motor vehicle reported as being stolen is subsequently recovered, a certificate of ownership for the vehicle which had been surrendered to the director by a person pursuant to subsection a. of section 2 of this act may be issued by the director to that person only if:

a. The person presents to the director a salvage certificate of title for the motor vehicle;

b. The person presents to the director a report from the law enforcement agency which recovered the vehicle; and

c. The vehicle passes an inspection at a State inspection facility to determine the accuracy of its vehicle identification number.

C. 39:10-34 Subsequent repair.

4. If a motor vehicle which has suffered sufficient damage to render it economically impractical to repair is subsequently repaired, a certificate of ownership for the vehicle may be issued to a person only if:

a. The person presents to the director a salvage certificate of title;

b. The repaired vehicle is inspected by an official specially designated by the director to determine the accuracy of its vehicle identification number;

c. The person submits proof of ownership of repair parts used to the director; and

d. The person complies with any other requirement the director deems appropriate.

C. 39:10-35 Inspection fee.

5. The director shall establish a fee for the inspections required under sections 3 and 4 of this act. The fees shall be deposited in a non-lapsing fund which is dedicated to the administration of this act.

C. 39:10-36 Vehicle from another state.

6. If a motor vehicle has been issued a salvage certificate of title, or similar document, by another state, that vehicle may be issued a certificate of ownership pursuant to section 3 or 4 of this act.

C. 39:10-37 Rules, regulations.

7. The director shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) he deems advisable to effectuate the purposes of this act.

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

Approved September 1, 1983.

CHAPTER 324

AN ACT concerning the development, management and preservation of State parks and forests, the provision of recreational opportunities and the promotion of forest resources in the State, amending P. L. 1940, c. 100 and its title and repealing parts of the statutory law.

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

C. 13:1L-1 Short title.

1. (New section) This act shall be known and may be cited as the "State Park and Forestry Resources Act."

C. 13:1L-2 Findings, declarations.

2. (New section) The Legislature finds and declares that the acquiring, planning, designing, developing, operating and managing of the State parks and forests is in the best interest of the citizens of this State and that the provision of recreational programs to all segments of the public enhances the public health, prosperity and general welfare and is a proper responsibility of the State. The Legislature further finds and declares that forested lands in the State should be managed to maximize the public benefit from the State's forest resources.

C. 13:1L-3 Definitions.

3. (New section) For the purposes of this act:

a. "Department" means the Department of Environmental Protection.

b. "Forest resources" means those renewable products and reusable resources of all forest lands in the State, including but not limited to trees, timber, shrubs and other vegetation, and the value of forest lands relating to recreation, wilderness appreciation, aesthetic appeal and soil fertility.

c. "Green Acres program" means the program for the purchase of land for recreation and conservation purposes pursuant to P. L. 1961, c. 45 (C. 13:8A–1 et seq.), P. L. 1971, c. 419 (C. 13:8A–19 et seq.), and P. L. 1975, c. 155 (C. 13:8A–35 et seq.).

d. "Recreational activities" includes, but is not limited to, fresh and salt water swimming, water skiing, boating and fishing, ice skating, snow skiing, camping, trail hiking, horseback riding,

picnicking, bicycling, court and field games, track and field events, birdwatching, playground activities and golf.

e. "State parks and forests" means all State owned or leased lands, waters and facilities administered by the Department of Environmental Protection, including, but not limited to, parks, forests, recreational areas, marinas, historic sites, burial sites and natural areas, but not including wildlife management areas or reservoir lands.

C. 13:1L-4 Powers of department.

4. (New section) The department shall acquire, plan, design, construct, operate and maintain State parks and forests and shall have the power to:

a. Install permanent improvements for the health and comfort of the public;

b. Install permanent improvements for the protection, development or maintenance of lands or properties;

c. Acquire, lay out, construct and maintain roads and trails:

(1) over the State park and forest lands and acquired lands;

(2) between or connecting any separate portions of such lands;

(3) from points on such lands up to, but not including, other public roads outside of and adjacent to such lands;

d. For the purposes of this section, acquire rights of way upon and across any intervening lands;

e. Vacate and close any municipal street or any portion of a municipal street that is solely bordered by State property when closure is necessary to protect the public interest;

f. Sell or exchange forest products or products reasonably related to recreational activities on State park and forest lands.

C. 13:1L-5 Other duties.

5. (New section) The department shall:

a. Provide recreational activities and programs within State parks and forests for the benefit of the State's citizens;

b. Strive to provide recreational opportunities to all segments of the State's population and may provide transportation for urban residents to the State parks and forests;

c. Conduct and promote cultural activities, such as plays, movies and exhibits, at State parks and forests and at other locations throughout the State;

d. Prepare and implement a master plan and a management plan for each State park and forest.

C. 13:1L-6 Authority of department.

6. a. (New section) Notwithstanding any other law, rule or regulation to the contrary, the department shall have the authority to grant such rights or privileges to individuals or corporations for the construction, operation and maintenance for private profit of any facility, utility or device upon the State parks and forests, lands and waters as the department shall find necessary and proper for the use and enjoyment of the lands by the public. Such rights and privileges shall include, but not be limited to, concessions, franchises, licenses, permits and other rights and privileges deemed by the department to be appropriate in the utilization of the lands for the public benefit. The grant or award of such rights or privileges shall be made in the name of the State of New Jersey and executed by the department, at such price and upon such terms and conditions as shall be fixed by the department.

b. The department shall have the authority to acquire rights and privileges in lands owned by individuals or corporations where the department deems it necessary or useful, for the proper implementation of the provisions of this amendatory and supplementary act, that an interest in such lands be acquired. Such rights and privileges shall include, but not be limited to, leases, licenses, concessions, franchises and permits. Any rights or privileges acquired hereunder and the considerations therefor shall be subject to terms and conditions fixed by the department.

C. 13:1L-7 Eminent domain.

7. a. (New section) For the purposes of acquiring, holding, managing or developing lands or other properties for a State park or forest, the department shall have the power to enter, inspect, survey, investigate ownership and take title to, in fee or otherwise, by purchase, gift, devise or eminent domain, any appropriate lands of the State that would be useful as a State park or forest.

b. The power of eminent domain shall extend to all rights, interests and easements in any property in the State.

c. The department shall exercise its power of eminent domain in accordance with the "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3–1 et seq.).

d. Whenever the department wishes to acquire, by eminent domain, title to unoccupied lands and it appears that such title may be defective in any manner, the department may, with the consent of the Attorney General, acquire the best available title, notwithstanding that such title is defective or incomplete.

e. For purposes of this amendatory and supplementary act, the department may acquire by gift, grant or by payment of tax lien any municipal lands that have been acquired by the municipality through the foreclosure of a tax lien pursuant to chapter 5 of Title 54 (Taxation).

f. If the department acquires or owns title to, for the purposes of this act, more than ten acres of land in a municipality, the department shall annually pay that municipality ten cents per acre for each acre of land so acquired, except that this sum shall not be paid if any other payments in lieu of taxes are determined to be due and payable to that municipality pursuant to any other law.

g. No title or interest in any of the lands or properties acquired or held by the department for the purposes of this amendatory and supplementary act shall be subject to being taken by condemnation proceedings through the power of eminent domain.

C. 13:1L-8 Authority to exchange lands.

8. (New section) The department shall have the authority to sell, lease or exchange any lands or any interest therein, except those lands or interests acquired pursuant to the Green Acres program, for the acquisition of any other lands or interests therein for incorporation into the State park and forest system.

C. 13:1L-9 Closing of park, forest.

9. (New section) The department may close a State park or forest or may remove any person from a State park or forest without legal procedure if the department determines that it is in the interest of the State to do so.

C. 13:1L-10 Destruction prohibited.

10. (New section) No person may mutilate, destroy, alter or move any State park or forest property, whether man-made or natural, or any animal, or any archaeological findings, which shall include, but not be limited to, relics, objects or artifacts of an historical, prehistorical, geological, archaeological or anthropological nature, which are held by the department pursuant to the provisions of this amendatory and supplementary act, without the department's permission. No person may litter or abandon any material on State park or forest property held pursuant to the provisions of this amendatory and supplementary act.

C. 13:1L-11 High Point, Island Beach parks.

11. (New section) a. In specific regard to High Point Park, the department shall not allow the shooting or trapping of birds on

park grounds, other than that of vermin, and then only by authorized representatives of the State.

b. As Island Beach State Park is a unique recreational resource and is highly valued for its topography, flora and fauna, it shall be preserved, maintained and improved in such a manner as the department determines will best perpetuate the present physical state.

C. 13:1L-12 Free admission for elderly, disabled.

12. (New section) The department shall not charge an admission fee for entrance into a State park or forest by any resident of the State of 62 or more years of age or who is totally disabled. The department shall prescribe by regulation the types of evidence that may be used to qualify persons for the benefits of this subsection.

C. 13:1L-13 Forest management program.

13. (New section) The department shall plan, develop and implement a forest management program for the forest resources of the State parks and forests and by providing technical information, advice and related assistance to promote the best technical management practices for public and private forest landowners and managers, vendors, forest operators, wood processors, public agencies and individuals regarding:

a. The harvesting, marketing and processing of timber and other forest resources and the development of maximum efficiency in the utilization of wood and wood products consistent with the principle of maintaining long-term, sustained yield of these products;

b. Conversion of wood to energy for domestic, industrial, municipal and other uses;

c. Management planning and treatment of forest land, including, but not limited to, protection, site preparation, timber stand improvement, reforestation, prescribed burning and other practices designed to increase the quantity and improve the quality of timber and other forest resources;

d. Protection and improvement of forest soil fertility, watersheds to enhance the quality and quantity of water yields, and beneficial effects of forest habitat on fish and wildlife.

C. 13:1L-14 Distribution of seeds, trees.

14. (New section) The department shall procure, produce and distribute tree seeds and seedling trees for the purpose of:

a. Establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

b. Developing genetically improved tree seeds;

c. Planting tree seeds and trees for the reforestation or forestation of lands suitable for the production of timber and other benefits associated with the growing of trees.

C. 13:1L-15 Protection from insects, diseases.

15. (New section) The department shall protect from insects and diseases the trees and forests, and wood products, stored wood, and wood in use in the State. This protection shall include, but not be limited to:

a. Conducting surveys to detect and evaluate insect infestations and disease conditions affecting forests and trees;

b. Determining the biological, chemical and mechanical measures necessary to prevent, retard, control or suppress incipient, potentially threatening or emergency insect infestation and disease conditions affecting trees;

c. Taking any other actions deemed necessary to protect the State's trees, forests and wood products from insects and diseases.

C. 13:1L-16 Additional duties.

16. (New section) The department shall:

a. Minimize the threat to life, property, and damage to forest resources through the use of appropriate fire prevention, presuppression and suppression practices;

b. Provide information and technical assistance to units of local government, including but not limited to Shade Tree Commissions and Soil Conservation Districts, to encourage urban and community forestry programs.

C. 13:1L-17 State Forester.

17. (New section) The chief forester employed by the department shall be designated and known as the State Forester.

C. 13:1L-18 Publication.

18. (New section) The department may publish, from time to time, any information it deems to be in the public interest at a cost not to exceed that of publication and distribution.

C. 13:1L-19 Fees; rules, regulations.

19. The department may, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), charge and collect fees for any of the services it performs pursuant to the provisions of this amendatory and supplementary act, and adopt any other rules or regulations consistent with the provisions of P. L. 1975, c. 363 (C. 13:1B–15.12a et seq.) necessary to carry out the provisions of this amendatory and supplementary act.

C. 13:1L-20 Employees.

20. (New section) The department may hire such employees as may be necessary to carry out the provisions of this amendatory and supplementary act. Subject to the provisions of Title 11 (Civil Service), the department shall determine the compensation for the employees hired under this amendatory and supplementary act. The department shall employ the underprivileged, minorities and young people where appropriate.

C. 13:1L-21 Power of arrest.

21. (New section) The commissioner of the department shall have the power to vest in State Park Rangers and other personnel of the department, while such personnel are on duty, the power to arrest without warrant any person violating any law of the State committed in their presence and bring the offender before any court having jurisdiction to receive the complaint of such violation. These personnel are hereby authorized to carry firearms while in the actual performance of their official duties. The department, with the approval of the Attorney General, shall establish and maintain a law enforcement training program for such personnel.

C. 13:1L-22 Subpena power.

22. (New section) For the purpose of this amendatory and supplementary act, the department may administer oaths, examine witnesses under oath, and issue subpenas for the production of written material or requiring personal attendance before the department.

C. 13:1L-23 Violations; penalties.

23. (New section) If any person violates any of the provisions of this amendatory and supplementary act or any rule, regulation or order promulgated pursuant thereto, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation and the court may proceed in a summary manner. Any person who violates any of the provisions of this amendatory and supplementary act or any rule, regulation or order promulgated pursuant thereto shall be liable to a penalty of not more than $1,000.00 for each offense, to be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, county district courts and municipal courts shall have jurisdiction to hear and determine violations of the provisions of this amendatory and supplemen-

tary act. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. If the damage resulting from any violation of this amendatory and supplementary act or from any violation of any rule, regulation or order promulgated pursuant thereto exceeds $1,000.00, the person causing the damage shall be liable to a penalty equal to the value of the damage so caused.

C. 13:1L-24 Employment opportunities for youth, disadvantaged.

24. (New section) The department is authorized and directed to implement and administer comprehensive programs for the purpose of providing employment opportunities for youth or for disadvantaged persons in the improvement, maintenance and conservation of State parks and forests, public lands, recreation facilities and natural resources. The department is authorized and directed to seek the assistance and cooperation of any other federal, State or municipal department or agency in providing such employment opportunities.

C. 13:1L-25 Disadvantaged youth programs.

25. (New section) Upon proper application to the department by a nonprofit association or corporation, or municipality, the department is authorized to enter into agreements with, and make grants of money to, the applicant for the purpose of providing to disadvantaged youth up to age 18:

a. Transportation to and from State parks and forests, recreation areas and other recreational facilities, or

b. Camping experiences at day or overnight camps approved by the department.

26. The title of P. L. 1940, c. 100 is amended to read as follows:

Title amended.

An Act concerning the Department of Environmental Protection, creating therein a board for the certification and supervision of tree experts; prescribing the duties and powers of such board.

27. Section 2 of P. L. 1940, c. 100 (C. 45:15C–2) is amended to read as follows:

C. 45:15C-2 Tree expert.

2. When used in this act the term "tree expert" means a person skilled in the science of tree care who presents himself to the public for compensation as a practicing tree expert, whether he terms himself tree expert, arborist, tree specialist, tree surgeon, et cetera. In the interpretation of this act it is the person who

diagnoses and recommends treatment or supervises the work which is to be carried out. He must maintain a place of business for the transaction of such practice or be regularly employed by such a firm or individual or by a municipal, county or State agency engaged in tree preservation, and whose time during the regular business hours of the day is devoted to such practice, and the term "certified tree expert" means a person who has received from the board of tree experts hereinafter created a certificate of his qualifications to practice as a tree expert.

28. Section 3 of P. L. 1940, c. 100 (C. 45:15C–3) is amended to read as follows:

C. 45:15C-3 Board of tree experts.

3. The Department of Environmental Protection shall establish a board of tree experts consisting of three members who shall be skilled in the knowledge, science and practice of tree care and shall have been actively engaged as tree experts within the State of New Jersey for a period of at least 5 years prior to their selection. Members of the board shall hold office, one for the term of 1 year, one for the term of 2 years, and one for the term of 3 years, and thereafter until their successors are appointed by the department. Vacancies shall be filled for the unexpired terms only. The department shall make all rules and regulations necessary to carry into effect the provisions of this act.

29. Section 4 of P. L. 1940, c. 100 (C. 45:15C–4) is amended to read as follows:

C. 45:15C-4 Qualifications.

4. The certificate of "certified tree expert" shall be granted by the board to any person who is (a) a citizen of the United States or has duly declared his or her intention of becoming such citizen, and who is a legal resident of the State of New Jersey, (b) who is over the age of 21 years, and (c) who is of good moral character, and (d) who has graduated from a 4 year college with a degree in forestry, arboriculture, ornamental horticulture, landscape architecture, or the equivalent, or (e) who shall have continuously for at least 5 years immediately preceding the date of his application been engaged in practice as a tree expert, (f) who shall have successfully passed examinations in the theory and practice of tree care, including such subjects as botany, plant physiology, dendrology, entomology, plant pathology, and soils.

30. Section 5 of P. L. 1940, c. 100 (C. 45:15C–5) is amended to read as follows:

C. 45:15C-5 Examinations.

5. New applicants who have never been certified or who have not held a certificate for 3 years previously must take an examination. All examinations provided for herein shall be conducted by the board. The examinations shall take place as often as may be necessary in the opinion of the board but not less frequently than once each year. A candidate who shall have passed a satisfactory examination in all but one of the subjects given by the board of examination may be reexamined in that subject only, at subsequent examinations held by the board, and if he passes in that subject he shall be considered to have passed the examination. Nothing in this law shall be construed as prohibiting the reexamination in all subjects of a candidate who has failed in a prior examination.

31. Section 6 of P. L. 1940, c. 100 (C. 45:15C–6) is amended to read as follows:

C. 45:15C-6 Revocation, suspension of certificates.

6. The board of tree experts by majority vote thereof shall permanently revoke or temporarily suspend the effect of a certificate of any certified tree expert who has been convicted of a crime in the courts of this State, or has been guilty of any fraud or deceit in obtaining such certificate, or who has been guilty of negligence or wrongful conduct in the practice of professional tree care. The board may promulgate and may amend from time to time canons of professional ethics and may temporarily suspend for a period not exceeding 2 years the effect of the certificate of any certified tree expert who violates such canons of professional ethics, this power of suspension being in addition to and not in limitation of the power to revoke or suspend heretofore provided in this section. Notice of the cause for such contemplated action and the date of hearing thereon by the board shall be mailed to the holder of such certificate at his or her registered address at least 20 days before said hearing. No certificate issued under this act shall be revoked or the effect thereof suspended until the board shall have had such hearing, but the nonappearance of the holder of any certificate after notice as herein provided shall not prevent such hearing. By majority vote the board may reissue the certificate of any certified tree expert whose certificate shall have been revoked and may modify the effect of the suspension of any certificate which has been suspended.

32. Section 8 of P. L. 1940, c. 100 (C. 45:15C–8) is amended to read as follows:

C. 45:15C-8 Violations.

8. No person shall represent himself or herself to the public as having received a certificate as provided for in this act, or shall assume to practice as a certified tree expert without having received such certificate, and no person who having received such certificate and thereafter lost the same by revocation or had the effect of the same suspended as provided for in this act shall continue to practice as a certified tree expert, and no person shall use such title, or the abbreviation "C.T.E." or any other words, letters or abbreviations tending to indicate that such person is a certified tree expert without having received such certificate or if such certificate has been revoked or suspended.

33. Section 9 of P. L. 1940, c. 100 (C. 45:15C–9) is amended to read as follows:

C. 45:15C-9 Reciprocity.

9. The board may in its discretion register the certificate of any person who is not a resident of this State and who is the lawful holder of a C.T.E. certificate issued under the laws of another state which extends similar privileges to certified tree experts of this State; provided, the requirements of the certificate in the other state which has granted it to the applicant are, in the opinion of the board, equivalent to those herein provided.

Repealer.

34. The following are repealed:
R. S. 13:1–12;
R. S. 13:1–14;
R. S. 13:1–16;
R. S. 13:1–18 to R. S. 13:1–20 inclusive;
R. S. 13:1–22 to R. S. 13:1–27 inclusive;
R. S. 13:5–9 and R. S. 13:5–10;
R. S. 13:8–1 and R. S. 13:8–2;
R. S. 13:8–4 and R. S. 13:8–5;
R. S. 13:8–8;
R. S. 13:8–10;
R. S. 13:8–15 and R. S. 13:8–16;
R. S. 13:8–20 to R. S. 13:8–22 inclusive;
R. S. 13:14–1 to R. S. 13:14–9 inclusive;
P. L. 1971, c. 18 (C. 13:2–11);
P. L. 1977, c. 105 (C. 13:6–2 and 13:6–3);
P. L. 1968, c. 136 (C. 9:24–8 to 9:24–16 inclusive);
P. L. 1975, c. 367.

35. This act shall take effect immediately.

Approved September 1, 1983.

CHAPTER 325

AN ACT authorizing and validating certain transfers of title and interest in lands and buildings to war memorial commissions and supplementing Title 40 of the Revised Statutes.

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

C. 40:10-10 Title transfers to war memorial commissions.

1. A municipality or county, or both, may transfer to the commission its or their title or interest in any lands conveyed to it or them under the provisions of P. L. 1924, c. 189 or P. L. 1925, c. 18, saved from repeal by R. S. 52:20–24, or under the provisions of P. L. 1962, c. 220 (C. 52:31–1.1 et seq.), which lands were conveyed for the purpose of erecting thereon a memorial building or buildings, and may transfer to the commission its or their title or interest in any building or buildings erected on those lands.

2. Every conveyance of land referred to in section 1 of this act heretofore executed and delivered by a municipality or county, or both, to a commission established under R. S. 40:10–3, is hereby validated and confirmed.

3. This act shall take effect immediately.

Approved September 1, 1983.

CHAPTER 326

AN ACT to amend the "New Jersey Local Development Financing Fund Act," approved May 23, 1983 (P. L. 1983, c. 190).

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

1. Section 3 of P. L. 1983, c. 190 (C. 34:1B–38) is amended to read as follows:

C. 34:1B-38 Definitions.

3. As used in this act:

a. "Fund" means the New Jersey Local Development Financing Fund established in section 4 of this act.

b. "Commissioner" means the Commissioner of the Department of Commerce and Economic Development or his designated representative, which may be the New Jersey Economic Development Authority.

c. "Sponsor" means the governing body of a municipality or, with the approval of the government of a municipality, a local development corporation, community development corporation, municipal port authority established pursuant to the provisions of P. L. 1960, c. 192 (C. 40:68A–29 et seq.), or governing body of a county, or, with the approval of the government of a county, a county development corporation or other public entity designated by the commissioner as a sponsor.

d. "Municipality" means a municipality qualifying for aid pursuant to P. L. 1978, c. 14 (C. 52:27D–178 et seq.) or which would qualify under that act except for the population criterion.

e. "Project" means an industrial or commercial enterprise within a municipality that would not be undertaken in its intended scope without the provision of financial assistance pursuant to this act and will be economically viable with the assistance.

f. "Eligible project" means a project which has been approved by the commissioner to receive financial assistance from the New Jersey Local Development Financing Fund.

g. "Eligible project cost" means the cost of planning, developing, executing, and making operative an industrial or commercial redevelopment project. Eligible project cost includes the cost:

(1) Of purchasing, leasing, condemning, or otherwise acquiring land or other property, or an interest therein, in the designated project area or as necessary for a right-of-way or other easement to or from the project area;

(2) Incurred for, or in connection with or incidental to, acquiring and managing the land, property or interest;

(3) Incurred for or in connection with the relocating and moving of persons displaced by the acquisition;

(4) Of development or redevelopment, including:

(a) The comprehensive renovation or rehabilitation of the land, property or interest;

(b) The cost of equipment and fixtures which are part of the real estate and the cost of production machinery and equipment necessary for the operation of the project;

(c) The cost of energy conservation improvements designed to encourage the efficient use of energy resources, including renewable and alternative energy resources and cogenerating facilities; and

(d) The disposition of land or other property for these purposes;

(5) Of demolishing, removing, relocating, renovating, altering, constructing, reconstructing, installing or repairing any land or any building, street, highway, alley, utility, service or other structure or improvement;

(6) Of acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements necessary to a project; and

(7) Incurred for or incidental to doing anything enumerated in this subsection, including the cost and expense of securing:

(a) Administrative, appraisal, economic and environmental analyses;

(b) Engineering service;

(c) Planning service;

(d) Design service;

(e) Architectural service;

(f) Surveying service; and

(g) Other professional service.

2. This act shall take effect immediately.

Approved September 1, 1983.

CHAPTER 327

AN ACT to amend the "New Jersey Higher Education Tuition Aid Act," approved February 11, 1969 (P. L. 1968, c. 429).

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

1. Section 7 of P. L. 1968, c. 429 (C. 18A:71–47) is amended to read as follows:

C. 18A:71-47 College tuition aid grants.

7. A college tuition aid grant shall be awarded annually to each eligible, qualified full-time undergraduate student enrolled in a curriculum leading to a degree or certificate in an institution of collegiate grade in New Jersey approved or licensed by the State Board of Higher Education, or in an institution of collegiate grade in another state, provided that such state permits its residents to utilize its state student financial assistance grants in New Jersey

institutions of higher education through reciprocity agreements approved by the Student Assistance Board and the Board of Higher Education. In no event shall a New Jersey tuition aid grant be utilized at an out of state institution which is not licensed by that state and accredited by a regional accrediting association recognized by the Council on Postsecondary Accreditation.

(a) Eligibility. To each New Jersey resident enrolled as a full-time student after July 1, 1978 for the academic year beginning in September of 1978 the State shall grant an amount as provided in paragraph (b) of this section 7. No student shall be eligible for a grant unless he has certified in a form satisfactory to the Student Assistance Board that the grant is essential to his carrying out his plans for attending college. No student shall be eligible for grants in more than four academic years, unless the recipient is enrolled in an undergraduate program regularly requiring five academic years for completion, in which case the Student Assistance Board shall permit a fifth year of eligibility. Notwithstanding the foregoing provisions, a student receiving aid under the provisions of P. L. 1968, c. 142 (C. 18A:71–28 et seq.) shall be entitled to a sixth year of eligibility. Eligibility for tuition aid grants may be extended to part-time students through regulations developed by the Student Assistance Board and approved by the Board of Higher Education if the level of appropriated funds allows such an extension, subject to prior approval by the Director of the Division of Budget and Accounting and Joint Appropriation Committee's Subcommittee on Transfers or its successor. No student shall be eligible for grants unless he maintains such minimum standards of academic performance as are required by the institution in which he is enrolled. No student shall be eligible for a tuition aid grant who is enrolled in a course leading to a degree in theology or divinity.

In the event a student for any reason ceases to continue to be enrolled or otherwise becomes ineligible during the course of an academic year, he shall cease to be eligible for tuition aid. Both the student and the institution shall have the responsibility to notify the Student Assistance Board when a student ceases to be eligible to receive student assistance because of withdrawal for any reason or a change in status from a full to part-time student.

(b) Amount of grant. The amount of a tuition aid grant under this act to any student attending an institution of higher education in New Jersey shall be established by the Student Assistance Board but shall not exceed the maximum amount of tuition normally charged at a public institution of higher education for students

attending that institution or 50% of the average tuition normally charged at the independent colleges and universities for students attending those institutions. The amount of a New Jersey Tuition Assistance grant under this act to any student attending an institution of higher education in any state other than New Jersey pursuant to section 7 of P. L. 1968, c. 429 shall not exceed $500.00 in an academic year. The amount of grant to be paid for each semester or equivalent shall be based on the financial need for such a grant as determined by standards and procedures established by the Student Assistance Board and approved by the State Board of Higher Education. The standards and procedures which shall be established by the Student Assistance Board for the fiscal year 1978-79 shall be submitted to the Legislature, together with appropriate supporting information, and such standards and procedures shall be deemed approved by the Legislature at the end of 30 calendar days after the date on which they are transmitted to the Legislature, or if the Legislature is not in session on the thirtieth day, then on the next succeeding day on which it shall be meeting, unless between the date of transmittal and the end of the 30-day period the Legislature passes a concurrent resolution rejecting the standards and procedures in which case the standards and procedures then in effect shall continue in effect.

Any subsequent revisions of said standards and procedures shall be submitted to the Legislature, together with appropriate supporting information, and such standards and procedures shall be deemed approved by the Legislature at the end of 60 calendar days after the date on which they are transmitted to the Legislature, or if the Legislature is not in session on the sixtieth day, then on the next succeeding day on which it shall be meeting, unless between the date of transmittal and the end of the 60-day period the Legislature passes a concurrent resolution rejecting the standards and procedures in which case the standards and procedures then in effect shall continue in effect.

(c) Appropriations for each program category of tuition aid grants shall be separately made by line item.

2. This act shall take effect immediately.

Approved September 1, 1983.

CHAPTER 328

AN ACT concerning job training.

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

C. 34:15B-11 Findings, declarations.

1. a. The Legislature finds and declares that existing employability development and job training programs do not adequately address the employment needs of many unemployed, underemployed, displaced and economically disadvantaged youth and adults. It is the purpose of this act to provide job training and employment opportunities for long term unemployed, underemployed, economically disadvantaged, displaced workers and other segments of the labor force who are in need of job training or retraining.

b. The Legislature further finds and declares that it is in the interest of the State to encourage the development of a skilled labor force to attract new industry and to retain industry which is presently located in this State; that to accomplish this, the State must enter into a partnership with private industry in order that the needs of both might best be met through the establishment of a job training program which is specifically tailored to an industry's needs and which is funded by both the public and private sectors.

C. 34:15B-12 Definitions.

2. For the purposes of this act:

a. "Approved organization" means any public or private institution of higher education, public or private secondary or vocational school, qualified nonprofit economic development organization, employee organization, trade association, adult education program, community based organization, business firm, governmental unit, private industry council, or trade school approved or licensed by the Department of Education or the Department of Higher Education.

b. "Department" means the Department of Labor.

c. "Commissioner" means the Commissioner of the Department of Labor.

d. "Classroom training" means vocational or job related instruction normally outside of the process of production or the course of rendering a service. Classroom training may also include basic educational skills where needed to remedy weaknesses in a participant's general educational preparation.

e. "Customized training" means classroom training or on the job training, or both, which is tailored to the specific needs of the actual or potential employer.

f. "Job search" means job seeking instruction, labor market information, employability development planning and other job placement activities in a small group setting.

g. "On the job training" means job related instruction to participants who have been hired first by the employer. This training occurs while the participant is engaged in productive work in order to provide the knowledge or skills essential to full job performance.

h. "Underemployed" means persons working part-time but actively seeking full-time work or persons working full-time who are earning wages substantially below the median salary for others in the labor force with similar qualifications and experience.

C. 34:15B-13 Consultation with councils.

3. The commissioner shall, in implementing the job training programs established pursuant to this act, consult with the New Jersey State Job Training Coordinating Council established pursuant to Executive Order 22, dated December 3, 1982, with respect to the establishment of criteria for approving applications and candidates for job training. The council shall meet at least quarterly, and the members thereof shall be reimbursed for their actual expenses. Copies of the minutes of each meeting of the council shall be filed with the commissioner. The commissioner may also consult with the regional private industry councils established pursuant to the provisions of the Federal Job Training Partnership Act, Pub. L. 97-300 with respect to the establishment of standards and criteria for job training programs, and he may utilize their services with respect to the identification of industries which are in need of the job training services established by this act and for monitoring the effectiveness of job training programs established pursuant to the provisions of this act.

C. 34:15B-14 Establishment of criteria.

4. The commissioner, in consultation with the New Jersey State Job Training Coordinating Council, shall establish criteria for the establishment of job training programs and for awarding grants for any job training program established pursuant to the provisions of this act. In establishing criteria for the awarding of the grants, the commissioner shall, where practicable, give priority to applications for job training or retraining associated with the entry of new businesses, or with the retention of existing businesses in this

State, or in connection with existing businesses in the State which plan to expand their work force.

C. 34:15B-15 Priority.

5. The commissioner, in consultation with the New Jersey State Job Training Coordinating Council shall establish criteria for the selection of candidates for job training, which shall include standards for affirmative action. The commissioner may give priority to:

a. Workers who are unemployed;

b. Workers who are underemployed;

c. Workers who are currently receiving public assistance as a supplement to their income;

d. Workers who were recently eliminated from the public assistance rolls because their gross incomes exceed 150% of the grant standard;

e. Workers who are eligible for public assistance but are not receiving it because they have not applied;

f. Workers who are displaced or who may be displaced because of plant closings, technological change, or modifications in product line.

The commissioner may utilize the resources of the Division of Employment Services or other suitable agencies or organizations to select candidates for the job training programs established pursuant to this act. The prospective employer, in its discretion, may participate in the establishment of standards for the selection of the candidates for job training.

C. 34:15B-16 Certification of eligibility.

6. The Department of Human Services shall certify to the department the eligibility of all applicants seeking services and claiming eligibility under subsections c., d., and e. of section 5 of this act. The department is authorized to obtain pertinent information concerning the applicant or employment history from any other State agency in order to determine eligibility for services. Information concerning the applicant or the employer shall be used only for determining eligibility and shall be otherwise considered confidential unless the information is generally available to the public.

C. 34:15B-17 Applications by businesses.

7. Any business located or to be located in New Jersey may apply to the commissioner for the establishment of a job training program under this act. The application shall identify the specific jobs for which training is required and the applying business and

the commissioner shall jointly establish standards for the proposed job training program. The commissioner shall review the application in accordance with the criteria established pursuant to section 4 of this act. If the application meets these criteria, the commissioner may solicit proposals from approved organizations to conduct the training program and award any grants to these organizations as may be necessary to effectuate the program.

The commissioner shall encourage the establishment of programs which make the optimum economic use of available resources to effectuate the job training, including, but not limited to:

a. Apprenticeship training;

b. On the job training; and

c. A combination of on the job training and classroom training, using the facilities of the prospective employer.

C. 34:15B-18 Training, placement of applicants.

8. The commissioner shall develop a coordinated delivery system for training and placement of eligible applicants, including, but not limited to, the following activities:

a. Outreach to make persons aware of the availability of employment and training services and encourage eligible applicants to use such services;

b. Counseling, orientation and assessment to assist individuals in selecting an occupation, making a career change or adjusting to changes in the workplace;

c. Job search to assist applicants in obtaining employment;

d. Classroom training to prepare persons to enter the labor market or to qualify them for more productive job opportunities and increased earnings;

e. On the job training to provide training at the workplace while the participant is engaged in productive work for the employer. This training shall be operated on a hire first principle requiring an employment commitment prior to the start of the program;

f. Upgrading to provide career advancement opportunities to employed participants either with the current employer or in preparation for new employment; upgrading may include any appropriate combination of component activities;

g. Customized training to help expand the State work force through training and retraining activities requested by industry;

h. On-site training to integrate classroom instruction with on the job training in a three party agreement among the department, a local educational institution and a cooperating employer;

i. Job retention training to improve the work attitudes of entry level workers in order to increase their potential for continued employment and advancement;

j. Supportive services to enable participation in employment and training activities to be coordinated with the Department of Human Services. To the extent possible such services may be provided from resources available outside of this act. Supportive services include, but are not limited to child care, transportation, health care, family counseling, housing assistance and financial management;

k. Apprenticeship or comparable high skill training programs for occupations where such programs do not exist in a given labor market area; and

l. Post-termination services to enable participants to retain employment including, but not limited to, follow-up counseling and supportive services which should not normally exceed 90 days.

C. 34:15B-19 Use of funds.

9. Of the funds appropriated annually for activities under this act, up to 6% may be available to the department for the costs of administration and program management. Such administrative costs shall include necessary staff and nonpersonnel services for the direct management of the program as well as the costs involved in developing and maintaining program coordination with other principal departments of State government. At least 94% of the funds appropriated annually for this act shall be used to finance the actual training components and activities developed under this act.

C. 34:15B-20 Financing of program.

10. As least 25% of the total cost of the program shall be paid by the applying business except that the commissioner, in his discretion and for good cause, may approve a lesser amount, but not less than 10%, to be paid by the applying business if there are a sufficient number of approved applications in which businesses agree to pay a portion of the cost of the program in an amount greater than 25% so that the yearly average of matching funds of all approved applications is 25%. The commissioner shall report annually to the New Jersey State Job Training Coordinating Council every job training program in which a match of less than 25% is paid by the applying business and the reasons for his approval thereof. The remainder of the cost of any job training program shall be paid from State funds appropriated for the purpose by this or any other act, and, where applicable, federal

money made available by the provisions of the Federal Job Training Partnership Act, Pub. L. 97-300.

C. 34:15B-21 Monitoring.

11. Every regional private industry council shall monitor the effectiveness of the job training programs established pursuant to the provisions of this act, including, but not limited to:

a. The percentage of trainees who satisfactorily complete the job training program; and

b. The length of time that trainees who complete the program are employed by the employer which initiated the establishment of the job training program.

C. 34:15B-22 Annual disclosure.

12. With respect to any program or service established or delivered pursuant to section 8 of this act, the commissioner shall require disclosure from the providers of the service to be filed annually, including, but not limited to:

a. Disclosure of total administrative costs of each program, including the salaries of employees who are directly connected with the provision of services under any job training program established pursuant to the provisions of this act. If any employee of a provider of services participates in more than one job training program under this act and receives compensation on a per program basis, the aggregate salaries of such employee shall be disclosed, expressed as a single salary, computed on a per annum basis;

b. Disclosure of the number of persons receiving assistance under this act who do not complete a job training program, and the reasons therefor.

C. 34:15B-23 Program evaluation.

13. The department shall monitor the expenditure of funds under this act and evaluate the effectiveness of the job training programs established hereunder. The commissioner shall provide for a system of ongoing program evaluation to improve the effectiveness of programs funded under this act. These evaluations shall measure the costs and benefits of program components and activities in relation to projected savings in income transfer payments, increases in tax revenues resulting from job placement, retention, and upgrading, and the value of such programs in attracting new industry and retraining the State's work force. A preliminary report shall be transmitted by the commissioner to the Speaker of the General Assembly and the President of the Senate

by the end of the quarter following the initial six months of program operation. Subsequent annual reports shall be submitted by September 30 for each fiscal year's activity including longer range studies of the results of prior years' programs.

C. 34:15B-24 Insurance coverage.

14. Program enrollees are not employees of the State. The commissioner shall arrange for appropriate insurance coverage for all program enrollees with the exception of those who are employees of a participating industry. In those cases, the participating industry shall be responsible for assuring that each enrollee on its payroll is covered by workers' compensation during all program activities.

C. 34:15B-25 Program supplementary.

15. Any job training program established pursuant to this act shall supplement and not supplant any vocational training or apprenticeship program established by any employer or employee organization, or any program already established by any approved organization.

C. 34:15B-26 Rules, regulations.

16. The commissioner shall make such rules and regulations as he deems necessary to effectuate the purposes of this act.

17. There is appropriated from the amount which was reserved in the Unemployment Compensation Auxiliary Fund by P. L. 1982, c. 49, Department of Labor, item 54, Manpower and Employment Services, the sum of $4,000,000.00 to the Department of Labor for grants to be made pursuant to this act.

18. This act shall take effect immediately.

Approved September 1, 1983.

CHAPTER 329

AN ACT concerning the management and disposal of low-level radioactive waste, enacting and entering this State into the Northeast Interstate Low-Level Radioactive Waste Management Compact, supplementing Title 13 of the Revised Statutes, and providing an appropriation therefor.

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

C. 32:31-1 Short title.

1. This act shall be known and may be cited as "The Northeast Interstate Low-Level Radioactive Waste Management Compact Act."

2. The State of New Jersey enacts and enters into the Northeast Interstate Low-Level Radioactive Waste Management Compact with all jurisdictions legally joining therein, which compact is substantially as follows:

C. 32:31-2 Policy and purpose.

ARTICLE I. POLICY AND PURPOSE

There is created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders, for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government, as defined in the "Low-Level Radioactive Waste Policy Act," Pub. L. 96–573 (42 U. S. C. § 2021 b. et seq.), hereinafter referred to as "the act," or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste. The party states recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage the waste be properly provided.

In order to promote the health and safety of the region, it is the policy of the party states to: enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort, provide for proper transportation of low-level waste generated in the region, minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits, and obligations of proper low-level radioactive waste management equitably among the party states, and ensure the environmentally sound and economical management of low-level radioactive waste.

C. 32:31-3 Definitions.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "Commission" means the Northeast Interstate Low-Level Radioactive Waste Commission established pursuant to Article IV of this compact;

b. "Custodial agency" means the agency of the government designated to act on behalf of the government owner of the regional facility;

c. "Disposal" means the isolation of low-level radioactive waste from the biosphere inhabited by man and his food chains;

d. "Facility" means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level waste, but shall not include on-site treatment or storage by a generator;

e. "Generator" means a person who produces or processes low-level waste, but does not include persons who only provide a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region;

f. "High-level waste" means (1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from that liquid waste that contains fission products in sufficient concentration; and (2) any other highly radioactive material determined by the federal government as requiring permanent isolation;

g. "Host state" means a party state in which a regional facility is located or being developed;

h. "Institutional control" means the continued observation, monitoring, and care of the regional facility following transfer of control of the regional facility from the operator to the custodial agency;

i. "Low-level waste" means radioactive waste that (1) is neither high-level waste not transuranic waste, nor spent nuclear fuel, nor by-product material as defined in section 11e (2) of the Atomic Energy Act of 1954 as amended; and (2) is classified by the federal government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in Pub. L. 96-573, or federal research and development activities;

j. "Party state" means any state which is a signatory party in good standing to this compact;

k. "Person" means an individual, corporation, business enterprise or other legal entity, either public or private, and their legal successors;

l. "Post-closure observation and maintenance" means the continued monitoring of a closed regional facility to ensure the integrity and environmental safety of the site through compliance with applicable licensing and regulatory requirements, prevention of unwarranted intrusion, and correction of problems;

m. "Region" means the entire area of the party states;

n. "Regional facility" means a facility as defined in this section which has been designated or accepted by the commission;

o. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territory subject to the laws of the United States;

p. "Storage" means the holding of waste for treatment or disposal;

q. "Transuranic waste" means waste material containing radionuclides with an atomic number greater than 92 which are excluded from shallow land burial by the federal government;

r. "Treatment" means any method, technique or process, including storage for decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or disposal, amenable for recovery, convertible to another usable material or reduced in volume;

s. "Waste" means low-level radioactive waste as defined in this section;

t. "Waste management" means the storage, treatment, transportation, and disposal, where applicable, of waste.

C. 32:31-4 Rights and obligations.

ARTICLE III. RIGHTS AND OBLIGATIONS

a. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made available to the region, will provide sufficient capacity to manage all wastes generated within the region.

(1) Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless

the exportation is approved by the commission and the affected host state(s).

(2) After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the commission and the affected host state(s).

b. The rights, responsibilities and obligations of each party state to this compact are as follows:

(1) Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the commission pursuant to Article IV i. (11). The right of access by a generator within a party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact.

(2) To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided, however, that these practices shall not impose unreasonable, burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper, or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that the violations do not recur.

(3) Each party state may impose reasonable fees upon generators, shippers, or carriers to recover the cost of inspections and other practices under this compact.

(4) Each party state shall encourage generators within its borders to minimize the volume of waste requiring disposal.

(5) Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provision of facilities for regional availability and their use in a manner consistent with this compact.

(6) Each party state shall provide to the commission any data and information necessary for the implementation of the commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligations as herein defined.

(7) Each party state shall have the capability to host a regional facility in a timely manner and to ensure the post-closure observation and maintenance, and institutional control of any regional facility within its borders.

(8) No nonhost party state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the transportation of waste to a regional facility; however, if the host state itself is the operator of the regional facility, its liability shall be that of any private operator.

c. The rights, responsibilities and obligations of a host state are as follows:

(1) To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, post-closure observation and maintenance, and institutional control of any regional facility within its borders.

(2) In accordance with procedures established in Articles V and IX, the host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of a regional facility. It may also establish surcharges to cover the regulatory costs, incentives, and compensation associated with a regional facility; provided, however, that without the express approval of the commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact.

(3) To the extent not prohibited by federal law, a host state may establish requirements and regulations pertaining to the management of waste at a regional facility; provided, however, that the requirements shall not impose unreasonable impediments to the management of low-level waste within the region. Nor may a host state or a subdivision impose any restrictive requirements on the siting or operation of a regional facility that, alone or as a whole, they serve as unreasonable barriers or prohibitions to the siting or operation of the facility.

(4) Each host state shall submit to the commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operation, and other information as may be required by the commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states

shall furnish information as may be required on the facilities still subject to their jurisdiction.

(5) A host state shall notify the commission immediately if any exigency arises which requires the permanent, temporary, or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the commission. The commission may conduct studies, hold hearings, or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

C. 32:31-5 The commission.

ARTICLE IV. THE COMMISSION

a. There is created the Northeast Interstate Low-Level Radioactive Waste Commission. The commission shall consist of one member from each party state to be appointed by the Governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional facility. The Governor shall notify the commission in writing of the identity of the member and one alternate, who may act on behalf of the member only in the member's absence.

b. Each commission member shall be entitled to one vote. No action of the commission shall be binding unless a majority of the total membership cast their vote in the affirmative.

c. The commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The commission shall adopt and publish, in convenient form, rules and regulations as are necessary for due process in the performance of its duties and powers under this compact.

d. The commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member.

e. All meetings of the commission shall be open to the public with reasonable prior public notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer.

f. The commission may establish such committees as it deems necessary.

g. The commission may appoint, contract for, and compensate limited staff as it determines necessary to carry out its duties and

functions. The staff shall serve at the commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the commission.

h. The commission shall adopt an annual budget for its operations.

i. The commission shall have the following duties and powers:

(1) The commission shall receive and act on the application of a nonparty state to become an eligible state in accordance with Article VII e.

(2) The commission shall receive and act on the application of an eligible state to become a party state in accordance with Article VII b.

(3) The commission shall submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislatures of the party states regarding the activities of the commission.

(4) Upon request of party states, the commission shall mediate disputes which arise between the party states regarding this compact.

(5) The commission shall develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to Article V.

(6) The commission may conduct legislative or adjudicatory hearings, and require reports, studies, evidence and testimony as are necessary to perform its duties and functions.

(7) The commission shall establish by regulation, after public notice and opportunity for comment, procedural regulations as deemed necessary to ensure efficient operation, the orderly gathering of information, and the protection of the rights of due process of affected persons.

(8) In accordance with the procedures and criteria set forth in Article V, the commission shall accept a host state's proposed facility as a regional facility.

(9) In accordance with the procedures and criteria set forth in Article V, the commission may designate, by a two-thirds vote, host states for the establishment of needed regional facilities. The commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of these facilities.

(10) The commission may require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary for the implementation of commission responsibilities.

(11) The commission may enter into agreements with any person, state, regional body, or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. This authorization to import requires a two-thirds majority vote of the commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. This shall be done only after the commission and the host state have made an assessment of the affected facilities' capability to handle these wastes and of relevant environmental, economic, and public health factors, as defined by the appropriate regulatory authorities.

(12) The commission may, upon petition, grant an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. A grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the commission and approved by the affected host states.

(13) The commission may appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes. The authority to intervene or otherwise appear shall be exercised only after a two-thirds vote of the commission. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence or other participation as it deems necessary.

(14) The commission may impose sanctions, including, but not limited to, fines, suspension of privileges or revocation of the membership of a party state in accordance with Article VII. The commission shall have the authority to revoke, in accordance with Article VII g., the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the commission.

(15) The commission shall establish by regulation criteria for and shall review the fee and surcharge systems in accordance with Articles V and IX.

(16) The commission shall review the capability of party states to ensure the siting, operation, post-closure observation and maintenance, and institutional control of any facility within its borders.

(17) The commission shall review the compact legislation every five years prior to federal congressional review provided for in the act, and may recommend legislative action.

(18) The commission has the authority to develop and provide to party states rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.

j. There is hereby established a commission operating account. The commission is authorized to expend moneys from the account for the expenses of any staff and consultants designated under section g. of this article and for official commission business. Financial support for the commission account shall be provided as follows:

(1) Each eligible state, upon becoming a party state, shall pay $70,000.00 to the commission, which shall be used for administrative costs of the commission.

(2) The commission shall impose a "commission surcharge" per unit of waste received at any regional facility as provided in Article V.

(3) Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under paragraphs (1) and (2) of this section are unavailable or insufficient to cover the approved annual budget of the commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

(a) 20% in equal shares;

(b) 30% in the proportion that the population of the party state bears to the total population of all party states, according to the most recent United States census;

(c) 50% in the proportion that the waste generated for management in each party state bears to the total waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the commission.

k. The commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant

shall annually audit all receipts and disbursements of commission accounts and funds and submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by Article IV i. (3).

l. The commission may accept, receive, utilize and dispose for any of its purposes and functions any donations, loans, grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation, loan, or grant accepted pursuant to this paragraph, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the commission. The commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services. This shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the commission.

m. The commission herein established is a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the commission shall not be deemed liabilities of the party states, nor shall members of the commission be personally liable for action taken by them in their official capacity.

(1) The commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, post-closure observation and maintenance, and institutional control of any regional facility, or any associated regulatory activities of the party states.

(2) Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission, or course of conduct. Generators, shippers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

n. The United States district court in the District of Columbia shall have original jurisdiction of all actions brought by or against the commission. Any such action initiated in a state court shall be removed to the designated United States district court in the manner provided by Act of June 25, 1948 as amended (28 U. S. C. § 1446). This section shall not alter the jurisdiction of the United

States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the commission as set forth in the paragraph below.

o. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the commission.

(1) Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 60 days after the commission's final decision.

(2) In the event that review is sought of the commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the court does not rule within 90 days after a petition for review has been filed, the commission's decision shall be deemed to be affirmed.

(3) The courts shall not substitute their judgment for that of the commission as to the decisions of policy or weight of the evidence on questions of fact. The court may affirm the decision of the commission or remand the case for further proceedings if it finds that the petitioner has been aggrieved because the findings, inferences, conclusions or decisions of the commission are:

(a) In violation of the Constitution of the United States;

(b) In excess of the authority granted to the commission by this compact;

(c) Made upon unlawful procedure to the detriment of any person;

(d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(4) The commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

C. 32:31-6 Host state selection and development and operation of regional facilities.

ARTICLE V. HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

a. The commission shall develop, adopt, maintain, and implement a regional management plan to ensure the safe and efficient management of waste within the region. The plan shall include the following:

(1) A current inventory of all generators within the region;

(2) A current inventory of all facilities within the region, including information on the size, capacity, location, specific waste being handled, and projected useful life of each facility;

(3) Consistent with considerations for public health and safety as defined by appropriate regulatory authorities, a determination of the type and number of regional facilities which are presently necessary and projected to be necessary to manage waste generated within the region;

(4) Reference guidelines, as defined by appropriate regulatory authorities, for the party states for establishing the criteria and procedures to evaluate locations for regional facilities.

b. The commission shall develop and adopt criteria and procedures for reviewing a party state which volunteers to host a regional facility within its borders. These criteria shall be developed with public notice and shall include the following factors: the capability of the volunteering party state to host a regional facility in a timely manner and to ensure its post-closure observation and maintenance, and institutional control; and the anticipated economic feasibility of the proposed facility.

(1) Any party state may volunteer to host a regional facility within its borders. The commission may set terms and conditions to encourage a party state to volunteer to be the first host state.

(2) Consistent with the review required above, the commission shall, upon a two-thirds affirmative vote, designate a volunteering party state to serve as a host state.

c. If all regional facilities required by the regional management plan are not developed pursuant to section b., or upon notification that an existing facility will be closed, or upon determination that an additional regional facility is or may be required, the commission shall convene to consider designation of a host state.

(1) The commission shall develop and adopt procedures for designating a party state to be a host state for a regional facility. The commission shall base its decision on the following criteria:

(a) the health, safety and welfare of citizens of the party states as defined by the appropriate regulatory authorities;

(b) the environmental, economic, and social effects of a regional facility on the party states;

The commission shall also base its decision on the following criteria:

(c) economic benefits and costs;

(d) the volumes and types of waste generated within each party state;

(e) the minimization of waste transportation; and

(f) the existence of regional facilities within the party states.

(2) Following its established criteria and procedures, the commission shall designate by a two-thirds affirmative vote a party state to serve as a host state. A current host state shall have the right of first refusal for a succeeding regional facility.

(3) The commission shall conduct such hearings and studies, and take such evidence and testimony as is required by its approved procedures prior to designating a host state. Public hearings shall be held upon request in each candidate host state prior to final evaluation and selection.

(4) A party state which has been designated as a host state by the commission and which fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the commission.

d. Each host state shall be responsible for the timely identification of a site and the timely development and operation of a regional facility. The proposed facility shall meet geologic, environmental and economic criteria which shall not conflict with applicable federal and host state laws and regulations.

(1) To the extent not prohibited by federal law, a host state may regulate and license any facility within its borders.

(2) To the extent not prohibited by federal law, a host state shall ensure the safe operation, closure, post-closure observation and maintenance, and institutional control of a facility, including adequate financial assurances by the operator and adequate emergency response procedures. It shall periodically review and report to the commission on the status of the post-closure and institutional control funds and the remaining useful life of the facility.

(3) A host state shall solicit comments from each party state and the commission regarding the siting, operation, financial assurances, closure, post-closure observation and maintenance, and institutional control of a regional facility.

e. A host state intending to close a regional facility within its borders shall notify the commission in writing of its intention and the reasons therefor.

(1) Except as otherwise provided, notification shall be given to the commission at least five years prior to the scheduled date of closure.

(2) A host state may close a regional facility within its borders in the event of an emergency or if a condition exists which constitutes a substantial threat to public health and safety. A host state shall notify the commission in writing within three days of its action and shall, within 30 working days, show justification for the closing.

(3) In the event that a regional facility closes before an additional or new facility becomes operational, the commission shall make interim arrangements for the storage or disposal of waste generated within the region until such time that a new regional facility is operational.

f. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the commission.

(1) A host state shall, according to its lawful administrative procedures, approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, the fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, institutional control of the regional facility. The host state shall determine a schedule for contributions to the post-closure observation and maintenance, and institutional control funds. The fee schedules shall not be approved unless the commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules.

(2) A host state may, according to its lawful administrative procedures, impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for waste management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge.

(3) The commission shall impose a commission surcharge per unit of waste received at any regional facility. The total moneys collected shall be adequate to pay the costs and expenses of the commission and shall be remitted to the commission on a timely basis as determined by the commission. The surcharge may be increased or decreased as the commission deems necessary.

(4) Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited to, host community compensation and host community development incentives. The surcharges shall be reasonable and shall not be imposed unless the commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharges. A surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.

C. 32:31-7 Other laws and regulations.

ARTICLE VI. OTHER LAWS AND REGULATIONS

a. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the United States Nuclear Regulatory Commission or of an Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended.

b. The laws or portions of those laws of a party state that are not inconsistent with this compact remain in full force.

c. Nothing in this compact shall make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective.

d. No judicial or administrative proceeding pending on the effective date of the compact shall be affected by the compact.

e. Except as provided for in Article III b. (2) and c. (3), this compact shall not affect the relations between and the respective internal responsibilities of the government of a party state and its subdivisions.

f. The generation, treatment, storage, transportation, or disposal of waste generated by the atomic energy defense activities of the federal government as defined in Pub. L. 96-573, or federal research and development activities are not affected by this compact.

g. To the extent that the rights and powers of any state or political subdivision to license and regulate any facility within its borders and to impose taxes, fees, and surcharges on the waste managed at that regional facility do not operate as an unreasonable impediment to the transportation, treatment or disposal of waste, the rights and powers shall not be diminished by this compact.

h. No party state shall enact any law or regulation or attempt to enforce any measure which is inconsistent with this compact. These measures may provide the basis for the commission to suspend or

terminate a party state's membership and privileges under this compact.

i. All laws and regulations, or parts thereof of any party state or subdivision or instrumentality thereof which are inconsistent with this compact are repealed and declared void. Any legal right, obligation, violation or penalty arising under these laws or regulations prior to the enactment of this compact, or not in conflict with it, shall not be affected.

j. Subject to Article III c. (2), no law or regulation of a party state or subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

k. No law, ordinance, or regulation of any party state or any subdivision or instrumentality thereof shall prohibit, suspend, or unreasonably delay, limit or restrict the operation of a siting or licensing agency in the designation, siting, or licensing of a regional facility. Any such provision in existence at the time of ratification of this compact is repealed.

C. 32:31-8 Eligible parties, withdrawal, revocation, entry into force, termination.

ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

a. The initially eligible parties to this compact shall be the 11 states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Initial eligibility will expire June 30, 1984.

b. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to host a regional facility in a timely manner, and upon payment of the fees required by Article IV j. (1). An eligible state may become a party to this compact by an executive order by the governor of the state and upon payment of the fees required by Article IV j. (1). However, any state which becomes a party state by executive order shall cease to be a party state upon the final adjournment of the next general or regular session of its legislature, unless this compact has by then been enacted as a statute by the state and all statutes and statutory provisions that conflict with the compact have been repealed.

c. The compact shall become effective in a party state upon enactment by that state. It shall not become initially effective in

the region until enacted into law by three party states and consent given to it by the Congress.

d. The first three states eligible to become party states to this compact which adopt this compact into law as required in Article VII b. shall immediately, upon the appointment of their commission members, constitute themselves as the Northeast Interstate Low-Level Radioactive Waste Commission. They shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the commission and implement the provisions of this compact.

(1) The commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and of the laws of the party states relating to the enactment of this compact.

(2) All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section b. of this article.

e. Any state not expressly declared eligible to become a party state to this compact in section a. of this article may petition the commission to be declared eligible. The commission may establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact pursuant to the provisions of this section, including a public hearing on the application. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the commission, including the affirmative vote of the representatives of the host states in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in section a. of this article.

f. No state holding membership in any other regional compact for the management of low-level radioactive waste may become a member of this compact.

g. Any party state which fails to comply with the provisions of this compact or to fulfill its obligations hereunder may have its privileges suspended or, upon a two-thirds vote of the commission, after full opportunity for hearing and comment, have its membership in the compact revoked. Revocation shall take effect one year from the date the affected party state receives written notice from the commission of its action. All legal rights of the affected party state established under this compact shall cease upon the effective

date of revocation, except that any legal obligations of that party state arising prior to revocation will not cease until they have been fulfilled. As soon as practicable after a commission decision suspending or revoking party state status, the commission shall provide written notice of the action and a copy of the resolution to the governors and the presiding officer of each body of the state legislatures of the party states, and to chairmen of the appropriate committees of the Congress.

h. Any party state may withdraw from this compact by repealing its authorization legislation, and all legal rights under this compact of the party state cease upon repeal. However, no withdrawal shall take effect until five years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the commission and to the governor of each party state. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to that time.

(1) Upon receipt of the notification, the commission shall, as soon as practicable, provide copies to the governors and the presiding officer of each body of the state legislatures of the party states, and to the chairmen of the appropriate committees of the Congress.

(2) A regional facility in a withdrawing state shall remain available to the region for five years after the date the commission receives written notification of the intent to withdraw or until the prescheduled date of closure, whichever occurs first.

i. This compact may be terminated only by the affirmative action of the Congress or by the repeal of all laws enacting the compact in each party state. The Congress may by law withdraw its consent every five years after the compact takes effect.

(1) The consent given to this compact by the Congress shall extend to any future admission of new party states under sections b. and e. of this article.

(2) The withdrawal of a party state from this compact under section h. or the revocation of a state's membership in this compact under section g. of this article shall not affect the applicability of the compact to the remaining party states.

C. 32:31-9 Penalties.

ARTICLE VIII. PENALTIES

a. Each party state, consistent with federal and host state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact

in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right of access to the facility in the host state.

b. Without the express approval of the commission, it shall be unlawful for any person to dispose of any low-level waste within the region except at a regional facility; provided, however, that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.

c. Unless specifically approved by the commission and affected host state(s) pursuant to Article IV, it shall be a violation of this compact for: (1) any person to deposit at a regional facility waste not generated within the region; (2) any regional facility to accept waste not generated within the region; and (3) any person to export from the region waste generated within the region.

d. Primary responsibility for enforcing the provisions of the law will rest with the affected state or states. The commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in Article IV.

C. 32:31-10 Compensation provisions.

ARTICLE IX. COMPENSATION PROVISIONS

a. The responsibility for ensuring compensation and clean-up during the operational and post-closure periods rests with the host state, as set forth herein.

(1) The host state shall ensure the availability of funds and procedures for compensation of injured persons, including facility employees, and property damage, except any possible claims for diminution of property values, due to the existence and operation of a regional facility, and for clean-up and restoration of the facility and surrounding areas.

(2) The state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this article alters the liability of any person or governmental entity under applicable state and federal laws.

b. The commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance, or other means.

(1) The commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulations; to contract with this company or other entity for coverage; or to take any other measures, or combination of measures, to implement the goals of this section.

(2) The existence of this fund or other means of compensation shall not imply any liability by the commission, the non-host party states, or any of their officials and staff, which are exempted from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company, or other entity, unless the commission, by regulation, directs otherwise.

c. Notwithstanding any other provisions, the commission fund, insurance, or other means of compensation shall also be available for third party relief during the operational and post-closure periods, as the commission may direct, but only to the extent that no other funds, insurance, tort compensation, or other means are available from the host state or other entities, under section a. of this Article or otherwise; provided, that this commission contribution shall not apply to clean-up or restoration of the regional facility and its environs during the operational and post-closure periods.

d. The liability of the commission's fund, insurance entity, or any other means of compensation shall be limited to the amount currently contained therein; provided that the commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

C. 32:31-11 Severability and construction.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution of the United States or the applicability thereof to

any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

3. There is appropriated from the General Fund to the Northeast Interstate Low-Level Radioactive Waste Commission created in Article IV of the Northeast Interstate Low-Level Radioactive Waste Management Compact, as set forth in section 2 of this act, the sum of $70,000.00, to fulfill New Jersey's obligation as a party state for the initial administrative costs of the commission pursuant to Article IV, section j., paragraph (1) of that compact.

4. This act shall take effect immediately, but shall remain inoperative until the Northeast Interstate Low-Level Waste Management Compact is enacted and entered into by at least two other jurisdictions.

Approved September 1, 1983.

CHAPTER 330

AN ACT concerning the proper closure of certain industrial establishments, providing penalties for improper closure of these establishments, amending P. L. 1976, c. 141, supplementing Title 13 of the Revised Statutes, and making an appropriation.

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

C. 13:1K-6 Short title.

1. This act shall be known and may be cited as the "Environmental Cleanup Responsibility Act."

C. 13:1K-7 Findings, declarations.

2. The Legislature finds and declares that the generation, handling, storage and disposal of hazardous substances and wastes pose an inherent danger of exposing the citizens, property and natural resources of this State to substantial risk of harm or degradation; that the closing of operations and the transfer of real property utilized for the generation, handling, storage and disposal of hazardous substances and wastes should be conducted

in a rational and orderly way, so as to mitigate potential risks; and that it is necessary to impose a precondition on any closure or transfer of these operations by requiring the adequate preparation and implementation of acceptable cleanup procedures therefor.

C. 13:1K-8 Definitions.

3. As used in this act:

a. "Cleanup plan" means a plan for the cleanup of industrial establishments, approved by the department, which may include a description of the locations, types and quantities of hazardous substances and wastes that will remain on the premises; a description of the types and locations of storage vessels, surface impoundments, or secured landfills containing hazardous substances and wastes; recommendations regarding the most practicable method of cleanup; and a cost estimate of the cleanup plan.

The department, upon a finding that the evaluation of a site for cleanup purposes necessitates additional information, may require graphic and narrative descriptions of geographic and hydrogeologic characteristics of the industrial establishment and evaluation of all residual soil, groundwater, and surface water contamination;

b. "Closing, terminating or transferring operations" means the cessation of all operations which involve the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of hazardous substances and wastes, or any temporary cessation for a period of not less than two years, or any other transaction or proceeding through which an industrial establishment becomes nonoperational for health or safety reasons or undergoes change in ownership, except for corporate reorganization not substantially affecting the ownership of the industrial establishment, including but not limited to sale of stock in the form of a statutory merger or consolidation, sale of the controlling share of the assets, the conveyance of the real property, dissolution of corporate identity, financial reorganization and initiation of bankruptcy proceedings;

c. "Department" means the Department of Environmental Protection;

d. "Hazardous substances" means those elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the Environmental Protection Agency pursuant to Section 311 of the "Federal

Water Pollution Control Act Amendments of 1972" (33 U. S. C. § 1321) and the list of toxic pollutants designated by Congress or the Environmental Protection Agency pursuant to Section 307 of that act (33 U. S. C. § 1317); except that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of this act;

e. "Hazardous waste" means any amount of any waste substances required to be reported to the Department of Environmental Protection on the special waste manifest pursuant to N. J. A. C. 7:26–7.4, or as otherwise provided by law;

f. "Industrial establishment" means any place of business engaged in operations which involve the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances or wastes on-site, above or below ground, having a Standard Industrial Classification number within 22–39 inclusive, 46–49 inclusive, 51 or 76 as designated in the Standard Industrial Classifications Manual prepared by the Office of Management and Budget in the Executive Office of the President of the United States. Those facilities or parts of facilities subject to operational closure and post-closure maintenance requirements pursuant to the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E–1 et seq.), the "Major Hazardous Waste Facilities Siting Act," P. L. 1981, c. 279 (C. 13:1E–49 et seq.) or the "Solid Waste Disposal Act" (42 U. S. C. § 6901 et seq.), or any establishment engaged in the production or distribution of agricultural commodities, shall not be considered industrial establishments for the purposes of this act. The department may, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), exempt certain sub-groups or classes of operations within those sub-groups within the Standard Industrial Classification major group numbers listed in this subsection upon a finding that the operation of the industrial establishment does not pose a risk to public health and safety;

g. "Negative declaration" means a written declaration, submitted by an industrial establishment and approved by the department, that there has been no discharge of hazardous substances or wastes on the site, or that any such discharge has been cleaned up in accordance with procedures approved by the department, and there remain no hazardous substances or wastes at the site of the industrial establishment.

C. 13:1K-9 Closing, transfer procedures.

4. a. The owner or operator of an industrial establishment planning to close operations shall:

(1) Notify the department in writing, no more than five days subsequent to public release, of its decision to close operations;

(2) Upon closing operations, or 60 days subsequent to public release of its decision to close or transfer operations, whichever is later, the owner or operator shall submit a negative declaration or a copy of a cleanup plan to the department for approval and a surety bond or other financial security for approval by the department guaranteeing performance of the cleanup in an amount equal to the cost estimate for the cleanup plan.

b. The owner or operator of an industrial establishment planning to sell or transfer operations shall:

(1) Notify the department in writing within five days of the execution of an agreement of sale or any option to purchase;

(2) Submit within 60 days prior to transfer of title a negative declaration to the department for approval, or within 60 days prior to transfer of title, attach a copy of any cleanup plan to the contract or agreement of sale or any option to purchase which may be entered into with respect to the transfer of operations. In the event that any sale or transfer agreements or options have been executed prior to the submission of the plan to the department, the cleanup plan shall be transmitted, by certified mail, prior to the transfer of operations, to all parties to any transaction concerning the transfer of operations, including purchasers, bankruptcy trustees, mortgagees, sureties, and financers;

(3) Obtain, upon approval of the cleanup plan by the department, a surety bond or other financial security approved by the department guaranteeing performance of the cleanup plan in an amount equal to the cost estimate for the cleanup plan.

c. The cleanup plan and detoxification of the site shall be implemented by the owner or operator, provided that the purchaser, transferee, mortgagee or other party to the transfer may assume that responsibility pursuant to the provisions of this act.

C. 13:1K-10 Rules, regulations.

5. a. The department shall, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), adopt rules and regulations establishing: minimum standards for soil, groundwater and surface water quality necessary for the detoxification of the site of an industrial establishment, including build-

ings and equipment, to ensure that the potential for harm to public health and safety is minimized to the maximum extent practicable, taking into consideration the location of the site and surrounding ambient conditions; criteria necessary for the evaluation and approval of cleanup plans; a fee schedule, as necessary, reflecting the actual costs associated with the review of negative declarations and cleanup plans; and any other provisions or procedures necessary to implement this act. Until the minimum standards described herein are adopted, the department shall review, approve or disapprove negative declarations and cleanup plans on a case by case basis.

b. The department shall, within 45 days of submission, approve the negative declaration, or inform the industrial establishment that a cleanup plan shall be submitted.

c. The department shall, in accordance with the schedule contained in an approved cleanup plan, inspect the premises to determine conformance with the minimum standards for soil, groundwater and surface water quality and shall certify that the cleanup plan has been executed and that the site has been detoxified.

C. 13:1K-11 Transfer of industrial establishment.

6. a. The provisions of any law, rule or regulation to the contrary notwithstanding, the transferring of an industrial establishment is contingent on the implementation of the provisions of this act.

b. If the premises of the industrial establishment would be subject to substantially the same use by the purchaser, transferee, mortgagee or other party to the transfer, and upon written certification thereto and approval by the department thereof, the implementation of a cleanup plan and the detoxification of the site may be deferred until the use changes or until the purchaser, transferee, mortgagee or other party to the transfer closes, terminates or transfers operations.

(1) Within 60 days of receiving notice of the sale or realty transfer and the certification that the industrial establishment would be subject to substantially the same use, the department shall approve, conditionally approve, or deny the certification.

(2) Upon approval of the certification, the implementation of a cleanup plan and detoxification of the site shall be deferred.

(3) Upon denial of the certification, the cleanup plan and detoxification of the site shall be implemented pursuant to the provisions of this act.

c. The authority to defer implementation of the cleanup plan set forth in subsection b. of this section shall not be construed to limit, restrict, or prohibit the department from directing site cleanup under any other statute, rule, or regulation, but shall be solely applicable to the obligations of the owner or operator of an industrial establishment, pursuant to the provisions of this act, nor shall any other provisions of this act be construed to limit, restrict, or prohibit the department from directing site cleanup under any other statute, rule, or regulation.

C. 13:1K-12 No bankruptcy discharge.

7. No obligations imposed by this act shall constitute a lien or claim which may be limited or discharged in a bankruptcy proceeding. All obligations imposed by this act shall constitute continuing regulatory obligations imposed by the State.

C. 13:1K-13 Grounds for voiding sale; violations; penalties.

8. a. Failure of the transferor to comply with any of the provisions of this act is grounds for voiding the sale or transfer of an industrial establishment or any real property utilized in connection therewith by the transferee, entitles the transferee to recover damages from the transferor, and renders the owner or operator of the industrial establishment strictly liable, without regard to fault, for all cleanup and removal costs and for all direct and indirect damages resulting from the failure to implement the cleanup plan.

b. Failure to submit a negative declaration, or cleanup plan pursuant to the provisions of section 4 of this act is grounds for voiding the sale by the department.

c. Any person who knowingly gives or causes to be given any false information or who fails to comply with the provisions of this act is liable for a penalty of not more than $25,000.00 for each offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional and separate offense. Penalties shall be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). Any officer or management official of an industrial establishment who knowingly directs or authorizes the violation of any provisions of this act shall be personally liable for the penalties established in this subsection.

9. Section 16 of P. L. 1976, c. 141 (C. 58:10–23.11o) is amended to read as follows:

New Jersey State Library

C. 58:10-23.11o Spill Compensation Fund purposes.

16. Moneys in the New Jersey Spill Compensation Fund shall be disbursed by the administrator for the following purposes and no others:

(1) Costs incurred under section 7 of this act;

(2) Damages as defined in section 8 of this act;

(3) Such sums as may be necessary for research on the prevention and the effects of spills of hazardous substances on the marine environment and on the development of improved cleanup and removal operations as may be appropriated by the Legislature; provided, however, that such sums shall not exceed the amount of interest which is credited to the fund;

(4) Such sums as may be necessary for the boards, general administration of the fund, equipment and personnel costs of the department and any other State agency related to the enforcement of this act as may be appropriated by the Legislature;

(5) Such sums as may be appropriated by the Legislature for research and demonstration programs concerning the causes and abatement of ocean pollution; provided, however, that such sums shall not exceed the amount of interest which is credited to the fund;

(6) Such sums as may be requested by the commissioner, up to a limit of $400,000.00 per year, to cover the costs associated with the administration of the "Environmental Cleanup Responsibility Act," P. L. 1983, c. 330 (C. 13:1K–6 et seq.).

The Treasurer may invest and reinvest any moneys in said fund in legal obligations of the United States, this State or any of its political subdivisions. Any income or interest derived from such investment shall be included in the fund.

10. There is appropriated to the Department of Environmental Protection from the New Jersey Spill Compensation Fund created pursuant to P. L. 1976, c. 141 (C. 58:10–23.11 et seq.) the sum of $400,000.00.

11. This act shall take effect immediately but shall remain inoperative for 120 days, but the department may take anticipatory action by developing regulations prior to the effective date of this act.

Approved September 2, 1983.

CHAPTER 331

AN ACT to amend the "Local Public Contracts Law," approved June 9, 1971 (P. L. 1971, c. 198).

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

1. Section 2 of P. L. 1971, c. 198 (C. 40A:11–2) is amended to read as follows:

C. 40A:11-2 Definitions.

2. Definitions. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts or agreements for the performance of any work or the furnishing or hiring of any materials or supplies usually required, the cost or contract price of which is to be paid with or out of public funds.

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1) (c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or any board, commission, committee, officer, department, branch or agency which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted

by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" is a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) "Materials" includes goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus, or any other tangible thing, except real property or any interest therein.

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) "Project" means any work, undertaking, program, activity, development, redevelopment, construction or reconstruction of any area or areas.

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker—home health services" means at home personal care and home management provided to an individual or members of his family who reside with him, or both, necessitated by the individual's illness or incapacity. "Homemaker—home health services" includes, but is not limited to, the services of a trained homemaker.

2. Section 5 of P. L. 1971, c. 198 (C. 40A:11–5) is amended to read as follows:

C. 40A:11-5 Exceptions.

5. Exceptions. Any purchase, contract or agreement of the character described in section 4 of this act may be made, negotiated or awarded by the governing body without public advertising for bids and bidding therefor if

(1) The subject matter thereof consists of

(a) (i) Professional services. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in a newspaper authorized by law to publish its legal advertisements, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the clerk of the county or municipality, or, in the case of a contracting unit created by more than one county or municipality, of the counties or municipalities creating such contracting unit; or (ii) Extraordinary unspecifiable services. The application of this exception shall be construed narrowly in favor of open competitive bidding, where possible, and the Division of Local Government Services is authorized to adopt and promulgate rules and regulations limiting the use of this exception in accordance with the intention herein expressed. The governing body shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed, in the manner set forth in subsection (1) (a) (i) of this section, a brief notice of the award of such contract;

(b) The doing of any work by employees of the contracting unit;

(c) The printing of legal briefs, records and appendices to be used in any legal proceeding in which the contracting party may be a party;

(d) The furnishing of a tax map or maps for the contracting party;

(e) The purchase of perishable foods as a subsistence supply;

(f) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged or exacted, filed with said board;

(g) The acquisition, subject to prior approval of the Attorney General, of special equipment for confidential investigation;

(h) The printing of bonds and documents necessary to the issuance and sale thereof by a contracting unit;

(i) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such service, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(j) The publishing of legal notices in newspapers as required by law;

(k) The acquisition of artifacts or other items of unique intrinsic, artistic or historical character;

(l) Election expenses;

(m) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(n) The doing of any work by handicapped persons employed by a sheltered workshop;

(o) The provision of any service or the furnishing of materials including those of a commercial nature, attendant upon the operation of a restaurant by any nonprofit, duly incorporated, historical society at or on any historical preservation site; or

(p) Homemaker—home health services performed by voluntary, nonprofit agencies.

(2) It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency or authority thereof and any other state or subdivision thereof.

(3) The contracting agent has advertised for bids pursuant to section 4 on two occasions and (a) has received no bids on both occasions in response to its advertisement, or (b) the governing body has rejected such bids on two occasions because the contracting agent has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the contracting agent prior to the advertising therefor, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract or agreement may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body authorizing such contract or agreement; provided, however, that:

(i) A reasonable effort is first made by the contracting agent to determine that the same or equivalent materials or supplies, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the contracting unit is located, or any municipality in close proximity to the contracting unit;

(ii) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not

substantially different from those which were the subject of competitive bidding pursuant to section 4 of this act; and

(iii) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of this act, shall be stated in the resolution awarding such contract or agreement;

provided, further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the contracting agent shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each such bidder a reasonable opportunity to negotiate, but the governing body shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible supplier, and is a reasonable price for such work, materials, supplies or services.

Whenever a contracting unit shall determine that a bid was not arrived at independently in open competition pursuant to subsection (3) of this section it shall thereupon notify the county prosecutor of the county in which the contracting unit is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

3. This act shall take effect immediately.

Approved September 2, 1983.

CHAPTER 332

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. There is appropriated from the General Fund the following additional amount for the purpose specified:

DIRECT STATE SERVICES

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Community Development and Environmental Management

44 Hazardous and Toxic Pollution Control

19-4815	Spill Prevention, Response and Site Cleanup	$250,000

Special Purpose:

To finance the emergency management and emergency cleanup of hazardous substances at the Research Organic/Inorganic Chemical Corporation site in Belleville, New Jersey ..... ($250,000)

2. The monies appropriated pursuant to section 1 of this act shall be repaid to the General Fund from the New Jersey Spill Compensation Fund established under section 10 of the "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10–23.11i) or the Hazardous Discharge Bond Fund established under section 14 of the "Hazardous Discharge Bond Act," P. L. 1981, c. 275, to the extent that the management and cleanup of the hazardous substances at the Research Organic/Inorganic Chemical Corporation are eligible for financial support from either of these two funds.

3. This act shall take effect immediately.

Approved September 2, 1983.

CHAPTER 333

AN ACT establishing a Commission to Deter Criminal Activity to advertise the recently enacted mandatory and extended sentence requirement for those convicted of the commission of certain crimes while in possession of a firearm and other criminal statutes.

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

C. 52:17B-151 Short title.

1. This act shall be known as the "Act to Deter Criminal Activity."

C. 52:17B-152 Commission to Deter Criminal Activity.

2. There is hereby established in the Department of Law and Public Safety the New Jersey Commission to Deter Criminal Activity. The commission shall consist of 19 members:

a. Two members of the New Jersey State Senate who are not representatives of the same political party, appointed by the President of the Senate;

b. Two members of the New Jersey General Assembly who are not representatives of the same political party, appointed by the Speaker of the General Assembly;

c. The State Attorney General or his designee;

d. The President of the New Jersey Police Benevolent Association or if he shall refuse to serve, fail to qualify, or become disqualified, a public member appointed by the Governor;

e. The President of the State Prosecutors' Association or if he shall refuse to serve, fail to qualify, or become disqualified, a public member appointed by the Governor; and

f. Twelve public or governmental official members appointed by the Governor. All members shall serve without compensation but may be reimbursed for reasonable expenditures incurred during the performance of their duties for the commission.

C. 52:17B-153 Terms of members.

3. The legislative members, Attorney General, Police Benevolent Association President, and Prosecutors' Association President shall serve for terms contiguous with their elective or appointive terms. The other members shall be appointed for terms of three (3) years and shall serve until the appointment of their successors except for the initial terms which shall be staggered terms of one, two, and three years respectively as determined by the Governor. Vacancies shall be filled for unexpired terms only.

C. 52:17B-154 Meetings.

4. The commission shall meet at least four (4) times per annum and the first such meeting shall be held within ninety days of enactment.

C. 52:17B-155 Chairman.

5. The chairman shall be designated by the Governor from among the members of the commission.

C. 52:17B-156 Powers.

6. The commission shall be empowered to:

a. Solicit and receive gifts, bequests, donations and grant aid from any source whatsoever. These funds shall be used for the purpose of educating the general public in New Jersey regarding the State's criminal statutes and the consequences of committing acts in the State. Such contributions, gifts, bequests, donations, or grant aid shall be used exclusively for public purposes;

b. Advertise the consequences of participating in criminal activity in any media the commission deems appropriate, including but not limited to television, radio, newspaper, billboards, or printed material;

c. Educate the general public in New Jersey regarding the State's criminal statutes and the consequences of committing criminal acts in the State. The commission shall educate the general public regarding the State's mandatory sentencing laws, and particularly the mandatory sentencing law providing mandatory and extended terms of imprisonment for persons convicted of committing certain crimes while in possession of a firearm;

d. Enter into such contracts with a person upon such terms and conditions as the commission shall determine to be reasonable, employ such staff and do any and all things the commission deems necessary, to carry out the purposes and to exercise the powers given and granted in this act;

e. Establish a nonprofit, charitable, educational corporation under the laws of the State of New Jersey which shall be empowered to exercise the powers given and granted to the commission in the preceding subsections of this section to carry out the purposes of this act. Any such nonprofit corporation established by the commission shall be organized and operated exclusively for educational or other charitable purposes; no part of the net earnings of which shall inure to the benefit of any private shareholder or individual upon the liquidation or dissolution of the corporation for any cause whatsoever, neither the property of the corporation nor any right therein shall inure to the benefit of any of the directors, officers, or any other private individual but all property or rights therein, or the proceeds thereof, shall be fully disposed of by the board of directors to such one or more organizations which then qualify as organizations described in section 501 (c) (3) of the Internal Revenue Code of 1954 or the corresponding provisions of any subsequent law or to a governmental unit as the board of directors may select; no substantial part of the activities of which shall be carrying on

propaganda, or otherwise attempting to influence legislation; and any such nonprofit corporation established hereunder shall 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. 52:17B-157 Board of directors.

7. The commission shall appoint from its class of members appointed pursuant to subsection 2f. herein, the board of directors of any nonprofit corporation established by the commission pursuant to subsection 6e. of this act. All members of the board of directors shall serve without compensation but may be reimbursed for reasonable expenditures incurred during the performance of their duties for the corporation.

8. There is hereby appropriated $75,000.00 from General State Revenues for the general use of the commission and $250,000.00 to be allocated as provided in section 9 of this act.

9. The $250,000.00 appropriated to the commission in section 8 of this act shall be allocated to the commission in an amount equivalent to funds donated to the commission or to any nonprofit corporation established by the commission pursuant to subsection 6e. of this act, in the aggregate from nongovernmental sources. The cumulative State appropriation matching donations to the commission or such nonprofit corporation from nongovernmental sources, in the aggregate, shall not exceed $250,000.00.

C. 52:17B-158 Mandatory sentencing.

10. A person who has been convicted of a crime shall be subject to the mandatory sentencing provisions of the New Jersey Statutes despite failure of the commission or any nonprofit corporation established by the commission pursuant to subsection 6e. of this act to adequately advertise the mandatory sentencing provisions thereof.

11. This act shall take effect immediately.

Approved September 2, 1983.

CHAPTER 334

AN ACT concerning harassment and amending N. J. S. 2C:33–4.

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

1. N. J. S. 2C:33–4 is amended to read as follows:

Harassment.

2C:33–4. Harassment. A person commits a petty disorderly persons offense if, with purpose to harass another, he:

a. Makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm;

b. Subjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so; or

c. Engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person.

A communication under subsection a. may be deemed to have been made either at the place where it originated or at the place where it was received.

2. This act shall take effect immediately.

Approved September 2, 1983.

CHAPTER 335

AN ACT authorizing municipalities to lease certain municipally owned structures to housing corporations and resident first-time homebuyers for the purpose of rehabilitating or converting those structures to housing for persons of low and moderate income, and to authorize eventual sale of the rehabilitated or converted structures to such lessees under certain circumstances, or for other disposition thereof; and supplementing Title 55 of the Revised Statutes.

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

C. 55:18-1 Definitions.

1. (New section) As used in this act:

a. "Dwelling unit" means a room or connected rooms within a residential structure forming a self-contained area within that structure and adapted to provide permanent living accommodations for a person or family, including the availability of heat, electricity, water and necessary equipment for the culinary and sanitary requirements of a household of a size for which it is intended.

b. "Resident first-time homebuyer" means a natural person, or the unit of husband and wife considered as joint tenants or tenants by the entirety, who is not and has never been the owner of, or holder of an ownership interest in, residential property in this State, exclusive of any interest as a stockholder or partner in a corporation or limited partnership, or as trustee for another person or persons; who enters or proposes to enter into a lease agreement with a municipality under the terms of this act; and who at the time of entering into such a lease is a bona fide resident of that municipality.

c. "Housing corporation" means any corporation formed under the provisions of Title 15 of the Revised Statutes, which by its certificate of incorporation as issued or amended is empowered to engage in the activity of developing, constructing and operating residential accommodations for persons of low and moderate income, or any private, limited-dividend or nonprofit housing corporation organized in accordance with the provisions of the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P. L. 1949, c. 184 (C. 55:16–1 et seq.).

d. "Nonresidential structure" means any building designed and built for use as a factory or warehouse, or for retail or wholesale merchandising, office, workshop, school, hospital, hotel, or any other commercial, industrial or institutional purpose; or which, having been designed and built for residential use, has been altered, converted or reconstructed for nonresidential use.

e. "Persons and families of low and moderate income" means persons and families whose income is insufficient, in relation to the current cost and condition of housing facilities available in the normal private-enterprise housing market, to secure safe, sanitary and decent housing adequate for the size of the family.

f. "Residential structure" means any building constructed or reconstructed, rehabilitated, converted or altered for the purpose

of providing dwelling units for the accommodation of nontransient tenants. A structure containing nonresidential space and facilities not exceeding 25% of its total rental value shall be "residential" within this definition.

C. 55:18-2 Lease by municipality.

2. (New section) When a municipality holds title to any lot, parcel, or tract of real property that includes a residential or nonresidential structure, if the municipal governing body determines that:

a. The structure if nonresidential cannot in the foreseeable future be put to economically feasible use in its intended purpose; or if residential, requires rehabilitation to provide safe, sanitary and decent housing accommodations; and

b. The property is not needed for public use by the municipality; and

c. Conversion of the nonresidential structure to a residential structure, or rehabilitation of the residential structure, would be practicable and would help to meet a need within the municipality for housing for persons of low to moderate income; then the municipal governing body may (1) lease the property and structure to a housing corporation or resident first-time homebuyer under terms requiring the lessee to undertake such rehabilitation or conversion and to maintain and operate the converted property for residential purposes in accordance with the provisions of this act and of the lease made under authority of this act and (2) subordinate the municipal interest in the property and structure to any mortgage provided pursuant to financing the rehabilitation or conversion of the structure.

C. 55:18-3 Financial capacity, experience of prospective lessee.

3. (New section) Before any lease is entered into under authority of this act the prospective lessee shall demonstrate to the satisfaction of the municipal governing body:

(1) Its financial capacity to undertake the proposed conversion, maintenance and operation, including reliable commitments for any financing reasonably required to meet its obligations under, and resulting from, the terms of the lease; and

(2) Its possession of adequate experience in, and qualification for, the management of projects of comparable type and magnitude, or firm agreements to acquire the same through contractual arrangements conditioned upon execution of the lease.

C. 55:18-4 Lease provisions.

4. (New section) A lease entered into under authority of this act shall specify:

a. The term of the lease and the conditions, if any, under which the lessee may be entitled to renewal thereof or to the exercise of an option to purchase the leased property upon expiration, or during the term, of the lease. Such option to purchase shall be nontransferable.

b. The annual rental to be paid to the municipality, and the manner of payment.

c. The date, or a series of dates, running from the date of execution of the lease, upon which the rehabilitation or conversion, or specified stages thereof, shall be completed.

d. The number and type of dwelling units to be provided in the rehabilitated or converted structure or structures, including the respective numbers of units to be provided for single occupancy and for families of varying sizes, together with the facilities to be provided in each unit, or in varying types and sizes of units, and in common areas or for common use of all tenants.

e. The schedule of rents to be charged for units of varying type, size and location, which schedule shall be subject to the provisions of section 6 of this act.

f. The interest on the fair market value of the property and structure, as determined at the time of execution of the lease to which interest the municipality shall be entitled upon purchase by the lessee pursuant to options, or on any terms provided for in the lease or by the terms of this act.

g. Any other terms and conditions not inconsistent with the provisions of this act, or of any other law, to which the lessor municipality and lessee may agree.

C. 55:18-5 Conformity to codes.

5. (New section) Every structure rehabilitated or converted by a lessee under authority of this act, and every dwelling unit in such structure, shall conform to all applicable codes relating to healthfulness, safety and structural soundness of comparable new construction in the municipality; except as the governing body may by ordinance grant modification of or exemption from applicable municipal codes or ordinances on reasonable grounds and without hazard to the health and safety of residents of the rehabilitated or converted structure.

C. 55:18-6 Schedule of rents.

6. (New section) a. A schedule of rents under subsection e. of section 4 of this act shall provide for total revenue sufficient to meet the necessary operating costs, debt service and other necessary commitments of the lessee over the entire term of the lease, including surcharges permitted under section 7 of this act; but shall not exceed amounts feasible for the accommodation of tenants of low and moderate income.

b. The schedule of rents may provide for adjustment of rents in accordance with income levels, family size, or extraordinary financial hardships of particular tenants, in order to assure adequate accommodation of the housing needs of persons of low and moderate income.

c. The schedule of rents shall not be altered during the term of the lease without consent of the lessor municipality, except as the lease may provide for automatic adjustments based on established operating costs; and the lease shall specify the manner in which such alterations may be from time to time proposed, negotiated, and allowed or disallowed.

C. 55:18-7 Option to purchase.

7. (New section) a. If at the time of execution of the lease the municipality offers the lessee an option to purchase the property during, or at the expiration of, the lease, and if the lessee records in the lease its intention to exercise the option, then in establishing a schedule of rents the lessee shall be entitled to include charges designed to accumulate over the period of the lease a fund which, including accrued interest during that period, is agreed upon by the municipality and the lessee to be probably sufficient to meet the lessee's cash requirements in connection with the purchase; provided, however, that the surcharge shall not increase rents to a level inconsistent with subsection a. of section 6 of this act.

b. Charges added to rents for this purpose shall be deposited in a financial institution qualified to exercise appropriate fiduciary powers under the laws of this State and shall not be withdrawn or used for any purpose during the term of the lease, or for any purpose thereafter, except to make payments in connection with the financing of the purchase of the property pursuant to exercise of the option, or as provided in subsection c. of this section.

c. Upon expiration of the lease without exercise of an option to purchase for which a fund has been accumulated pursuant to this section, the fund so accumulated shall:

(1) If the lessee declines renewal or in renewing declines to continue an option for purchase, be used for a reduction of tenant's rental charges according to a formula determined by the municipality, except as otherwise provided pursuant to subsection c. of section 8 of this act;

(2) If the lessee accepts renewal with a continued option to purchase at the end of the extended term, but declines to continue accumulation of the fund, remain on deposit through the extended term subject to the restrictions of subsection b. of this section;

(3) If the lessee accepts renewal, with a continued option to purchase at the end of the extended term, remain on deposit and be added to in accordance with continuing charges for the purpose; but such charges shall be adjusted to take into account the longer term for accumulation, the new option price, if set under the terms of renewal, and any change in the fund's expected rate of earnings over the extended period.

C. 55:18-8 Procedure upon expiration of lease.

8. (New section) Upon expiration of a lease entered into under authority of this act:

a. If the lessee exercises an option to purchase, the municipality shall be entitled to the fair market value of the property and structure, as determined at the time of execution of the lease, plus interest on such value.

b. If the lessee declines to exercise such option, or to request or accept renewal of the lease on mutually agreeable terms, the property shall revert to the possession of the municipality, which may thereupon negotiate a lease or purchase with another housing corporation or resident first-time homebuyer under applicable terms and conditions authorized by this act.

c. (1) Upon sale of a property by the municipality under subsection b. of this section, any fund accumulated pursuant to section 8 of this act may be applied by the purchaser against the purchase price.

(2) Upon lease of a property by the municipality under subsection b. of this section, any fund accumulated pursuant to section 8 of this act shall be treated as in a renewal of lease by the original lessee, and the new lessee shall succeed to all the rights therein of the original lessee.

C. 55:18-9 Waiver of requirements.

9. (New section) In order to avoid redundant or conflicting regulation, the municipal governing body may waive any requirement pursuant to the provisions of this act upon finding that the requirements for a federal or State program for provision of low- and moderate-income housing in which the resident first-time homebuyer or housing corporation is to participate and to which the property in question is to be subject fulfills the general purpose of the requirement waived or that the requirement if not waived would prevent or impede participation in the federal or State program.

C. 55:18-10 Rules, regulations.

10. (New section) The Commissioner of the Department of Community Affairs shall have the power to adopt, amend, revise and repeal rules and regulations to promote implementation of the provisions of this act.

11. Section 14 of P. L. 1971, c. 199 (C. 40A:12–14) is amended to read as follows:

C. 40A:12-14 Leasing of county or municipal real property, capital improvements or personal property.

14. Leasing of county or municipal real property, capital improvements or personal property. Any county or municipality may lease any real property, capital improvement or personal property not needed for public use as set forth in the resolution or ordinance authorizing the lease, other than the county or municipal real property otherwise dedicated or restricted pursuant to law, and except as otherwise provided by law, all such leases shall be made in the manner provided by this section.

(a) In the case of a lease to any private person, said lease shall be made by public letting to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the leasehold is situated by two insertions at least once a week during two consecutive weeks; the lease publication to be not earlier than seven days prior to the letting of the lease. The governing body may, by resolution, fix a minimum rental with the reservation of the right to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the letting of the lease and public notice thereof shall be given of the time of the letting of the lease. Such resolution may provide that upon the completion of the bidding, the highest bid may be accepted or all of the bids may be rejected.

It shall also set out the conditions, restrictions and limitations upon the tenancy subject to the lease. Acceptance or rejection of the bid or bids shall be made not later than at the second regular meeting of the governing body following the opening of the bids, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such award may be adjourned at the time advertised for not more than one week without readvertising.

(b) In the case of a lease to a public body, the lease may be upon such terms and conditions and for nominal or other consideration as the governing body of the county or municipality shall approve by ordinance or resolution.

(c) In the case of a lease to a nonprofit corporation for a public purpose, the lease shall be authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, and may be for nominal or other consideration. Said authorization shall include the nominal or other consideration for the lease; the name of the corporation or corporations who shall be the lessees; the public purpose served by the lessee; the number of persons benefitting from the public purpose served by the lessee, whether within or without the municipality in which the leasehold is located; the term of the lease, and the officer, employee or agency responsible for enforcement of the conditions of the lease. Said ordinance or resolution shall also require any nonprofit corporation holding a lease for a public purpose pursuant to this section, to annually submit a report to the officer, employee or agency designated by the governing body, setting out the use to which the leasehold was put during each year; the activities of the lessee undertaken in furtherance of the public purpose for which the leasehold was granted; the approximate value or cost, if any, of such activities in furtherance of such purpose; and an affirmation of the continued tax-exempt status of the nonprofit corporation pursuant to both State and federal law.

(d) In the case of a lease to a housing corporation or resident first-time homebuyer for the public purposes, and pursuant to the provisions of P. L. 1983, c. 335 (C. 55:18–1 et seq.), the lease shall be authorized by ordinance by a municipality.

12. This act shall take effect immediately.

Approved September 2, 1983.

CHAPTER 336

AN ACT concerning leaves of absences of certain public employees to attend State or national conventions and amending P. L. 1977, c. 347.

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

1. Section 1 of P. L. 1977, c. 347 (C. 40A:14–177) is amended to to read as follows:

C. 40A:14-177 Paid leaves to attend conventions.

1. The heads of the county offices of the several counties and the head of every department, bureau and office in the government of the various municipalities shall give a leave of absence with pay to every person in the service of the county or municipality who is a duly authorized representative of the New Jersey State Patrolmen's Benevolent Association, Inc., Fraternal Order of Police, American Federation of Police Officers, Inc., Brown Shield, Inc., Batons, Vulcan Pioneers, a member organization of the New Jersey Council of Charter Members of the National Black Police Association, Inc., Firemen's Mutual Benevolent Association, Inc., the Uniformed Firemen's Association, or the New Jersey State Association of Chiefs of Police, to attend any State or national convention of such organization.

A certificate of attendance at the State convention shall, upon request, be submitted by the representative so attending.

Leave of absence shall be for a period inclusive of the duration of the convention with a reasonable time allowed for time to travel to and from the convention.

2. This act shall take effect immediately.

Approved September 2, 1983.

CHAPTER 337

AN ACT concerning the certification of landscape architects, amending parts of the statutory law 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:*

1. R. S. 45:3–1 is amended to read as follows:

State Board of Architects.

45:3–1. The New Jersey State Board of Architects, hereinafter in this chapter designated as the "board," created and established by an act entitled "An act to regulate the practice of architecture," approved March twenty-fourth, one thousand nine hundred and two (P. L. 1902, c. 29, p. 54), as amended and supplemented, is continued. The board shall consist of six members, five of whom shall be architects residing in this State and shall have been engaged in the practice of their profession for at least ten years and one of whom shall be a certified landscape architect in good standing and engaged in the practice of landscape architecture for at least five years pursuant to sections 4 through 18 of P. L. 1983, c. 337 (C. 45:3A–1 et seq.), except as to the initial appointment to the board, who shall become certified as soon as practicable after his appointment. On the effective date of this act the terms of office of the members of the board shall cease and terminate, and they shall thereafter continue in office as hold-over members until such time as the Governor shall designate and appoint them to serve for new terms of office as hereinafter provided. Within a period of 30 days after the effective date of this act, or as soon thereafter as circumstances shall permit, the Governor shall designate and appoint said members to serve and hold office for the following terms: one member for a term of one year from the date of such designation and appointment, one member for a term of two years from said date, one member for a term of three years from said date, one member for a term of four years from said date, and one member for a term of five years from said date. The initial landscape architect appointment shall be for a term of two years beginning July 1 next following the appointment. Should any vacancy exist on the board at the time of appointment and designation of the members to the new terms herein provided for, the Governor shall

appoint a new member to fill such vacancy, subject to the provisions of section 2 of P. L. 1971, c. 60 (C. 45:1–2.2), such member to serve for any one of the several terms herein fixed as the Governor in his discretion shall designate. Thereafter, upon the expiration of the term of office of any member, his successor shall be appointed by the Governor, subject to the provisions of section 2 of P. L. 1971, c. 60 (C. 45:1–2.2), for a term of five years. Each member shall hold his office until his successor has qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for an original appointment. Except as hereinafter provided, the members of the board shall serve without compensation.

2. Section 1 of P. L. 1952, c. 131 (C. 45:3–5.1) is amended to read as follows:

C. 45:3-5.1 Professional engineers.

1. Any professional engineer who is duly licensed to practice professional engineering in this State shall be entitled to be licensed to engage in the practice of architecture in this State, upon application therefor to the board and upon satisfactorily passing part I and part II of an examination which parts are limited solely to the subject of architectural design. Such applicant shall be examined according to the limitations herein provided, at a regularly conducted examination for applicants for registration to practice architecture.

3. R. S. 45:3–7 is amended to read as follows:

$15 annual fee.

45:3–7. Each architect licensee shall, during the month of July in each year, pay to the board a fee of $15.00 or forfeit his certificate. Notice of the failure to pay such annual registration fee shall be given to any person so failing, which notice shall state that, upon the continued failure to pay such fee, the certificate issued to such person will be declared forfeited by the board at the time and place stated therein unless such fee is sooner paid. The board may make rules and regulations regarding the reissue of a certificate to any person whose certificate has been forfeited under this section, and fixing the fee to be paid for the reissue of said certificate.

C. 45:3A-1 Landscape architects.

4. (New section) In order to safeguard life, health and property, and promote the public welfare, a person using the title "landscape architect" in this State is required to submit evidence

that the person is qualified to be certified as provided in this amendatory and supplementary act. It is unlawful for a person to use the title "landscape architect" or any other title, sign, card or device in a manner which tends to convey the impression that the person is a certified landscape architect. Every holder of a certificate shall display it in a conspicuous place in his principal office, place of business or employment.

No corporation, firm, partnership or association shall be granted a certificate under this amendatory and supplementary act. No corporation, firm, partnership or association shall use or assume a name involving the word ''landscape architect,'' or a modification or derivative of the term, unless an executive officer, if a corporation, or a member, if a firm, partnership or association, is a certified landscape architect of the State.

C. 45:3A-2 Definitions.

5. (New section) As used in this act:

a. "Certified landscape architect" means an individual who, by reason of his knowledge of natural, physical and mathematical sciences, and the principles and methodology of landscape architecture and landscape architectural design acquired by professional education, practical experience, or both, is qualified to engage in the practice of landscape architecture and is certified by the board as a landscape architect.

b. "The practice of landscape architecture" means any service in which the principles and methodology of landscape architecture are applied in consultation, evaluation and planning, including the preparation and filing of sketches, drawings, plans and specifications, and responsible administration of contracts relative to projects principally directed at the functional and aesthetic use of land. Nothing contained in this section shall be construed to restrict or otherwise affect the right of any person or corporation to engage in the practice of landscape architecture, but no person or corporation shall hold himself out as, or use the title "certified landscape architect," unless he has been certified pursuant to this act.

c. "Committee" means the Landscape Architect Examination and Evaluation Committee.

C. 45:3A-3 Certification required.

6. (New section) Nothing in this amendatory and supplementary act shall be construed to prevent the practice of architecture, engineering or land surveying or professional planning by a holder of a license to practice that profession licensed by this State, but

no architect, engineer, surveyor or professional planner shall use the designation "landscape architect" unless certified as a landscape architect in this State.

C. 45:3A-4 Examination committee.

7. (New section) There is established a committee of the board to be known as the Landscape Architect Examination and Evaluation Committee. The committee shall consist of five landscape architects, one of whom is a member of the board. The committee members shall be appointed by the Governor within 60 days after the effective date of this amendatory and supplementary act. Initial members, other than the member of the board, shall be appointed to one term each of one, two, three and four years respectively; thereafter their successors shall be appointed for terms of five years and until the appointment and qualification of their successors. A member of the committee shall not be eligible to succeed himself more than once. Vacancies in the membership of the committee, however created, shall be similarly filled by appointment of the Governor for the unexpired terms only. Members of the committee shall be residents of this State, shall have at least five years' experience in landscape architecture, shall be of good standing in the landscape architecture profession, and, except as to the initial appointments to the committee, shall be certified under the provisions of this amendatory and supplementary act. The initial appointees shall become certified as soon as practicable after their appointments. The Governor may remove a member of the committee after hearing, for misconduct, incompetence, neglect of duty, or any other sufficient cause.

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.

Each member of the committee, before entering upon the duties of his office, shall subscribe to an oath to faithfully perform the duties of his office.

C. 45:3A-5 Meetings.

8. (New section) The committee shall, at its first meeting, called by the Governor as soon as may be following the appointments of its members, and at all annual meetings, to be held in July of each year thereafter, organize by electing from its membership a chairman and by appointing a secretary, who need not be a member of the committee, and other assistants as it deems necessary.

The committee shall adopt annually a schedule of regular meetings, and special meetings may be held at the call of the chairman.

A quorum of the committee shall consist of three members. No action of a meeting shall be taken without at least three votes in accord.

C. 45:3A-6 Functions.

9. (New section) The committee is authorized to review the content and duration of courses of study offered by colleges and universities for degrees in landscape architecture and to establish and maintain a register of colleges and universities whose curricula in landscape architecture are approved by the committee, to establish and maintain a list of recognized subjects and courses of study, and to 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 certification, showing for each the date of application, name, age, education, and other qualifications, place of practice and place of residence, whether or not an examination was required, and whether the applicant was rejected or a certificate granted, and the date of that action.

C. 45:3A-7 Applications.

10. (New section) Each person applying for certification as a landscape architect 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 of good moral character;

b. Meets the educational and experience qualifications prescribed by this amendatory and supplementary act for certification as a landscape architect; and

c. Unless exempt from examination pursuant to this amendatory and supplementary act, has passed an examination satisfactory to the committee.

C. 45:3A-8 Educational, experiential requirements.

11. (New section) a. An applicant for examination or certification as a landscape architect shall provide the committee with evidence satisfactory to it that he:

(1) Is the holder of a bachelor's or higher degree in landscape architecture from a college or university having a landscape architecture curriculum approved by the committee; and

(2) Has engaged in landscape architectural work satisfactory to the committee to an extent that his combined college study and practical experience total at least six years.

b. In lieu of the degree and practical experience requirements specified in subsection a. of this section, evidence of 10 or more years of practical experience in landscape architecture of a grade and character satisfactory to the committee may be accepted. Each completed year of study satisfactory to the committee may be accepted in lieu of one year's practical experience toward the required total of 10 years. Six years of practical experience satisfactory to the committee may be accepted by the committee for admission to that portion of the examination related to landscape architecture.

c. Six years after the effective date of this act, an applicant shall be eligible for certification as a landscape architect only if he meets the requirements of subsection a. of this section.

C. 45:3A-9 Fees.

12. (New section) The following fees shall be assessed and collected by the board:

a. An application fee for certification as a landscape architect which shall not be subject to refund;

b. An examination fee and initial two-year certification fee for landscape architects which shall be subject to refund if the applicant is determined to be ineligible for examination, withdraws his application for examination, or fails to appear for examination;

c. A two-year renewal fee for landscape architects; and

d. A reinstatement fee for certified landscape architects.

C. 45:3A-10 Examination; reciprocity.

13. (New section) a. The committee shall administer an examination to be given to all persons, not exempt from examination pursuant to this amendatory and supplementary act, who have applied for certification as landscape architects.

b. The committee may exempt from examination an applicant who holds a license or certificate to practice landscape architecture issued to him upon examination by a legally constituted board of examiners in any state, district or territory in the United States, provided the applicant's qualifications meet the requirements enforced in this State at the time the license was issued.

Unless a majority of the full committee shall determine otherwise, the examination to be administered to all nonexempt applicants shall consist of the Unified National Examination as prepared by the Council of Landscape Architectural Registration Boards.

C. 45:3A-11 Review of qualifications.

14. (New section) The committee shall review the qualifications of each person who applies for certification as a landscape architect. Notwithstanding any other provision of this amendatory and supplementary act to the contrary, no applicant shall be certified by the board unless a majority of the full committee first determines that he is qualified by education, experience and satisfactory performance on the examination to be certified as a landscape architect and all applicants who are determined to be so qualified and are recommended for certification by the committee shall be certified 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 certification as landscape architects but the board may reverse, modify or fail to implement any of the above described actions of the committee only by the affirmative vote of at least six members of the board.

C. 45:3A-12 Renewal of certificates.

15. (New section) Certificates for landscape architects shall expire on May 30 in the second year following the year of issuance, renewal or reinstatement, and shall become invalid on that day unless renewed. Certified landscape architects shall apply for renewal before May 30 in the year of expiration of a certificate. On or before May 1 in the year of expiration of a certificate the secretary of the board shall notify all persons certified under this amendatory and supplementary act of the date of the expiration of their certificates and the amount of the renewal fee. Notice shall be mailed to each holder of a certificate at his last post office address known to the board.

Failure on the part of the holder of a certificate to renew his certificate every two years in the month of May shall not deprive that person of the right of renewal during the ensuing two years, but a reinstatement fee shall be added to the certificate fee; and if the certificate is not renewed within the two years following its expiration, the holder of the certificate shall pay a reinstatement fee for each two years or portion thereof in which the holder is in arrears. Continuing to use the title "landscape architect" after

the expiration of the certificate shall be a violation of this amendatory and supplementary act.

A duplicate certificate to replace one lost, destroyed or mutilated may be issued subject to the rules and regulations of the board, and a reasonable fee, to be established by the board may be charged for each duplicate certificate. An unsuspended, unrevoked and unexpired certificate as a landscape architect under this act shall be prima facie evidence in all courts and places that the person named therein is certified. Each certificate shall be recorded by the board in the office of the Secretary of State, in a book kept for that purpose, and any recording fee as may be provided by law shall be paid by the applicant before the certificate is delivered.

C. 45:3A-13 Seal required.

16. (New section) Every person using the title "landscape architect" shall have a seal of a type approved by the board, which shall contain the name of the landscape architect, his certificate number, the legend "certified landscape architect" and other words or figures as the board may deem necessary. All working drawings and specifications prepared by the landscape architect or under the supervision of the landscape architect shall be stamped with the seal and shall be signed on the original, with the personal signature of the certified landscape architect, when filed with public officials. The board, upon recommendation and approval of the committee, may by regulation, change or modify the requirements as to the signing and sealing of documents.

C. 45:3A-14 Certificate without examination.

17. (New section) Notwithstanding any other provision of this amendatory and supplementary act to the contrary, for a period of one year from the effective date of this amendatory and supplementary act, an individual of good moral character shall be entitled to receive a certificate as a landscape architect without examination if he files an application therefor accompanied by the application fee, the examination and certificate fee, and evidence that he has:

a. A diploma of graduation or satisfactory certificate from a college or university recognized by the committee as offering an approved curriculum in landscape architecture or the equivalent thereof as determined by the committee, together with at least four years of practical experience in landscape architectural work of a grade and character acceptable to the committee; or

b. A total of at least 12 years of experience in the teaching of landscape architecture in a college or university or at least 12 years

of practical experience in landscape architectural work of a grade and character acceptable to the committee.

C. 45:3A-15 Continuing education.

18. (New section) Four years from the effective date of this amendatory and supplementary act and every four years thereafter, each person certified to practice landscape architecture in this State shall certify to the board, upon a form issued and distributed by the board, that the person has attended or participated in not less than 20 hours of continuing education in landscape architecture as follows: college postgraduate courses, lectures, seminars, or workshops, as approved by the committee or any other evidence of continuing education which the board may approve.

19. This act shall take effect immediately, but the first certificates issued pursuant to this amendatory and supplementary act shall be for the period beginning July 1, 1983.

Approved September 4, 1983.

CHAPTER 338

AN ACT to amend the "State Uniform Construction Code Act," approved October 7, 1975 (P. L. 1975, c. 217).

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

1. Section 6 of P. L. 1975, c. 217 (C. 52:27D–124) is amended to read as follows:

C. 52:27D-124 Powers of the commissioner.

6. Powers of the commissioner. The commissioner shall have all the powers necessary or convenient to effectuate the purposes of this act, including, but not limited to, the following powers in addition to all others granted by this act:

a. To adopt, amend and repeal, after consultation with the code advisory board, rules: (1) relating to the administration and enforcement of this act and (2) the qualifications or licensing, or both, of all persons employed by enforcing agencies of the State to enforce this act or the code, except that plumbing inspectors shall be subject to the rules adopted by the commissioner only insofar as such rules are compatible with such rules and regulations regard-

ing health and plumbing for public and private buildings, as may be promulgated by the Public Health Council in accordance with Title 26 of the Revised Statutes.

b. To enter into agreements with federal and State of New Jersey agencies, after consultation with the code advisory board, to provide insofar as practicable (1) single-agency review of construction plans and inspection of construction and (2) intergovernmental acceptance of such review and inspection to avoid unnecessary duplication of effort and fees. The commissioner shall have the power to enter into such agreements although the federal standards are not identical with State standards; provided that the same basic objectives are met. The commissioner shall have the power through such agreements to bind the State of New Jersey and all governmental entities deriving authority therefrom.

c. To take testimony and hold hearings relating to any aspect of or matter relating to the administration or enforcement of this act, including but not limited to prospective interpretation of the code so as to resolve inconsistent or conflicting code interpretations, and, in connection therewith, issue subpenas to compel the attendance of witnesses and the production of evidence. The commissioner may designate one or more hearing examiners to hold public hearings and report on such hearings to the commissioner.

d. To encourage, support or conduct, after consultation with the code advisory board, educational and training programs for employees, agents and inspectors of enforcing agencies, either through the Department of Community Affairs or in cooperation with other departments of State Government, enforcing agencies, educational institutions, or associations of code officials.

e. To study the effect of this act and the code to ascertain their effect upon the cost of building construction and maintenance, and the effectiveness of their provisions for insuring the health, safety, and welfare of the people of the State of New Jersey.

f. To make, establish and amend, after consultation with the code advisory board, such rules as may be necessary, desirable or proper to carry out his powers and duties under this act.

g. To adopt, amend, and repeal rules and regulations providing for the charging of and setting the amount of fees for the following code enforcement services, licenses or approvals performed or issued by the department, pursuant to the "State Uniform Construction Code Act":

(1) Plan review, construction permits, certificates of occupancy, demolition permits, moving of building permits, elevator permits and sign permits; and

(2) Review of applications for and the issuance of licenses certifying an individual's qualifications to act as a construction code official, subcode official or assistant under this act.

(3) (Deleted by amendment; P. L. 1983, c. 338.)

h. To adopt, amend and repeal rules and regulations providing for the charging of and setting the amount of construction permit surcharge fees to be collected by the enforcing agency and remitted to the department to support those activities which may be undertaken with moneys credited to the Uniform Construction Code Revolving Fund.

i. To adopt, amend and repeal rules and regulations providing for:

(1) Setting the amount of and the charging of fees to be paid to the department by a private agency for the review of applications for and the issuance of approvals authorizing a private agency to act as an on-site inspection and plan review agency or an in-plant inspection agency;

(2) The setting of the amounts of fees to be charged by a private agency for inspection and plan review services; provided, however, that such fees shall be identical to those adopted and charged by the department when it serves as a local enforcement agency pursuant to section 10 of P. L. 1975, c. 217 (C. 52:27D–128); and

(3) The formulation of standards to be observed by a municipality in the evaluation of a proposal submitted by a private agency to provide inspection or plan review services within a municipality.

2. This act shall take effect immediately.

Approved September 6, 1983.

CHAPTER 339

AN ACT establishing a New Jersey Afro-American History Program within the New Jersey Historical Commission, supplementing chapter 73 of Title 18A of the New Jersey Statutes and making an appropriation.

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

C. 18A:73-25.1 Findings, declarations.

1. The Legislature finds and declares that:

a. The Afro-American population of the State of New Jersey and the United States of America has made unique and indispensable contributions to the history of the State of New Jersey and the United States;

b. For many generations the role of Afro-Americans has been largely neglected in the writing and teaching of history, to the educational detriment of all Americans;

c. It is the responsibility of the government of this State to provide the people of New Jersey with opportunities to learn about the history of the State and the nation in an accurate and comprehensive manner; and

d. This Legislature has vested in the New Jersey Historical Commission the authority to plan and carry out programs to advance public knowledge of the history of New Jersey and the United States.

C. 18A:73-25.2 Afro-American History Program.

2. There is established a New Jersey Afro-American History Program to be directed, administered and conducted by the New Jersey Historical Commission. It is the purpose of the program to promote the advancement of public knowledge of the history of Afro-Americans in this State.

C. 18A:73-25.3 Activities.

3. The program shall include such activities as the commission deems desirable and practicable and shall include:

a. Conducting, sponsoring and assisting scholarly research and publication;

b. Conducting, sponsoring and assisting such public programs as conferences, symposia, seminars, workshops, exhibitions and performing arts programs;

c. Conducting and assisting oral history projects;

d. Producing student and teacher resource materials for use in teaching Afro-American history in the public schools of this State pursuant to N. J. S. 18A:35–1 and serving as a repository for these materials;

e. Assisting New Jersey libraries, museums and historical agencies in their efforts to collect materials relative to the history of Afro-Americans in this State;

f. Assisting historic preservation agencies and organizations in their efforts to preserve and interpret significant sites associated with Afro-American history in New Jersey; and

g. Serving as an information center and liaison among the various organizations and institutions in New Jersey concerned with Afro-American history.

C. 18A:73-25.4 Personnel.

4. The New Jersey Historical Commission shall employ a program director and such other personnel as may be necessary to implement the provisions of this act and as may be within the limits of funds appropriated or otherwise made available to it for this purpose.

5. There is appropriated for the purpose of this act the sum of $75,000.00.

6. This act shall take effect immediately.

Approved September 6, 1983.

CHAPTER 340

AN ACT concerning parimutuel wagering and amending and supplementing P. L. 1940, c. 17 (C. 5:5–22 et seq.).

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

C. 5:5-100 Short title.

1. Sections 1 through 10 of this act shall be known and may be cited as the "Intertrack Wagering Act."

C. 5:5-101 Definitions.

2. (New section) As used in this act:

a. "Horsemen's organization" means the Horsemen's Benevo-

lent and Protective Association, the Standardbred Breeders' and Owners' Association, or another organization or group representing a majority of horsemen engaged in competing for purses during a regularly scheduled horse race meeting, as the case may be.

b. "Intertrack wagering" means parimutuel wagering on simulcast horse races by patrons at a receiving track and the electronic transmission of the wagers to the sending track.

c. "Intertrack wagering license" means a license issued by the New Jersey Racing Commission permitting intertrack wagering.

d. "Receiving track" means a race track within the State which is operated by the holder of an annual permit to conduct a horse race meeting and which is equipped to receive simulcast horse races and to conduct intertrack wagering on those races.

e. "Sending track" means a race track within the State which is operated by the holder of an annual permit to conduct a horse race meeting and which is equipped to provide simulcast horse races to a receiving track and to conduct intertrack wagering on those races.

f. "Simulcast horse races" means horse races conducted at a sending track and transmitted simultaneously by picture to a receiving track.

C. 5:5-102 Intertrack wagering license.

3. (New section) Upon the filing of a joint application by a receiving and a sending track and after the holding of a public hearing, the New Jersey Racing Commission may issue an intertrack wagering license to a receiving track specifying the periods of time during a calendar year and the hours during the day or night when intertrack wagering is permitted and prescribing any other conditions or terms the commission deems appropriate, provided that:

a. The receiving track demonstrates to the satisfaction of the commission that it has conducted a regularly scheduled horse race meeting pursuant to an annual permit issued by the commission and has complied with the terms of the permit, or the receiving track agrees to conduct such a horse race meeting and to comply with the terms of the permit for the meeting unless otherwise directed or permitted by the commission.

b. The sending track produces an agreement in writing, or testimony at the public hearing, demonstrating that the horsemen's organization engaged in competing for the purses at the sending track approves of intertrack wagering during the period when an intertrack wagering license shall be in effect.

c. If intertrack wagering will occur at the receiving track at the same time the receiving track is conducting a horse race meeting, the receiving track produces an agreement in writing, or testimony at the public hearing, demonstrating that the horsemen's organization at the receiving track approves of intertrack wagering during the period of the horse race meeting.

C. 5:5-103 Joint application.

4. (New section) A joint application for an intertrack wagering license shall include a written agreement between the receiving and sending tracks providing a detailed plan of operation for the simultaneous picture transmission of races from the sending track to the receiving track, the transmission to the sending track of wagers placed at the receiving track, and the distribution of the parimutuel pool to the winning ticketholders at the receiving track.

C. 5:5-104 Filing of objection.

5. (New section) Any holder of a permit to conduct a horse race meeting within the State may file an objection to a joint application prior to the public hearing required to be held on the application. Any permit holder filing such an objection shall have the burden to demonstrate at the public hearing good cause as to why the issuance of an intertrack wagering license would be adverse to the public interest, as defined in section 24 of P. L. 1940, c. 17 (C. 5:5–44).

C. 5:5-105 No substitution.

6. (New section) Under no circumstances shall a receiving track be permitted to substitute a race transmitted to it from a sending track for a live race or races scheduled during a horse race meeting at the receiving track.

C. 5:5-106 Distribution.

7. (New section) Except as otherwise provided in section 8 of this act, sums wagered at the receiving track shall be deposited in the appropriate parimutuel pool generated at the sending track for the race being transmitted and shall be distributed pursuant to P. L. 1940, c. 17 (C. 5:5–22 et seq.) as if such sums were wagered at the sending track. Payment to persons holding winning tickets at the receiving track shall be made according to the same odds as those generated at the sending track.

C. 5:5-107 25% reserve.

8. (New section) The sending track shall reserve and set aside out of the portion of the parimutuel pool to be distributed as purse

money pursuant to section 46 of P. L. 1940, c. 17 (C. 5:5–66) an amount equal to 25% of the amount that would be distributed as purse money pursuant to that section on the basis of the parimutuel pool generated at the receiving track. These sums shall be forwarded to the receiving track and shall be used to supplement the payment of overnight purses at the next horse race meeting to be conducted by the receiving track.

C. 5:5-108 Intertrack wagering declared lawful.

9. (New section) Notwithstanding any other law to the contrary, intertrack wagering shall be lawful; provided that an intertrack wagering license has been issued to the receiving track.

C. 5:5-109 Rules, regulations.

10. (New section) The commission shall promulgate and adopt such rules and regulations as are necessary to effectuate the purposes of this act.

11. Section 42 of P. L. 1940, c. 17 (C. 5:5–62) is amended to read as follows:

C. 5:5-62 Place for wagering.

42. A permit holder may provide a place or places in the race meeting grounds or enclosure at which such holder of a permit may conduct and supervise the parimutuel system of wagering by patrons on the result of the horse races conducted by such permit holder at a horse race meeting or on the result of simulcast horse races as provided by the "Intertrack Wagering Act," sections 1 through 10 of P. L. 1983, c. 340 (C. 5:5–100 et seq.), and such parimutuel system of wagering upon the result of such horse races shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto, be held or construed to be unlawful, other statutes of the State of New Jersey to the contrary notwithstanding. Such place or places so provided in conformity with this section shall be equipped with such automatic ticket issuing and vending machines and with adding machine equipment capable of accurate and speedy determination of the amount of money in each pool and on each horse and the amount of award or dividend to winning patrons and displaying the same to the patrons. Such machine shall further be equipped with automatic or hand operated machinery suitable for displaying on the mutuel board across the track, in plain view of the public, the total amount of sales on each and every race and the amount of award or dividend to winning patrons.

12. Section 43 of P. L. 1940, c. 17 (C. 5:5–63) is amended to read as follows:

C. 5:5-63 Display mandated.

43. The machine, or mutuel board, is also to display the approximate odds on each horse in any race; the value of a $2.00 mutuel ticket, straight, place and show, on the first three horses in any race; the elapsed time of the race; the value of a $2.00 daily double ticket, if conducted, and any other information that may be necessary for the guidance of the general public. Any such machine must be approved by the commission before it may be used, and to prevent a monopoly in the use of any particular machine or type thereof the commission may in its discretion approve the use of any other machine. No other place or method of betting, pool making, wagering or gambling shall be used or permitted by the holder of a permit, nor shall the parimutuel system of wagering be conducted on any races except horse races at the race track where such parimutuel system of wagering is conducted or simulcast horse races as provided by the "Intertrack Wagering Act," sections 1 through 10 of P. L. 1983, c. 340 (C. 5:5–100 et seq.).

13. Section 53 of P. L. 1940, c. 17 (C. 5:5–73) is amended to read as follows:

C. 5:5-73 Permit required.

53. Nothing herein, however, shall be construed to permit the parimutuel system of wagering upon any race track unless such race track be first granted a permit as provided by this act; and it is hereby declared to be unlawful for any person, partnership, association or corporation to permit, conduct or supervise upon any race track the parimutuel system of wagering except in accordance with the provisions of this act or the "Intertrack Wagering Act," sections 1 through 10 of P. L. 1983, c. 340 (C. 5:5–100 et seq.).

14. (New section) This act shall, at the general election to be held in the month of November, 1984 be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, at least 15 days prior to the said election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the said clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the said ballots, the following:

If you approve the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross (×), 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 such markings respectively.

	Yes.	INTERTRACK HORSE RACE WAGERING "SIMULCAST" Should the Intertrack Wagering Act and amendments to the horse racing laws, which authorize the transmission of horse races conducted at one race track, simultaneously by picture to another or other race tracks, and the wagering thereon, all as regulated by the State, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act would authorize horse race tracks to transmit and receive pictures of races conducted simultaneously with that transmission. These "simulcasted" races would be wagered upon at the race tracks receiving the transmission. Simulcasts would be licensed and regulated by the New Jersey Racing Commission.

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 said 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 said 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 such 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 shall be a majority of all the votes cast for and against it at such election in favor of the approval of this act, then all the provisions of this act shall continue in effect after January 1, 1985.

15. This act shall take effect immediately, but shall expire on January 1, 1985 unless approved by the voters at the general election held in November, 1984 as provided in section 14 of this act.

Approved September 7, 1983.

CHAPTER 341

AN ACT concerning the Marine Academy of Science and Technology, and supplementing P. L. 1982, c. 146 (C. 18A:54C–1 et seq.).

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

C. 18A:54C-4 Marine Academy assets transferred.

1. The assets of the Marine Academy of Science and Technology operating under the auspices of an area vocational technical school in a county of the fifth class having a population of not less than 450,000 shall be transferred to the county vocational technical school board and shall continue to operate as a full-time program as provided under P. L. 1982, c. 146 (C. 18A:54C–1 et seq.), except that the costs shall be paid as follows:

a. Local districts shall pay tuition in an amount equal to the district's net current expense budget per pupil for each pupil attending plus any amount of any category of State aid payable to the district for that pupil but not to exceed an amount equal to the per pupil cost of the Marine Academy of Science and Technology; and

b. If the costs of the program exceed the amounts raised by tuition, the additional costs shall be paid by the county vocational technical school, except that if the additional costs, when calculated on an average per pupil basis, exceed the average tuition payment by $750.00, the county vocational technical school may assess the local district, for each pupil attending, an amount equal to the amount by which the additional costs exceed $750.00.

C. 18A:54C-5 Tuition to county district.

2. All tuition shall be forwarded by the sending district to the county vocational technical school district which has established the Marine Academy of Science and Technology.

3. Any costs of the Marine Academy of Science and Technology accruing to any district shall not be subject to any limitations pursuant to section 25 of P. L. 1975, c. 212 (C. 18A:7A–25) for the 1983-84 school year.

4. Notwithstanding any provisions in P. L. 1982, c. 146 (C. 18A:54C–1 et seq.), the Commissioner of Education shall recalculate State aid for the 1983-84 school year for all districts whose pupils were in attendance at the Marine Academy of Science and Technology on September 30, 1982 by removing the pupils from the resident enrollment of the district operating the Marine Academy and adding the pupils to the resident enrollment of each pupil's district of residence; and the commissioner shall increase the 1982-83 net current expense budget of each of the sending school districts by the estimated tuition to be paid to the county vocational technical school for the 1983-84 school year, except that the above adjustments shall not affect any other State or district calculations that have been made for the 1983-84 school year.

C. 18A:54C-6 Admission policies.

5. The board of education of the county vocational technical school shall determine the admission policies of the Marine Academy of Science and Technology, except that the places available shall be allocated in a fair and equitable manner and the method of allocation shall not affect the pupils who enrolled in the program prior to the 1983-84 school year. Pupils from other counties may be admitted so far as the facilities permit, except that the local districts' tuition for out-of-county pupils shall include the total costs as approved by the Commissioner of Education.

C. 18A:54C-7 Transportation.

6. Transportation for pupils attending the Marine Academy of Science and Technology shall be provided by the district in which the pupil resides.

7. This act shall take effect immediately.

Approved September 8, 1983.

CHAPTER 342

AN ACT to amend the "New Jersey Legal Services Insurance Act," approved June 8, 1981 (P. L. 1981, c. 160).

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

1. Section 4 of P. L. 1981, c. 160 (C. 17:46C–4) is amended to read as follows:

C. 17:46C-4 Transaction of business of legal insurance.

4. a. (1) A person entitled to transact the business of insurance under Subtitle 3 of Title 17 of the Revised Statutes or Subtitle 3 of Title 17B of the New Jersey Statutes may transact the business of legal insurance in this State without having to obtain a certificate of authority under this act. This paragraph shall not by itself enlarge the powers of any corporation entitled to transact the business of insurance under Subtitle 3 of Title 17 of the Revised Statutes or Subtitle 3 of Title 17B of the New Jersey Statutes given by its articles of incorporation or charter, but shall authorize such a corporation formed under Title 14A of the New Jersey Statutes, Subtitle 3 of Title 17 of the Revised Statutes, Subtitle 3 of Title 17B of the New Jersey Statutes, Title 15 of the Revised Statutes or Title 16 of the Revised Statutes, including a hospital service corporation organized pursuant to P. L. 1938, c. 366 (C. 17:48–1 et seq.) to include in its powers the authority to transact the business of legal insurance.

(2) No other person may transact the business of legal insurance unless he applies for and obtains a certificate of authority to transact the business of legal insurance in compliance with this act.

(3) An application for a certificate of authority to transact the business of legal insurance shall be in a form prescribed by the commissioner and shall be accompanied by a fee of $250.00. If the applicant is not domiciled in this State, the application shall be accompanied by a power of attorney duly executed by the applicant appointing the commissioner and his successors in office, and duly authorized deputies, as the true and lawful attorney of the applicant in and for this State, upon whom all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this State shall be served.

b. Except for section 26 of this act, this act shall not apply to any person issuing group or blanket policies if fewer than 5% of the certificate holders or insureds reside in this State and the person is regulated to a comparable extent by another state in which a larger number of certificate holders or insureds reside. Any person exempt under this subsection shall file an annual report with the commissioner in accordance with the rules and regulations promulgated by the commissioner.

2. This act shall take effect immediately.

Approved September 8, 1983.

CHAPTER 343

AN ACT to provide for the needs of homeless persons, determining the manner of this State's participation in the federal Emergency Food and Shelter Program, and making an appropriation.

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

1. The Legislature finds and declares:

a. The plight of homeless persons, lacking elementary requirements of shelter and in need of emergency accommodation, has reached critical proportions in this State and elsewhere in the nation.

b. Recognizing this situation, the federal government, by an Act of Congress (Pub. L. 98–8, approved March 24, 1983), has made available, through the Federal Emergency Management Agency, $100,000,000.00 for the purpose of providing emergency food and shelter to the homeless and indigent.

c. Of the federal appropriation to this purpose, $50,000,000.00 has been allocated to the several state governments, for redistribution by them to local agencies in accordance with local needs, the allocation to each state being in proportion to its incidence of poverty as determined pursuant to the "Community Services Block Grant Act," Subtitle B of Title VI of the "Omnibus Budget Reconciliation Act of 1981," Pub. L. 97–35 (42 U.S.C. § 9901 et seq.).

d. The allocation to New Jersey pursuant to the aforesaid formula is $1,426,280.00 for the federal fiscal year of 1983, ending September 30, 1983, which sum must be either spent or definitely committed and obligated before the end of that fiscal year.

e. The federal law and regulations pursuant thereto require that the state government (1) designate a state agency and state representative to coordinate and monitor the disbursement of funds to local agencies, and render account thereof to the federal government, (2) target fund distribution to areas of need, and (3) provide for the appropriate selection of recipient organizations.

2. The Legislature further finds, determines and declares:

a. To assure that federal funds allocated to this State for the Emergency Food and Shelter Program be expended with maximum efficiency and in accord with the intent of the federal law, it is desirable that these funds be distributed to the several counties, in accordance with recognized indices of need, and that further allocation to specific public and private agencies be determined by county governments in accordance with local needs, subject to accountability of each county government to the State agency and representative designated in section 3 of this act for the proper use thereof in accordance with the terms of this act and applicable federal law and regulations.

b. Applying to the several counties of this State the same formula, based on relative incidence of poverty, that was used by the federal government in determining allocation among states, the Department of Human Services has calculated the allocations of federal funds available under this program:

County	*Amount*
Atlantic	$49,920.00
Bergen	71,599.00
Burlington	44,928.00
Camden	113,960.00
Cape May	14,976.00
Cumberland	38,509.00
Essex	310,929.00
Gloucester	35,229.00
Hudson	193,118.00
Hunterdon	7,702.00
Mercer	57,051.00
Middlesex	74,737.00
Monmouth	77,162.00
Morris	29,239.00
Ocean	57,194.00
Passaic	116,955.00
Salem	15,404.00
Somerset	15,689.00

County	*Amount*
Sussex	12,979.00
Union	77,875.00
Warren	11,125.00

3. The Department of Human Services and the commissioner thereof are designated the State agency and State representative, respectively, for the purpose of receiving, disbursing and supervising grant funds made available to the State under Pub. L. 98–8, in accordance with the provisions of that federal statute and any regulations pursuant thereto.

4. a. There is appropriated to the Department of Human Services out of funds received from the federal government pursuant to Pub. L. 98–8 the sum of $1,426,280.00, to be distributed to the several counties in amounts not exceeding those set forth in subsection b. of section 2 of this act, in accordance with applicable State and federal regulations, upon certification by the commissioner of the department and warrant of the comptroller. Funds distributed to a county pursuant to this act shall be deposited in and drawn from the county treasury in accordance with appropriations by the county governing body in the same manner as other county appropriations are made.

b. Any funds distributed pursuant to subsection b. of section 2 of this act remaining unexpended by any county shall be returned to the Department of Human Services. Notwithstanding the maximum distribution amounts per county prescribed in subsection b. of section 2 of this act, the Department of Human Services may redistribute such sums as are returned pursuant to this subsection to any other county in accordance with a needs based formula determined by the Department of Human Services and not inconsistent with State and federal regulations applicable thereto.

5. The Commissioner of the Department of Human Services is authorized to make and promulgate any rules and regulations in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) necessary or expedient to effectuate the provisions and purposes of this act and to assure compliance with applicable federal laws, rules and regulations. The commissioner shall make rules for uniform, thorough and adequate reports to him by the counties upon the amounts and purposes of all expenditures of funds received by them pursuant to section 4 of this act, in a manner as to assure the proper application of those funds.

6. This act shall take effect immediately.

Approved September 8, 1983.

CHAPTER 344

AN ACT to amend "An act to regulate and control the production, distribution and sale of milk as herein defined; to create a milk control board for such purposes; to prescribe the jurisdiction, duties and powers of said board; to require licenses of and establish fees to be paid by stores, milk dealers, processors and subdealers; to regulate the use of milk cases; to provide methods for enforcement and penalties for violations thereof and declaring an emergency affecting the production, distribution and sale of milk as defined herein," approved July 15, 1941 (P. L. 1941, c. 274), as said title was amended by P. L. 1982, c. 216 and repealing sections 2 and 3 of P. L. 1962, c. 181 (C. 4:12A–36.1 and 4:12A–36.2).

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

1. Section 1 of P. L. 1941, c. 274 (C. 4:12A–1) is amended to read as follows:

C. 4:12A-1 Definitions.

1. Words used in this act, unless otherwise expressly stated, or unless the context or subject matter otherwise requires, shall have the following meanings:

"Board." The milk control board.

"Director." The director of milk control.

"Milk dealer." Any person who sells or distributes milk, including on consignment or for the account of a producer, or who purchases milk from producers or other milk dealers, whether on behalf of himself or others or both, and includes a person who sells or delivers all milk to consumers or stores in the same containers as those in which he purchases or acquires it from other milk dealers, any dairy cooperative association organized under any law of this or any other state and engaged in this State in the marketing of milk directly to stores and consumers in this State, and includes persons referred to herein as processors or subdealers, but it does not include a store as hereinafter defined.

Milk dealers as herein defined, may also purchase and distribute for storage or manufacture within or without this State.

"Market." Any municipality, incorporated or unincorporated, of this State, other than a county, or any group of such, or any portions thereof, designated by the board as a marketing area.

"Licensee." Any person licensed pursuant to this act.

"Milk." The natural product of a dairy animal or animals and includes fluid milk and cream, fresh, sour or storage, low fat milk, skim milk, flavored milk, any milk drink, buttermilk, yogurt, and condensed or concentrated whole or skim milk, except when contained in hermetically sealed cans.

"Producer." Any person producing milk entirely for sale to a milk dealer, except for the milk produced for the use of himself and his family and the use of his employees and their families.

"Consumer." Any person, other than a milk dealer, store, or producer, who purchases milk for consumption or use.

"Sanitary regulations." All laws enacted by the State of New Jersey; ordinances and regulations enacted or adopted by municipalities, municipal boards of health, or municipal departments, or officials exercising the powers and duties of local boards of health, relating to the production, handling, transportation, distribution and sale of milk from a health basis.

"Store." A grocery store, delicatessen, food market, hospital, institution, hotel, restaurant, soda fountain, dairy products store, milk vending machine, any governmental agency, roadside stand and similar mercantile establishments.

2. Section 33 of P. L. 1941, c. 274 (C. 4:12A–33) is amended to read as follows:

C. 4:12A-33 Annual license.

33. An application for a license to operate as a milk dealer or store shall be made before any person shall commence business as a milk dealer or store, and annually thereafter. Every person holding a license on the effective date of this act shall upon expiration of the license apply for renewal, but in order to spread the renewal dates throughout the year the director may issue licenses for a period of not less than three months or more than 15 months and for stores the fee for the period shall be proportionately less or greater than the annual rates herein established. Subsequent licenses shall be issued for a period of one year. The applicant shall state the nature of the business to be conducted, the full name of the person applying for the license and, if the applicant be a firm or association, the full name of each member,

and if a corporation the names and addresses of all officers and directors and the name or names of the municipality or municipalities in which the business is to be conducted; that he has complied with all the orders, rules and regulations of the predecessor board and the director, and such other facts with respect to the license as may be required by the said director. A license shall be granted to the applicant by the director subject to the provisions of this act. The original or a certified copy thereof shall be conspicuously displayed by the licensee at its principal place of business, and in each plant, store or sales branch delivery depot in this State.

3. Section 36 of P. L. 1941, c. 274 (C. 4:12A-36) is amended to read as follows:

C. 4:12A-36 Fees.

36. Every person required by this act to be licensed shall pay a yearly license fee as follows:

Store—each and every store selling milk shall pay a license fee based on average volume of milk sold during the previous two months as follows:

Stores selling 500 quart equivalents or less per week $12.00
Stores selling 501 to 1,500 quart equivalents per week $24.00
Stores selling 1,501 to 3,000 quart equivalents per week $36.00
Stores selling 3,001 quart equivalents or more per week $48.00;

provided, however, that a store selling milk exclusively for consumption on the premises shall not be required to obtain a license or pay a license fee; and provided, further, that a store selling only milk which is evaporated or condensed in hermetically sealed cans shall not be required to obtain a license or pay a license fee.

Any person applying for a license to engage in business as a store at a new location shall pay a fee of $12.00 for the first year of operation, but any person acquiring an existing store shall pay a fee based upon the average volume of milk sold during the previous two months in accordance with the store fee schedule above.

Milk dealers—every milk dealer shall pay a fee of $0.01 per hundredweight of milk sold for consumption within the State excluding dealer to dealer sales, but a milk dealer processing milk for sale to other dealers shall pay a minimum fee of $650.00 per year and a milk dealer selling to stores and consumers shall pay a minimum fee of $30.00 per year.

A milk dealer engaged in handling milk in the State of New Jersey, but selling milk only in another state or engaged only in manufacturing shall pay a license fee of $150.00 per year. A milk dealer who during the year prior to the one for which the application is being made sold a quantity of milk which would yield a fee of less than $300.00 per year may pay his full fee at the beginning of the license year based upon the prior year's business. Milk dealers shall pay the fee by the fifteenth of each month for the previous month. Failure to pay the fee shall be the basis for the suspension or revocation of license or the assessment of penalty as herein provided for any other violations of this act. There shall be no refund except to correct a clerical error or where a license is applied for and the director declines to grant the license to the applicant.

Repealer.

4. Sections 2 and 3 of P. L. 1962, c. 181 (C. 4:12A–36.1 and 4:12A–36.2) are repealed.

5. This act shall take effect immediately but shall be retroactive to July 1, 1983.

Approved September 9, 1983.

CHAPTER 345

A SUPPLEMENT to "An act concerning the handling of radioactive materials in this State and supplementing the 'Radiation Protection Act' (P. L. 1958, c. 116)," approved September 26, 1977 (P. L. 1977, c. 233, C. 26:2D–18 et seq.).

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

C. 26:2D-23.1 Unlawful transport.

1. It shall be unlawful for any person to transport or store in transit the following radioactive materials in any county in New Jersey which has an average population density exceeding 1,000 persons per square mile as measured in the most recent decennial census:

a. Plutonium isotopes in any quantity and form exceeding 20 curies;

b. Uranium enriched in the isotope U-235 exceeding 25 atomic per cent of the total uranium content in quantities where the U-235 content exceeds 1 kilogram;

c. Any of the actinides (i.e., elements with atomic number 89 or greater) the activity of which exceeds 20 curies; or

d. Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds 20 curies.

Any quantity of radioactive material specified as "Low Specific Activity" by the Nuclear Regulatory Commission in 10 CFR Part 71, entitled "Packaging of Radioactive Material for Transport," shall be exempt from the provisions of this act.

C. 26:2D-23.2 Area ban permitted.

2. The department may, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), designate or define any categories or subcategories of radioactive material covered under this act, except radiopharmaceuticals and radioactive substances, the principal purpose of which is associated with the manufacture of radiopharmaceuticals, to be banned from areas designated by the department. The department shall only do so where it finds that such material may create an unwarranted hazard to public safety and where the transportation of the material in the area is not essential to the public welfare.

C. 26:2D-23.3 Certificates of handling.

3. Notwithstanding the provisions of sections 1 and 2 of this act, the department may issue "certificates of handling" on a case-by-case basis for radioactive materials covered under this act:

a. For compelling reasons involving urgent public policy or national security interests which transcend public health and safety concerns;

b. For research or development activities, medical therapy, or education purposes which the department determines do not pose significant threats to public health and safety;

c. For the transportation of fresh or non-irradiated nuclear fuel to any nuclear generating facility upon a finding by the department that there is no feasible alternate route or mode of transportation which involves less risk to the public; or

d. For the transportation of spent or irradiated nuclear fuel from any nuclear electricity generating facility upon a finding by the department that there is no feasible alternate route or mode of transportation or method of disposition which involves less risk to

the public health and safety; provided, however, that no certificate of handling shall be issued for the transportation of any spent or irradiated nuclear fuel in New Jersey unless the department and the State Police have jointly determined that adequate safety precautions have been taken by the transporter and that adequate emergency response capabilities exist to protect the public during such transportation, and the department has further determined that the shipment of such fuel is secured by a limit of insurance or other form of indemnification, either by law or privately obtained, which is appropriate for the protection of the public in view of the risks associated with such transportation.

C. 26:2D-23.4 Revocation for violation.

4. Any person who violates the provisions of this act shall, in addition to any penalties imposed pursuant to section 13 of P. L. 1958, c. 116 (C. 26:2D–13), have all certificates of handling in the possession of that person revoked and shall be ineligible to receive any certificate of handling for 3 years.

5. This act shall take effect 60 days after enactment.

Approved September 22, 1983.

CHAPTER 346

AN ACT concerning the throwing, placing or depositing of litter upon the highways of this State and amending R. S. 39:4–64.

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

1. R. S. 39:4–64 is amended to read as follows:

Highway littering ban.

39:4–64. a. No person shall throw or drop any bundle, object, article or debris of any nature from a vehicle whether in motion or not when such vehicle is on a highway. The words "object, article or debris of any nature" as used in this section shall be deemed to include a lighted cigarette, cigar, match, or live ashes, or any substance or thing in and of itself likely to cause a fire, but such inclusion shall not be deemed to in anywise limit the generality of said words "object, article or debris of any nature." Any person who violates this section shall be subject to a fine of not less than $100.00 nor more than $500.00 for each offense.

b. There shall be a rebuttable presumption that the registered owner of the vehicle, if present in the vehicle, or, in his absence, the driver of the vehicle, is presumed to be responsible for any violation of this section, if:

(1) A bundle, object, article or debris of any nature is thrown or dropped from the vehicle by an occupant of the vehicle;

(2) There are two or more occupants in the vehicle; and

(3) It cannot be determined which occupant of the vehicle is the violator.

2. This act shall take effect immediately.

Approved September 22, 1983.

CHAPTER 347

AN ACT concerning education and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:6-18.1 Salary during suspension.

1. If any tenured professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher or other person employed in a teaching capacity or any other tenured officer or employee in any State college, county college or industrial school or any other officer or employee of the college or school who is subject to dismissal only in the manner prescribed by subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes, is suspended pending the determination of any charge against him, other than for an indictment under the laws of the United States or the State of New Jersey, and should the determinaton of the charge not be made within 180 days after it is filed with the board of trustees of said college or school, excluding all delays which are granted at the request of such person, the full salary (except for said 180 days) of such person shall be paid beginning on the 181st day until a determination by the board of trustees is made. If the charge is dismissed, the person shall be reinstated immediately with full pay from the first day of the suspension. If the charge is dismissed and the suspension is continued during an appeal therefrom, then

the persons's full pay or salary shall continue until the determination of the appeal. However, the board of trustees shall deduct from the full pay or salary any sums received by way of pay or salary from any substitute employment assumed during the period of suspension. If the charge is sustained on the original hearing or an appeal therefrom, and the determination is appealed, then the salary suspension may be continued, reinstituted or instituted unless and until the determination is reversed, in which event the suspended person shall be reinstated immediately with full pay as of the time of suspension. If the charges are sustained, the employer may recover any salary which was paid to the employee during the period of suspension.

2. This act shall take effect immediately.

Approved September 22, 1983.

CHAPTER 348

AN ACT concerning property insurance and supplementing the "small loan law," chapter 10 of Title 17 of the Revised Statutes, and the "Secondary Mortgage Loan Act," approved September 23, 1970 (P. L. 1970, c. 205; C. 17:11A–34 et seq.).

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

C. 17:10-14.1a Insurance optional.

1. A licensee under chapter 10 of Title 17 of the Revised Statutes may make available insurance covering direct or indirect damage or loss, by fire or other perils, including those of extended coverage, to the property of the borrower which is the security for the loan, which insurance shall be for an amount and term not to exceed the amount and term of the loan.

The licensee shall provide the borrower with the following written statement, to be printed in at least 10-point bold type:

NOTICE TO THE BORROWER

YOU ARE NOT REQUIRED TO PURCHASE PROPERTY INSURANCE AS A CONDITION OF RECEIVING THE LOAN.

IF YOU DESIRE PROPERTY INSURANCE YOU MAY SECURE INSURANCE FROM A COMPANY OR AGENT OF YOUR OWN CHOOSING.

C. 17:11A-49.1 Notice to borrower.

2. A licensee under P. L. 1970, c. 205 (C. 17:11A–34 et seq.) may make available insurance covering direct or indirect damage or loss, by fire or other perils, including those of extended coverage, to the property of the borrower which is the security for the loan, which insurance shall be for an amount and term not to exceed the amount and term of the loan.

The licensee shall provide the borrower with the following written statement, to be printed in at least 10-point bold type:

NOTICE TO THE BORROWER

YOU ARE NOT REQUIRED TO PURCHASE PROPERTY INSURANCE AS A CONDITION OF RECEIVING THE LOAN.

IF YOU DESIRE PROPERTY INSURANCE YOU MAY SECURE INSURANCE FROM A COMPANY OR AGENT OF YOUR OWN CHOOSING.

3. This act shall take effect immediately.

Approved September 22, 1983.

CHAPTER 349

AN ACT concerning the application and enforcement of the dimensional and weight limitations of certain vehicles or combinations thereof, and amending R. S. 39:3–20, R. S. 39:3–84, P. L. 1950, c. 142 and repealing P. L. 1973, c. 273.

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

1. R. S. 39:3–20 is amended to read as follows:

Commercial motor vehicle registrations; fees.

39:3–20. For the purpose of this act, gross weight means the weight of the vehicle or combination of vehicles, including load or contents. a. The director is authorized to issue registrations for commercial motor vehicles other than omnibuses or motor-drawn vehicles upon application therefor and payment of a fee based on the gross weight of the vehicle, including the gross weight of all vehicles in any combination of vehicles of which the commercial motor vehicle is the drawing vehicle. The gross weight of a dis-

abled commercial vehicle or combination of disabled commercial vehicles being removed from a highway shall not be included in the calculation of the registration fee for the drawing vehicle.

Except as otherwise provided in this subsection, every registration for a commercial motor vehicle other than an omnibus or motor-drawn vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued. The minimum registration fee shall be $50.00 plus $8.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

Commercial motor vehicles other than omnibuses or motor-drawn vehicles for which commercial motor vehicle registrations had been issued prior to the effective date of this act and which expire March 31, 1982 shall be issued commercial registrations, which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than four months nor later than 16 months following the date of issuance of the registration. The fees for such registrations shall be fixed by the director in amounts proportionately less or greater than the fees established by this subsection.

b. The director is also authorized to issue registrations for commercial motor vehicles having three or more axles and a gross weight over 40,000 pounds but not exceeding 70,000 pounds, upon application therefor and proof to the satisfaction of the director that the applicant is actually engaged in construction work or in the business of supplying material, transporting material, or using such registered vehicle for construction work.

Except as otherwise provided in this subsection, every registration for these commercial motor vehicles shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

The registration fee shall be $16.00 for each 1,000 pounds or portion thereof of gross weight, including the gross weight of all vehicles in any combination of which such commercial motor vehicle is the drawing vehicle. "Constructor" registrations issued prior to the effective date of this act, which expire June 30, 1982, shall be issued contractor vehicle registrations, which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than four months nor later than 16 months following the date of issuance of the registration. The fees for the

registrations shall be fixed by the director in amounts proportionately less or greater than the fees established by this subsection.

Such commercial motor vehicle shall be operated in compliance with the speed limitations of Title 39 of the Revised Statutes and shall not be operated at a speed greater than 30 miles per hour when one or more of its axles has a load which exceeds the limitations prescribed in R. S. 39:3–84.

c. The director is also authorized to issue registrations for each of the following solid waste vehicles: two-axle vehicles having a gross weight not exceeding 42,000 pounds; tandem three-axle and four-axle vehicles having a gross weight not exceeding 60,000 pounds; four-axle tractor-trailer combination vehicles having a gross weight not exceeding 60,000 pounds. Registration is based upon application to the director and proof to his satisfaction that the applicant is actually engaged in the performance of solid waste disposal or collection functions and holds a certificate of convenience and necessity therefor issued by the Board of Public Utilities.

Except as otherwise provided in this subsection, every registration for a solid waste vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

The registration fee shall be $50.00 plus $8.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

Solid waste vehicles for which commercial motor vehicle registrations had been issued prior to the effective date of this act and which shall expire June 30, 1982 shall be issued solid waste registrations, which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than four months or later than 16 months following the date of issuance of the registration. The fees for the registrations shall be fixed by the director in amounts proportionately less or greater than the fees established by this subsection.

d. The director is also authorized to issue registrations for commercial motor-drawn vehicles upon application therefor. The registration year for commercial motor-drawn vehicles shall be April 1 to the following March 31 and the fee therefor shall be $18.00 for each such vehicle.

At the discretion of the director, an applicant for registration for a commercial motor-drawn vehicle may be provided the option

of registering such vehicle for a period of four years. In the event that the applicant for registration exercises the four-year option, a fee of $64.00 for each such vehicle shall be paid to the director in advance.

If any commercial motor-drawn vehicle registered for a four-year period is sold or withdrawn from use on the highways, the director may, upon surrender of the vehicle registration and plate, refund $16.00 for each full year of unused prepaid registration.

e. It shall be unlawful for any vehicle or combination of vehicles registered under this act, having a gross weight, including load or contents, in excess of the gross weight provided on the registration certificate to be operated on the highways of this State.

The owner, lessee, bailee or any one of the aforesaid of a vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or on any public or quasi-public property in this State with a gross weight of that vehicle or combination of vehicles, including load or contents, in excess of the weight limitation permitted by the certificate of registration for the vehicle or combination of vehicles, pursuant to the provisions of this section, shall be assessed a penalty of $50.00 plus an amount equal to $8.50 for each 1,000 pounds or fractional portion of 1,000 pounds of weight in excess of the weight limitation permitted by the certificate of registration for that vehicle or combination of vehicles. A vehicle or combination of vehicles for which there is no valid certificate of registration is deemed to have been registered for zero pounds for the purposes of the enforcement of this act, in addition to any other violation of this Title, but is not deemed to be lawfully or validly registered pursuant to the provisions of this Title.

Moneys realized from the increase of the fees for registrations issued pursuant to the provisions of this act shall be paid into the State Treasury and credited to the General State Fund and available for general State purposes.

This section shall not be construed to supersede or repeal the provisions of section 39:3–84, 39:4–75, or 39:4–76 of this Title.

2. R. S. 39:3–84 is amended to read as follows:

Dimensional limits.

39:3–84. a. The following constitute the maximum dimensional limits for width, height and length for any vehicle or combination

of vehicles, including load or contents or any part or portion thereof, found or operated on any public road, street or highway or any public or quasi-public property in this State. Violations shall be enforced pursuant to subsection i. of section 5 of P. L. 1950, c. 142 (C. 39:3–84.3).

The dimensional limitations set forth in this subsection are exclusive of safety and energy conservation devices necessary for safe and efficient operation of a vehicle or combination of vehicles, including load or contents, except that no device excluded herein shall have by its design or use the capability to carry, transport or otherwise be utilized for cargo.

Any rules and regulations authorized to be promulgated pursuant to this subsection shall be consistent with any rules and regulations promulgated by the Secretary of Transportation of the United States of America, and shall be in accordance with the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.). In addition to the other requirements of this subsection and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents or any part or portion thereof, except as otherwise provided by this subsection shall be operated in this State, unless by special permit authorized by subsection d. of this section with a dimension, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

As used herein and pursuant to R. S. 39:1–1, the term "vehicle" includes, but is not limited to, commercial motor vehicles, trucks, truck tractors, tractors, road tractors, or omnibuses. As used herein and pursuant to R. S. 39:1–1, the term "combination of vehicles" includes, but is not limited to, vehicles as heretofore designated, when those vehicles are the drawing or power unit of a combination of vehicles and motor-drawn vehicles, such as, but not limited to, trailers, semi-trailers, or other vehicles.

(1) The maximum outside width of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall be no more than 102 inches; except that the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations for those public roads, streets or highways or public or quasi-public property in this State, where it is determined that

the interests of public safety and welfare require the maximum outside width be no more than 96 inches.

(2) The maximum height of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 13 feet, six inches.

(3) The maximum overall length of any vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 35 feet, except that the overall length of a vehicle, including load or contents or any part or portion thereof, otherwise subject to the provisions of this paragraph shall not exceed 50 feet when transporting poles, pilings, structural units or other articles which cannot be dismembered, dismantled or divided. When a vehicle subject to this paragraph is the drawing or power unit of a combination of vehicles, as set forth in this subsection, the overall length of the combination of vehicles, including load or contents or any part or portion thereof, shall not exceed 62 feet. The provisions of this paragraph shall not apply to omnibuses or to vehicles which are not designed, built or otherwise capable of carrying cargo or loads.

(4) The maximum overall length of a motor-drawn vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 48 feet when operated as part of a combination of vehicles consisting of one motor-drawn vehicle and a drawing or power unit vehicle not designed, built or otherwise capable of carrying cargo or loads, except that the overall length of a motor-drawn vehicle otherwise subject to the provisions of this paragraph shall not exceed 63 feet when transporting poles, pilings, structural units or other articles that cannot be dismembered, dismantled or divided. The provisions of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles.

(5) No combination of vehicles, including load or contents, consisting of more than two motor-drawn vehicles, as set forth in this subsection, and any other vehicle, shall be found or operated on any public road, street or highway or any public or quasi-public property in this State.

(6) The maximum overall length of a motor-drawn vehicle, as set forth in this section, including load or contents or any part or portion thereof, except as otherwise provided by this subsection,

when operated as part of a combination of vehicles consisting of two motor-drawn vehicles and a drawing or power unit vehicle which is not designed, built or otherwise capable of carrying cargo or loads, shall not exceed 28 feet for each motor-drawn vehicle in the combination of vehicles. The provisions of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where combinations of vehicles as described in this paragraph may lawfully operate.

(7) The maximum length and outside width of an omnibus found or operated in this State shall be established by rules and regulations promulgated by the Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police. Unless otherwise specified in the aforesaid rules and regulations, the maximum outside width shall be 102 inches; any other dimension established for width in the aforesaid rules and regulations shall be based upon a determination that operation of an omnibus with a width of less than 102 inches, but no less than 96 inches is required in the interest of public safety on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations, or that operation of an omnibus with a width greater than 102 inches is not unsafe on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations.

(8) The maximum width and length of farm tractors and traction equipment and farm machinery and implements shall be established by rules and regulations promulgated by the Director of the Division of Motor Vehicles. The operation of the aforesaid vehicles shall be subject to the provisions of R. S. 39:3–24 and they shall not be operated on any highway which is part of the National System of Interstate and Defense Highways or on any highway which has been designated a freeway or parkway as provided by law.

(9) The maximum outside width of the cargo or load of a vehicle or combination of vehicles, including farm trucks, loaded with hay or straw shall not exceed 105 1/2 inches, but the maximum outside width of the vehicle or combination of vehicles, including farm trucks, shall otherwise comply with the provisions of paragraph (1) of this subsection. The Commissioner of Transportation, after consultation with the Director of the Division of Motor Vehicles and the Superintendent of State Police, may promulgate rules and regulations establishing a maximum outside width of 102 inches for the aforesaid cargo or load when operating on those highways where a greater width is prohibited by operation of law.

(10) Notwithstanding the provisions of paragraphs (4) and (6) of this subsection pertaining to length, the Director of the Division of Motor Vehicles may adopt rules and regulations specifying maximum length dimensions for any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles.

(11) The provisions of this subsection pertaining to length shall not apply to a vehicle or combination of vehicles or special mobile equipment operated by a public utility, as defined in R .S. 48:2–13, when that vehicle or combination of vehicles or special mobile equipment is used by the public utility in the construction, reconstruction, repair or maintenance of its property or facilities.

b. No vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or any public or quasi-public property in this State shall exceed the weight limitations set forth in this Title. Violations shall be enforced pursuant to subsection j. of section 5 of P. L. 1950, c. 142 (C. 39:3–84.3).

Where enforcement of a weight limit provision of this Title requires a measurement of length between axle centers, the distance between axle centers shall be measured to the nearest whole foot or whole inch, whichever is applicable, and when the measurement includes a fractional part of a foot equaling six inches or more or a fractional part of an inch equaling one-half inch or more, the next larger whole foot or whole inch, whichever is applicable, shall be utilized. The term ''tandem axle'' as used in this act is defined as a combination of consecutive axles, consisting of only two axles, where the distance between axle centers is 40 inches or more but no more than 96 inches.

In addition to the other requirements of this section and notwithstanding any other provision of this Title, no vehicle or com-

bination of vehicles, including load or contents, shall be operated in this State, unless by special permit authorized by this Title, with a gross weight, single or multiple axle weight, or gross weight of two or more consecutive axles, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

(1) The gross weight imposed on the highway or other surface by the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds.

For the purpose of this Title the combined gross weight imposed on the highway or other surface by all the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall be deemed to mean the total gross weight of all wheels whose axle centers are spaced less than 40 inches apart.

(2) The gross weight imposed on the highway or other surface by all the wheels of all consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 34,000 pounds where the distance between consecutive axle centers is 40 inches or more, but no more than 96 inches apart.

(3) The combined gross weight imposed on the highway or other surface by all the wheels of consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds for each single axle where the distance between consecutive axle centers is more than 96 inches; except that on any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U. S. C. § 103 (e), this single axle limitation shall not apply and in those instances the provisions of this Title as set forth at R. S. 39:3–84 b. (5) shall apply.

(4) The maximum total gross weight imposed on the highway or other surface by a vehicle or combination of vehicles, including load or contents, shall not exceed 80,000 pounds.

(5) On any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U. S. C. § 103 (e), the total gross weight, in pounds, imposed on the highway or other surface by any group of two or more consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed that listed in the following TABLE OF MAXIMUM GROSS WEIGHTS, for the respective distance, in feet, between the axle centers of the first and last axles of the group of

two or more consecutive axles under consideration; except that in addition to the weights specified in that Table, two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is thirty-six feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the combined gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

In all cases the combined gross weight for a vehicle or combination of vehicles, including load or contents, or the maximum gross weight for any axle or combination of axles of the vehicle or combination of vehicles, including load or contents, shall not exceed that which is permitted pursuant to this paragraph or R. S. 39:3–84 b. (2); R. S. 39:3–84 b. (3); or R. S. 39:3–84 b. (4) of this act, whichever is the lesser allowable gross weight.

TABLE OF MAXIMUM GROSS WEIGHTS

Distance in feet between axle centers of first and last axles of any group of two or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
3	22400	22400	22400	22400	22400	22400
4	34000	34000	34000	34000	34000	34000
5	34000	34000	34000	34000	34000	34000
6	34000	34000	34000	34000	34000	34000
7	34000	34000	34000	34000	34000	34000
8	34000	34000	34000	34000	34000	34000
9	39000	42500	42500	42500	42500	42500
10	40000	43500	43500	43500	43500	43500
11	41000	44000	44000	44000	44000	44000
12	42000	45000	50000	50000	50000	50000
13	43000	45500	50500	50500	50500	50500
14	44000	46500	51500	51500	51500	51500
15	44800	47000	52000	52000	52000	52000
16	44800	48000	52500	58000	58000	58000
17	44800	48500	53500	58500	58500	58500
18	44800	49500	54000	59000	59000	59000
19	44800	50000	54500	60000	60000	60000
20	44800	51000	55500	60500	66000	66000
21	44800	51500	56000	61000	66500	66500

TABLE OF MAXIMUM GROSS WEIGHTS (Continued)

Distance in feet between axle centers of first and last axles of any group of two or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
22	44800	52500	56500	61500	67000	67000
23	44800	53000	57500	62500	68000	68000
24	44800	54000	58000	63000	68500	74000
25	44800	54500	58500	63500	69000	74500
26	44800	55500	59500	64000	69500	75000
27	44800	56000	60000	65000	70000	75500
28	44800	57000	60500	65500	71000	76500
29	44800	57500	61500	66000	71500	77000
30	44800	58500	62000	66500	72000	77500
31	44800	59000	62500	67500	72500	78000
32	44800	60000	63500	68000	73000	78500
33	44800	60500	64000	68500	74000	79000
34	44800	61500	64500	69000	74500	80000
35	44800	62000	65500	70000	75000	80000
36	44800	63000	66000	70500	75500	80000
37	44800	63500	66500	71000	76000	80000
38	44800	64500	67500	71500	77000	80000
39	44800	65000	68000	72500	77500	80000
40	44800	66000	68500	73000	78000	80000
41	44800	66500	69500	73500	78500	80000
42	44800	67200	70000	74000	79000	80000
43	44800	67200	70500	75000	80000	80000
44	44800	67200	71500	75500	80000	80000
45	44800	67200	72000	76000	80000	80000
46	44800	67200	72500	76500	80000	80000
47	44800	67200	73500	77500	80000	80000
48	44800	67200	74000	78000	80000	80000
49	44800	67200	74500	78500	80000	80000
50	44800	67200	75500	79000	80000	80000
51	44800	67200	76000	80000	80000	80000
52	44800	67200	76500	80000	80000	80000
53	44800	67200	77500	80000	80000	80000
54	44800	67200	78000	80000	80000	80000
55	44800	67200	78500	80000	80000	80000
56	44800	67200	79500	80000	80000	80000

TABLE OF MAXIMUM GROSS WEIGHTS (Continued)

Distance in feet between axle centers of first and last axles of any group of two or more consecutive axles	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
57	44800	67200	80000	80000	80000	80000
58	44800	67200	80000	80000	80000	80000
59	44800	67200	80000	80000	80000	80000
60	44800	67200	80000	80000	80000	80000
61	44800	67200	80000	80000	80000	80000
62	44800	67200	80000	80000	80000	80000
63	44800	67200	80000	80000	80000	80000
64	44800	67200	80000	80000	80000	80000
65	44800	67200	80000	80000	80000	80000
66	44800	67200	80000	80000	80000	80000
67	44800	67200	80000	80000	80000	80000
68	44800	67200	80000	80000	80000	80000
69	44800	67200	80000	80000	80000	80000
70	44800	67200	80000	80000	80000	80000

c. The dimensional and weight restrictions set forth herein shall not apply to a combination of vehicles which includes a disabled vehicle or a combination of vehicles being removed from a highway in this State, provided that such oversize or overweight vehicle combination may not travel on the public highways more than five miles from the point where such disablement occurred. If the disablement occurred on a limited access highway, the distance to the nearest exit of such highway shall be added to the five-mile limitation.

d. The Director of the Division of Motor Vehicles may promulgate rules and regulations, including the establishment of fees, for the issuance, at his discretion and if good cause appears, of a special written permit authorizing the applicant:

(1) To operate or move a vehicle or combination of vehicles or special mobile equipment, transporting one piece loads that cannot be dismembered, dismantled or divided in order to comply with the weight limitations set forth in this act. The special written permit issued by the director shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which said permit was issued; and

(2) To operate or move a vehicle or combination of vehicles or specialized mobile equipment, transporting a load or cargo that cannot be dismembered, dismantled or divided in order to comply with the dimensional limitations set forth in this act. The special written permit shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which the permit was issued; and

(3) Under emergency conditions, to operate or move a type of vehicle or combination of vehicles or special mobile equipment of a size or weight, including load or contents, which exceeds the maximum size or weight limitations specified in this act.

3. Section 3 of P. L. 1950, c. 142 (C. 39:3–84.1) is amended to read as follows:

C. 39:3-84.1 Constructor, solid waste vehicles.

3. The axle weight limitations as provided at R. S. 39:3–84b. shall apply to all vehicles registered in New Jersey subsequent to March 1, 1950, which have not been registered therein or contracted for purchase by New Jersey residents prior to that date. The weight limitations provided at R. S. 39:3–84 b. (1); R. S. 39:3–84 b. (2); and R. S. 39:3–84 b. (3) relative to maximum gross axle weights shall not apply to vehicles registered as "constructor" or "solid waste" vehicles or to a combination of vehicles of which the "constructor" or "solid waste" vehicle is the drawing vehicle as provided at R. S. 39:3–20, except that said limitations shall apply to vehicles registered as "solid waste" when operated on any highway which is part of the National System of Interstate and Defense Highways, as provided at 23 U. S. C. § 103 (e). The provisions of R. S. 39:3–84 b. (5) shall apply to vehicles registered as "constructor" or "solid waste" or to a combination of vehicles of which the "constructor" or "solid waste" vehicle is the drawing vehicle as provided in R. S. 39:3–20, except that for any vehicle registered as a "constructor" or any combination of vehicles of which the drawing vehicle is registered as a "constructor," the provisions of R. S. 39:3–84b.(5) shall not apply; provided the vehicle or combination of vehicles is operated within an area that is 30 miles or less from the point established as a headquarters for the particular construction operation. Vehicles registered as "constructor" or "solid waste" or a combination of vehicles of which the "constructor" or "solid waste" vehicle is the drawing vehicle shall be limited to a maximum gross vehicle weight, including load or contents, as shown on the registration certificate of that vehicle.

4. Section 5 of P. L. 1950, c. 142 (C. 39:3–84.3) is amended to read as follows:

C. 39:3-84.3 Measurement, weighing to determine compliance.

5. a. Any State Police officer or motor vehicle inspector is authorized to require the driver, operator, owner, lessee or bailee of any vehicle or combination of vehicles found on any public road, street or highway or on any public or quasi-public property in this State to stop and submit the vehicle or combination of vehicles, including load or contents, to measurement or weighing to determine whether the size or weight of the vehicle or combination of vehicles, including load or contents, is in excess of that permitted in this Title, by means of measuring or weighing devices or scales approved and certified by the State Superintendent of Weights and Measures or his agent. Copies of documents displaying the seal or certification of the State Superintendent of Weights and Measures shall be prima facie evidence of the reliability and accuracy of the measuring or weighing devices or scales utilized in the enforcement of this Title. The driver, operator, owner, lessee or bailee of a vehicle or combination of vehicles, including load or contents, that is to be measured or weighed may be required to drive or otherwise move the vehicle or combination of vehicles to a location, as directed by the officer or inspector, where the vehicle or combination of vehicles, including load or contents, can be measured or weighed, as described in this section.

b. Whenever the officer or inspector, upon measuring or weighing a vehicle or combination of vehicles, including load or contents, determines that the size or weight is in excess of the limits permitted in this Title, the officer or inspector shall require the driver, operator, owner, lessee or bailee to stop the vehicle or combination of vehicles in a suitable place and remain in that place until a portion of the load or contents of the vehicle or combination of vehicles is removed by the driver, operator, owner, lessee, bailee or duly appointed agent thereof, as may be necessary to conform or reduce the size or weight of the vehicle or combination of vehicles, including load or contents, to those limits as permitted under this act, or permitted by the certificate of registration for the vehicle or combination of vehicles, whichever may be lower. All materials so unloaded or removed shall be cared for by the driver, owner, operator, lessee or bailee of the vehicle or combination of vehicles, or duly appointed agent thereof, at the risk, responsibility and liability of the driver, owner, operator, lessee, bailee or duly appointed agent thereof.

c. No vehicle or combination of vehicles shall be deemed to be in violation of the weight limitation provision of this act, when, upon examination by the officer or inspector, the dispatch papers for the vehicle or combination of vehicles, including load or contents, show it is proceeding from its last preceding freight pickup point within the State of New Jersey by a reasonably expeditious route to the nearest available scales or to the first available scales in the general direction towards which the vehicle or combination of vehicles has been dispatched, or is returning from such scales after weighing-in to the last preceding pickup point.

d. When the officer or inspector determines that a vehicle or combination of vehicles, including load or contents, is in violation of the weight limitations of this Title as provided at R. S. 39:3–84 b. (1); R. S. 39:3–84 b. (2); R. S. 39:3–84 b. (3); or R. S. 39:3–84 b. (5) relative to maximum gross axle weights, but is within the permissible maximum gross vehicle weight of this Title as provided at R. S. 39:3–84 b. (4) or R. S. 39:3–84 b. (5), whichever is applicable, the driver, operator, owner, lessee, bailee or duly appointed agent thereof shall be permitted, before proceeding, to redistribute the weight of the vehicle or combination of vehicles or the load or contents of the vehicle or combination of vehicles so that no axle or combination of consecutive axles are in excess of the limits set by this act, in which event there is no violation.

e. When the officer or inspector determines that a vehicle or combination of vehicles, including load or contents, is in violation of the height, width or length limits of this Title as provided at R. S. 39:3–84a., the driver, operator, owner, lessee or bailee of the vehicle or combination of vehicles or duly appointed agent thereof shall be permitted, before proceeding, to adjust, reduce or conform the vehicle or combination of vehicles, including load or contents, so that the vehicle or combination of vehicles, including load or contents, are not in excess of the height, width, or length limits set by this act, in which event there is no violation.

f. The provisions of this subsection shall not apply to a vehicle or combination of vehicles, including load or contents, found or operated on any highway in this State which is part of or designated as part of the National Interstate System, as provided at 23 U. S. C. § 103(e). No arrest shall be made or summons issued for a violation of the weight limitations provided in this act at R. S. 39:3–84b. where the excess weight is no more than 5% of the weight permitted, provided the gross weight of the vehicle or combination of vehicles, including load or contents, does not exceed the maxi-

mum gross weight of 80,000 pounds as set forth at R. S. 39:3–84b. (4).

g. Any person who presents to the officer or inspector, or has in his possession, or who prepares false dispatch papers, that is to say, dispatch papers which do not correspond to the cargo carried, shall be subject to a fine not to exceed $100.00.

h. Any driver of a vehicle or combination of vehicles who fails or refuses to stop and submit the vehicle or combination of vehicles, including load or contents, to measurement or weighing, as provided in this Title, or otherwise fails to comply with the provisions of this section, shall be subject to a fine not exceeding $200.00.

i. The owner, lessee, bailee or any one of the aforesaid of any vehicle or combination of vehicles found or operated on any public road, street or highway or on any public or quasi-public property in this State in violation of the height, width, or length limits as set forth in subsection a. of R. S. 39:3–84 shall be fined not less than $150.00 nor more than $500.00.

j. The owner, lessee, bailee or any one of the aforesaid of any vehicle or combination of vehicles found or operated on any public road, street or highway or on any public or quasi-public property in this State, with a gross weight of the vehicle or combination of vehicles, including load or contents, in excess of the weight limitations as provided at subsection b. of R. S. 39:3–84 or section 3 of P. L. 1950, c. 142 (C. 39:3–84.1) shall be fined an amount equal to $0.02 per pound for each pound of the total excess weight; provided the total excess weight is 10,000 pounds or less, or shall be fined an amount equal to $0.03 per pound for each pound of the total excess weight; provided the total excess weight is more than 10,000 pounds, but in no event shall the fine be less thas $50.00.

k. Whenever a vehicle or combination of vehicles, including load or contents, is found to be in violation of any two or more of the weight limitations as provided at subsection b. of R. S. 39:3–84 or section 3 of P. L. 1950, c. 142 (C. 39:3–84.1), the fine levied shall be only for the violation involving the greater or greatest excess weight.

Repealer.

5. P. L. 1973, c. 273 (C. 39:3–84a) is repealed.

6. This act shall take effect on April 6, 1983.

Approved September 22, 1983.

CHAPTER 350

AN ACT concerning the recognition of foreign judgments in this State, supplementing chapter 82 of Title 2A of the New Jersey Statutes and repealing N. J. S. 2A:82-4.

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

C. 2A:82-4.1 Proof of nonappearance.

1. The recital in the record of any proceeding upon a foreign judgment, including a judgment of any court out of this State, that the defendant or person sought to be affected by the judgment was summoned or appeared shall not prevent or estop the defendant or person affected from proving that he was not summoned or did not appear.

C. 2A:82-4.2 Burden on enforcer.

2. In any proceeding upon a foreign judgment, including a judgment of any court out of this State, the plaintiff or person seeking to enforce the judgment shall have the burden of proving that the requirements, statutory and otherwise, of the foreign jurisdiction have been met, conferring jurisdiction of the subject matter of the foreign proceeding on the foreign court or tribunal and over the defendant or person sought to be affected by the judgment.

C. 2A:82-4.3 Statute of limitations.

3. In any proceeding upon a foreign judgment, including a judgment of any court out of this State, the plaintiff or person seeking to enforce the judgment shall have the burden of proving that the underlying cause of action which gave rise to the awarding of the foreign judgment was commenced in the foreign jurisdiction within the period required by statute of this State for the commencement of a like action in this State.

C. 2A:82-4.4 No penalty.

4. A court, in any proceeding upon a foreign judgment, including a judgment of any court out of this State, may award judgment for the plaintiff or person seeking to effect the judgment, including any interest on the judgment, but shall not include as a part thereof any penalty, whether of a penal nature or otherwise, imposed in connection with the foreign judgment.

C. 2A:82-4.5 Inapplicable to support.

5. The provisions of this act shall not be applicable to a foreign judgment governed by the "Revised Uniform Reciprocal Enforcement of Support Act (1968)," P. L. 1981, c. 243 (C. 2A:4–30.24 et seq.).

C. 2A:82-4.6 Severability.

6. If any one or more sections, clauses, sentences or parts of this act shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, that judgment shall not affect, impair or invalidate the remaining provisions hereof, but shall be confined in its operation to the specific provisions held unconstitutional or invalid.

C. 2A:82-4.7 Philadelphia ordinance covered.

7. As used in this act, "any proceeding upon a foreign judgment, including a judgment of any court out of this State" means a judgment under the Philadelphia Wage and Net Profits Tax Ordinance (City Code Section 19-508).

Repealer.

8. N. J. S. 2A:82–4 is repealed.

9. This act shall take effect immediately.

Approved September 29, 1983.

CHAPTER 351

AN ACT establishing criminal offenses for certain acts regarding motor vehicles 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:17-6 Destruction of motor vehicle indicia.

1. a. A person who removes, defaces, alters, changes, destroys, covers or obliterates any trademark, distinguishing or identification number, serial number or mark on or from any motor vehicle for an unlawful purpose is guilty of a crime of the third degree.

b. A person who for an unlawful purpose knowingly possesses any motor vehicle, or any of the parts thereof, from or on which any trademark, distinguishing or identification number, or serial

number or mark has been removed, covered, altered, changed, defaced, destroyed or obliterated is guilty of an offense, unless, within 10 days after the motor vehicle or any part thereof shall have come into his possession, he files with the Director of the Division of Motor Vehicles in the Department of Law and Public Safety a verified statement showing: the source of his title, the proper trademark, identification or distinguishing number, or serial number or mark, if known, and if known, the manner of and reason for the mutilation, change, alteration, concealment or defacement, the length of time the motor vehicle or part has been held and the price paid therefor.

If the value of the motor vehicle or parts possessed exceeds $500.00 the offense is a crime of the third degree; if the value is at least $200.00 but does not exceed $500.00 it is a crime of the fourth degree; if the value is less than $200.00 it is a disorderly persons offense.

c. As used in this section, "motor vehicle" includes motor bicycles, motorcycles, automobiles, trucks, tractors or other vehicles designed to be self-propelled by mechanical power, and otherwise than by muscular power, except motor vehicles running upon or guided by rails or tracks.

2. This act shall take effect immediately.

Approved September 29, 1983.

CHAPTER 352

AN ACT to create the Alzheimer's Disease Study Commission.

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

C. 26:2M-1 Findings, determinations.

1. The Legislature finds and determines:

a. In recent years Alzheimer's disease has come to be recognized as presenting a medical and social problem of grave dimensions.

b. A degenerative and fatal brain disease of undetermined origin, Alzheimer's disease currently affects four million people in the United States, some as young as 40, causing progressive memory loss, confusion, inability to communicate, extreme personality change, and eventual inability to perform the most basic tasks.

c. No effective treatment for this disease is at present known, and proper care for persons afflicted with it is difficult and expensive to procure; coping with the needs of those afflicted becomes more arduous as the disease progresses; and adequate care for those afflicted is beyond the means of many families.

d. It is appropriate that State Government take due cognizance of this significant problem in the field of public health and social welfare; that it take such measures as may be feasible and appropriate to ease the burdens of the afflicted and their families; and that it facilitate the study and awareness of means to care for the victims of Alzheimer's disease and of present or prospective approaches to the treatment of the disease.

C. 26:2M-2 Alzheimer's Disease Study Commission.

2. a. There is created the Alzheimer's Disease Study Commission, which shall consist of:

(1) The Commissioners of the Departments of Health, Human Services and Community Affairs, who shall serve during their continuance in their respective offices;

(2) Two members of the Senate, who shall not be of the same political party, to be appointed by the President of the Senate, and who shall serve during their continuance in office as Senators;

(3) Two members of the General Assembly, who shall not be of the same political party, to be appointed by the Speaker of the General Assembly, and who shall serve during their continuance in office as members of the General Assembly;

(4) Seven citizen members, including no more than three health professionals who are currently involved in direct services to victims of Alzheimer's disease, to be appointed by the Governor, who shall be chosen from among persons who by reason of family relationship or legal guardianship bear, or have borne, responsibility in caring for victims of Alzheimer's disease.

b. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

c. Members of the commission shall serve without compensation, but shall be entitled to reimbursement for actual expenses necessarily incurred in carrying out their duties as members of the commission.

C. 26:2M-3 Organization.

3. The commission shall organize as soon as may be practicable after the appointment of its members and shall select a chairman

from among its members and a secretary who need not be a member of the commission.

C. 26:2M-4 Duties.

4. It shall be the duty of the commission:

a. To study the extent and severity of the incidence of Alzheimer's disease in this State, with due consideration to the consequent need for specialized modes and facilities for the care of those afflicted;

b. To study the needs of both the victims of the disease and their families, the availability and affordability of long-term care arrangements, including in-home care and other alternatives to institutionalization;

c. To gather and disseminate data and information relative to the care and treatment of persons afflicted with this disease, so as to stimulate awareness and provide accurate data for health care professionals and governmental policymakers having responsibilities relevant to this problem.

C. 26:2M-5 Personnel; expenses.

5. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for the purposes of carrying out its duties under this act, and to employ such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for those purposes.

C. 26:2M-6 Report.

6. The commission may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature, and shall report its findings and recommendations to the Governor and the Legislature, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature, as soon as may be practicable after its appointment and organization, and from time to time thereafter as it may deem appropriate in the development of its studies pursuant to section 4 of this act.

7. This act shall take effect immediately.

Approved September 29, 1983.

CHAPTER 353

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the amounts appropriated by P. L. 1983, c. 240 there is appropriated out of the General Fund the following sum for the purposes specified:

DIRECT STATE SERVICES

DEPARTMENT OF STATE

Government Direction, Management and Control

74 General Government Services

2505 Office of the Secretary of State

01-2505	Commercial and Governmental Records Control	$310,000.00

Special Purpose:

For expenses incurred by any of the State's political subdivisions in connection with a special election held for the purpose of filling a vacancy occurring in the Senate or General Assembly in this or any prior fiscal year ..... ($292,000.00)

For expenses incurred to advertise proposed public questions including constitutional amendments which will be submitted to the voters in the November, 1983 General Election ..... (18,000.00)

Notwithstanding the provisions of section 9 of P. L. 1983, c. 240, the appropriation for election expenses may not be transferred to any other item of appropriation.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved September 29, 1983.

CHAPTER 354

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the sum of $135,000,000.00 to provide money for public acquisition and development of lands for recreation and conservation purposes to meet the future needs of the expanding population; to enable the State to acquire and develop lands for recreation and conservation purposes; and to provide for grants and loans to assist municipalities and counties and other units of local government to acquire and develop lands for recreation and conservation purposes; providing the ways and means for establishing a revolving fund for such grants and loans; providing the ways and means to pay the interest of said debt and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election.

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 "New Jersey Green Acres Bond Act of 1983."

2. The Legislature finds that:

a. The provision of lands for public recreation and the conservation of natural resources promotes the public health, prosperity and general welfare and is a proper responsibility of government;

b. Lands now provided for these purposes will not be adequate to meet the needs of an expanding population in years to come;

c. The expansion of population, while increasing the need for these lands, will continually diminish the supply and tend to

increase the cost of public acquisition of lands available and appropriate for these purposes in the future;

d. It is necessary to provide incentives, in the form of grants and loans, to assist local units to acquire lands which have significant recreation and conservation attributes;

e. It is also necessary to provide funds to assure that lands which have been or may hereafter be acquired for recreation and conservation purposes can be developed so as to provide public recreation, preserve historic resources, and provide conservation opportunities and to implement the New Jersey Statewide Comprehensive Outdoor Recreation Plan;

f. The State of New Jersey must act now to acquire and develop as well as to assist local units to acquire and develop substantial quantities of such lands as are now available and appropriate for these purposes so that they may be used and preserved for use for these purposes;

g. The establishment of a mechanism for a continuing source of low-interest loans to local government units for the acquisition and development of lands for recreation and conservation will reduce the cost of and facilitate continuing acquisition programs; and

h. The sum of $135,000,000.00 is needed at this time to make this acquisition and development possible.

3. a. Bonds of the State of New Jersey in the sum of $135,000,000.00 are authorized to provide moneys to meet the cost of public acquisition and development of lands by the State for recreation and conservation purposes, and to provide loans and grants to local government units to help meet the cost of public acquisition and development of lands for recreation and conservation purposes.

b. Of the $135,000,000.00 in bonds authorized under subsection a. herein, $52,000,000.00 in bonds is allocated for the acquisition and development of lands by the State.

c. Of the $135,000,000.00 in bonds authorized under subsection a. herein, $83,000,000.00 in bonds is allocated for grants or loans to local government units for acquisition or development of land. Of the $83,000,000.00 in bonds allocated pursuant to this subsection, not less than $27,000,000.00 in bonds shall be allocated for grants and loans to local government units for the acquisition and development of land located in urbanized areas. Of the amount of bonds allocated for grants and loans to local government units for the acquisition and development of land located in urbanized areas, not

less than 66% shall be allocated for grants and loans to local government units for the acquisition and development of land located in municipalities which in any year subsequent to the enactment of P. L. 1978, c. 14 (C. 52:27D–178 et seq.) were eligible to receive State aid pursuant to that act.

d. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of New Jersey of property under the provisions of this act, the State shall pay annually on October 1 to each municipality in which property is so acquired, for a period of 13 years following this acquisition the following amounts: in the first year a sum of money equal to the tax last assessed and last paid by the taxpayer upon this land and the improvements thereon for the taxable year immediately prior to the time of its acquisition and thereafter the following percentages of the amount paid in the first year, to wit: second year, 92%; third year, 84%; fourth year, 76%; fifth year, 68%; sixth year, 60%; seventh year, 52%; eighth year, 44%; ninth year, 36%; 10th year, 28%; 11th year, 20%; 12th year, 12%; 13th year, 4%. In the event that land acquired by the State pursuant to this act was assessed at an agricultural and horticultural use valuation in accordance with provisions of the "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4–23.1 et seq.), at the time of its acquisition by the State, no rollback tax pursuant to section 8 of P. L. 1964, c. 48 (C. 54:4–23.8) shall be imposed as to this land nor shall this rollback tax be applicable in determining the annual payments to be made by the State to the municipality in which this land is located.

All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of these municipalities, and to accomplish this end the sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

4. a. The cost of lands to be acquired or developed by the State for recreation and conservation purposes using the proceeds of bonds issued by the State under this act shall include 100% of the costs of acquisition or development of these lands by the State.

b. The cost of lands to be acquired or developed by a local government unit with a grant provided by the State under this act shall include not more than 25% of the cost of acquisition or

development of these lands by a local government unit, provided, however, that at such times as the balance of the "Green Trust Fund" exceeds $83,000,000.00, the commissioner, in consultation with the State Treasurer, may increase the State's share of the cost of acquisition to a maximum of 50%. The local share of the cost of this acquisition may be reduced by the (1) fair market value, as determined by the commissioner, of any portion of the lands to be acquired which have been donated to, or otherwise received without cost by, the local unit; or (2) in the case of a conveyance to a local unit of the lands or any portion thereof at less than fair market value, by the difference between fair market value thereof at the time of the conveyance and the conveyance price thereof to the local unit.

c. The cost of lands to be acquired or developed by a local government unit with a loan provided by the State using proceeds of bonds issued by the State under this act shall include up to 100% of the cost of acquisition or development of these lands. The local share of the cost of this acquisition may be reduced in the manner provided in subsection b. of this section.

d. Loans made to local government units from the Green Trust Fund shall bear interest of not more than 2% per year, and shall be for a term of not more than 20 years.

e. No money from the Green Trust Fund shall be expended for a grant to a local government unit until such time as the sums available pursuant to P. L. 1961, c. 46; P. L. 1971, c. 165; P. L. 1974, c. 102; and P. L. 1978, c. 118 for that particular grant category have been appropriated and obligated.

5. As used in this act:

a. "Cost" means, in addition to the usual connotations thereof, the cost of all things deemed necessary or useful and convenient in connection with the acquisition and development of lands by or with the assistance of the State, for recreation and conservation purposes, including the interest or discount on bonds; the cost of issuance of bonds; the cost of engineering, inspection, relocation services, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; the cost of a bond registrar and authenticating agent; the cost of organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer this act; and the cost of reimbursement of any fund of the State from which monies have been advanced to the funds created herein, or the

cost of reimbursement of any fund of the State of any monies heretofore expended for or in connection with this acquisition or development.

b. "Development" means any improvement to land or water areas designed to expand and enhance their utilization for recreation and conservation purposes, including, but not limited to, site preparation, landscaping, structures or facilities which are substantially consistent with the natural setting and topographical conditions. These support structures and facilities shall include, but are not limited to access roads, interpretative facilities, parking areas, utilities and comfort facilities.

c. "Land" or "lands" means real property, including improvements thereof or thereon, rights-of-way, water, 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.

d. "Local government unit" means a municipality, county or other political subdivision of this State authorized to administer, protect, develop and maintain lands for recreation and conservation purposes, or any agency thereof, the primary purpose of which is to administer, protect, develop and maintain lands for recreation and conservation purposes.

e. "Recreation and conservation purposes" means the use of lands for parks, natural areas, historic areas, forests, camping, fishing, water reserves, wildlife reservoirs, hunting, boating, winter sports and similar uses for either public outdoor recreation or conservation of natural resources, or both.

f. "Commissioner" means the Commissioner of Environmental Protection.

g. "Commission" means the New Jersey Commission on Capital Budgeting and Planning.

6. The commissioner shall adopt, pursuant to law, such rules and regulations as are necessary and appropriate to carry out 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.

7. The bonds to be issued under this act shall be serial bonds, term bonds or a combination thereof, and shall be known as "1983 New Jersey Green Acres Bonds." They may be subject to redemption prior to maturity, and, as to each series, the last installment thereof shall mature and be paid not later than 35 years from the

date of its issuance but may be issued in whole or in part for a shorter term. These bonds may be issued in coupon form, fully-registered form or book-entry form. Said bonds shall be issued from time to time as money is required for the purpose aforesaid, as the issuing officials herein named shall determine.

8. The Governor, State Treasurer and the Comptroller of the Treasury or any two of such officials (hereinafter referred to as "the issuing officials") are authorized to carry out the provisions of this act relating to the issuance of said bonds, and shall determine all matters in connection therewith, subject to provisions thereof. In case any of said officials shall be absent from the State or incapable of acting for any reason, his powers and duties shall be exercised and performed by such person as shall be authorized by law to act in his place as a State official.

9. 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 thereon as same shall become due and for the payment of the principal at maturity. The principal and interest on such bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

10. Said bonds shall be signed in the name of the State by the Governor or by his facsimile signature, under the Great Seal of the State, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Comptroller of the Treasury and may be authenticated by an authenticating agent or registrar, as the issuing officials shall determine. Interest coupons attached to said bonds shall be signed by the facsimile signature of the director of the Comptroller of the Treasury. Such bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the bonds or coupons shall cease to hold office at the time of such issue or at the time of the delivery of such bonds to the purchaser.

11. a. Such bonds shall recite that they are issued for the purposes set forth in section 3 of this act and that they are issued in pursuance of this act and that this act was submitted to the people of the State at the general election held in the month of November, 1983 and that it was approved by a majority of the legally qualified voters of the State voting thereon at such election. Such recital in said bonds shall be conclusive evidence of the authority of the State

to issue said bonds and of their validity. Any bonds containing such 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 statutes applicable thereto, and shall be incontestable for any cause.

b. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability thereof, as may be determined by the issuing officials.

12. 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; provided, that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

13. Said bonds shall be issued and sold at such price or prices, and under such terms, conditions and regulations, as the issuing officials may prescribe, after notice of said sale, published at least three times in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in New Jersey or in the city of New York, the first notice to be at least seven days prior to the day of bidding. The said notice of sale may contain a provision to the effect that any or all bids made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale at such price or prices and under such 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 private sale, without advertisement.

14. Until permanent bonds can be prepared, the issuing officials may, in their discretion, issue in lieu of such permanent bonds temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

15. The State Treasurer shall establish a fund to be known as the "1983 New Jersey Green Acres Fund," to be held in such depositories as may be selected by him, and shall deposit into the fund all proceeds of bonds issued by the State under this act for the purpose of acquisition and development of lands by the State. The moneys in said fund are specifically dedicated to meeting the cost of public acquisition and development of lands for recreation and conservation purposes and shall not be expended except in accordance with appropriations from such fund made by law. Any act appropriating moneys from the "1983 New Jersey Green Acres Fund" shall identify the particular project or projects to be funded with such moneys.

16. The State Treasurer shall also establish a fund to be known as the "Green Trust Fund," to be held in such depositories as may be selected by him, and transfer to the fund those moneys in the "1983 Green Acres Fund" which are required for the purpose of making loans and grants to local government units, all moneys derived from the payment of interest and principal on such loans by local government units, and such grants, contributions, donations and reimbursement from federal aid programs as may lawfully be used for the purposes of making loans and grants to local government units. The moneys in said fund are specifically dedicated to meeting the cost of the making of loans and grants to local government units for the acquisition and development of lands for recreation and conservation purposes and shall not be expended except in accordance with appropriations from the fund made by law. Any act appropriating moneys from the "Green Trust Fund" shall identify the particular project or projects to be funded with such moneys.

17. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available money in the treasury of the State to the credit of the "1983 New Jersey Green Acres Fund" or the "Green Trust Fund," as the case may be, such sum as may be deemed necessary for the purposes of this act by the State House Commission, which said sum so transferred shall be returned to the treasury of this State by the treasurer thereof from the proceeds of the sale of the first issue of bonds.

18. Pending their application to the purposes provided in this act, moneys in the "1983 New Jersey Green Acres Fund" or the "Green

Trust Fund'' may be invested and reinvested as other trust funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of moneys in the ''Green Trust Fund'' shall be redeposited and become a part of that fund. Earnings received from the investment or deposit of moneys in the ''1983 New Jersey Green Acres Fund'' shall be paid into the general treasury and become a part of the General Fund.

19. Any proceeds from the sale of lands acquired with funds made available by this act may be deposited in any fund established pursuant to P. L. 1961, c. 46; P. L. 1971, c. 165; P. L. 1974, c. 102; P. L. 1978, c. 118; or any subsequent bond act enacted for similar purposes.

20. In case any coupon bonds and coupons thereunto appertaining or any registered bond shall become lost, mutilated or destroyed, a new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bonds or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of such loss, mutilation or destruction and also such security and indemnity as the issuing officials may require.

21. Any accrued interest received upon the sale of said bonds which is derived from the $52,000,000.00 allocated for State acquisition and development projects shall be applied to discharge of a like amount of interest upon said bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, registration, authentication, 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 said bonds, by the State Treasurer upon warrant of the Comptroller of the Treasury, in the same manner as other obligations of the State are paid.

22. The bonds shall mature, including any sinking fund redemptions, at such times, not more than 35 years following the date of issuance thereof, and in such amounts as the issuing officials shall determine. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem all or any of such bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in such bonds. Refunding bonds may be consolidated with bonds issued under this act or any other act for the purpose of sale.

23. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are subject to redemption prior to maturity, provided such refunding bonds shall mature at any time or times not later than the latest maturity date of such series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest which would be paid on the bonds refunded if such bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to the maturities thereof and to the extent herein otherwise expressly provided.

24. To provide funds to meet the interest and principal payment requirements for the bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived by the State from fees and other charges of any nature made for the use of State parks and other State recreational facilities or so much thereof as may be required;

b. Revenue derived from the tax collected under and by virtue of the provisions of the "Corporation Business Tax Act (1945)," P. L. 1945, c. 162 (C. 54:10A–1 et seq.), as amended and supplemented, or so much thereof as may be required; and

c. If in any year or at any time funds, as hereinabove appropriated, necessary to meet interest and principal payments upon outstanding bonds issued under this act, be insufficient or not available, then and in that case there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State a tax on 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 such bonds as it is proposed to issue under this act in the calendar year in which such 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 thus imposed shall be assessed, levied and collected

in the same manner and at the same time as other taxes upon real and personal property are assessed, levied and collected. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which such 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 said 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 shall 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 payable in the ensuing calendar year, then and in that event such issuing officials shall by resolution so find and shall file the same in the office of the State Treasurer, whereupon the State Treasurer shall transfer such moneys to a separate fund to be designated by him, and shall pay the principal and interest out of said fund as the same shall become due and payable, and the other sources of payment of said principal and interest provided for in this section shall not then be available, and the receipts for said year from the fees, charges and taxes specified in subsections a. and b. of this section shall be treated as part of the General Fund, available for general purposes.

25. Should the State Treasurer by December 31 of any year deem it necessary, because of insufficiency of funds to be collected from the sources of revenues as hereinabove provided, to meet the interest and principal payments for the year after the ensuing year, then the treasurer shall certify to the Comptroller of the Treasury the amount necessary to be raised by taxation for such purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. In such case the Comptroller of the Treasury shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected as herein set forth in each county. Such calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which such tax is to be assessed, but such tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The Comptroller of the Treasury shall certify said amount to the county board of taxation and the county 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.

26. For the purpose of complying with the provisions of the State Constitution, this act shall, at the general election to be held in the month of November, 1983, be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, after this section shall take effect, and at least 15 days prior to the election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the clerks respectively shall cause to be printed on each of the ballots, the following:

If you approve the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross (×), 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 such markings respectively.

	Yes.	GREEN ACRES OPPORTUNITIES BOND ISSUE Shall the act entitled "An act authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the sum of $135,000,000.00 to provide money for public acquisition and development of lands for recreation and conservation purposes to meet the future needs of the expanding population; to enable the State to acquire and develop lands for recreation and conservation purposes; and to provide grants and loans to assist municipalities and counties and other units of local government to acquire and develop lands for recreation and conservation purposes; providing the ways and means for establishing a revolving fund for such grants and loans; providing the ways and means to pay the interest of said debt and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election," be approved? INTERPRETATIVE STATEMENT This act, if approved by referendum, would allow the State of New Jersey to continue its Green Acres and Green Acres Local Assistance program by authorizing the State to issue $135,000,000.00 in general obligation bonds to be used for acquiring and developing land for recreation and conservation purposes. Both the State Government and local government units would acquire and develop this land. Of the $135,000,000.00, $83,000,000.00 would be used for grants and loans to local governments, and $52,000,000.00 would be used for State projects.
	No.	

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 said 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 said 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 such election had in the same manner as is now 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 shall be a majority of all the votes cast for and against it at such an election in favor of the approval of this act then all the provisions of this act shall take effect forthwith.

27. There is appropriated the sum of $5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 26.

28. 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 "1983 New Jersey Green Acres Fund" and the "Green Trust Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund 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 "1983 New Jersey Green Acres Fund" and the "Green Trust Fund"; and an estimate of expenditures for the upcoming fiscal year.

29. Immediately following the submission to the Legislature of the Governor's Annual Budget Message the commissioner shall submit to the General Assembly Agriculture and Environment Committee, the Senate Energy and Environment Committee, or their successors, and the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature, as reconstituted and continued by the Legislature from time to time, a copy of the plan called for under section 28 of this act, together with such changes therein as may have been required by the Governor's budget message.

30. Not less than 30 days prior to the commissioner entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner shall report to and consult with the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature as reconstituted and continued from time to time by the Legislature.

31. This section and sections 26 and 27 of this act shall take effect immediately and the remainder of the act shall take effect as and when provided in section 26.

Approved September 29, 1983.

CHAPTER 355

AN ACT to amend the "Water Supply Bond Act of 1981" (P. L. 1981, c. 261) to authorize the use of water supply bond funds for certain additional State and local water supply projects, programs and studies relating to ground and surface water resources, water delivery and treatment, water conservation and contamination, providing for the submission of this act to the people at a general election and providing an appropriation therefor.

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

1. Section 3 of P. L. 1981, c. 261 is amended to read as follows:

3. As used in this act:

a. "Bonds" means the bonds authorized to be issued, or issued under this act;

b. "Commission" means the New Jersey Commission on Capital Budgeting and Planning;

c. "Commissioner" means the Commissioner of Environmental Protection;

d. "Construct" and "construction" mean, in addition to the usual meaning thereof, acts of construction, reconstruction, replacement, extension, improvement and betterment;

e. "Cost" means the cost incurred by the department for planning and feasibility studies for ground and surface water programs,

water delivery and treatment programs, analysis and implementation of water conservation practices, and for updating the New Jersey Statewide Water Supply Plan, the cost of acquisition or construction of all or any part of a project and of all or any real or personal property, agreements and franchises deemed by the department to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, costs of issuance of bonds, costs of geological and hydrological services, administrative costs, interconnection testing, engineering and inspection costs and legal expenses, costs of financial, professional and other estimates and advice, organization, operating and other expenses prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such project or part thereof and the placing of the same in operation, and also such provisions for a reserve fund, or reserves for working capital, operating, maintenance or replacement expenses and for payment or security of principal of or interest on bonds during or after such acquisition or construction as the State Comptroller may determine;

f. "Department" means the Department of Environmental Protection;

g. "Project" means any work relating to water supply facilities;

h. "Real property" means lands, within or without the State, and improvements thereof or thereon, any and all rights-of-way, water, riparian and other rights, and any and all easements, and privileges in real property, and any right or interest of any kind or description in, relating to or connected with real property;

i. "Water supply facilities" means and refers to the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, acquired, constructed or operated, or to be acquired, constructed or operated, in whole or in part by or on behalf of the State, or of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water, and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources and facilitating incidental recreational uses thereof.

2. Section 4 of P. L. 1981, c. 261 is amended to read as follows:

4. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $350,000,000.00 for the purposes of covering the costs of the department for planning and feasibility studies for ground and surface water programs, water delivery and treatment programs, the analysis and implementation of water conservation practices, the updating of the New Jersey Statewide Water Supply Plan; for planning, designing, and constructing State water supply facilities; and for providing loans for local projects to plan, design, and construct water supply facilities to resolve contamination problems as identified by the department; and for the rehabilitation, repair or consolidation of antiquated, damaged or inadequately operating water supply facilities, all as recommended by the New Jersey Statewide Water Supply Plan.

3. Section 5 of P. L. 1981, c. 261 is amended to read as follows:

5. a. The commissioner shall adopt such rules and regulations as are necessary and appropriate to carry out 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.

b. The department, or the New Jersey Water Supply Authority, as the case may be, shall develop a program to charge water supply users which benefit from any projects funded pursuant to this act, for the full cost of planning, designing, acquiring, constructing and operating that project. The department shall determine the appropriate proportion, if any, of planning and feasibility study costs directly attributable to a particular project to be included as part of the cost of that project.

4. For the purpose of complying with the provisions of the State Constitution, this act shall, at the general election to be held in the month of November, 1983, be submitted to the people. In order to inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section shall take effect, and at least 15 days prior to that election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the said clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the said ballots, the following:

If you approve the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross (×), 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 such markings respectively.

	Yes.	ADDITIONAL PROJECTS, PROGRAMS AND STUDIES TO BE FUNDED BY THE WATER SUPPLY BOND ACT OF 1981 Shall the amendments to the "Water Supply Bond Act of 1981," which authorize the use of water supply bond funds for certain additional State and local water supply projects, programs and studies relating to ground and surface water resources, water delivery and treatment, water conservation and contamination, be approved? INTERPRETIVE STATEMENT Approval to this amendment would permit the State to issue loans for local projects to plan, design and construct water supply facilities to resolve contamination problems and would permit the Department of Environmental Protection or the New Jersey Water Supply Authority to utilize Water Supply Bond funds for planning and feasibility studies for ground and surface water programs, water delivery and treatment programs, the analysis and implementation of water conservation practices, the updating of the New Jersey Statewide Water Supply Plan, and for the planning, design and construction of State water supply facilities, all as recommended by the New Jersey Statewide Water Supply Plan, thereby facilitating the planning, management and protection of the State's water resources and supplies.
	No.	

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 shall be 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.

5. There is appropriated the sum of $5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 4.

6. This section and sections 4 and 5 shall take effect immediately and the remainder of this act shall take effect as and when provided in section 4.

Approved September 29, 1983.

CHAPTER 356

AN ACT to authorize 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 $50,000,000.00 for the purpose of State projects and the making of State grants and loans to counties and municipalities for the researching, planning, acquiring, developing, constructing and maintaining of county and municipal shore protection projects; providing the ways and means to pay the interest of such debt and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election; and providing 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 "Shore Protection Bond Act of 1983."

2. The Legislature finds and determines that:

a. The restoration, maintenance and protection of our beaches, dunes, riverfronts, bayfronts and inlets are essential to the welfare, commerce and prosperity of the people of the State.

b. The State's growing population, expanding commercial development and tourist industry all require a shoreline which is adequately protected and accessible to the public.

c. The Shore Protection Master Plan prepared by the department pursuant to P. L. 1978, c. 157 has identified the need for additional State funding for State and local shore protection projects and has recommended a method of allocating that funding.

d. State assistance to counties and municipalities for shore protection projects can best be provided through a program of matching grants and loans to counties and municipalities, and loans which assist them in providing the local share of these grants.

e. The availability of State shore protection funds will enable New Jersey to attract federal funds for joint State-federal shore protection projects.

3. As used in this act unless the context indicates a different meaning or intent:

a. "Bonds" means the bonds authorized to be issued, or issued, under this act;

b. "Commission" means the New Jersey Commission on Capital Budgeting and Planning;

c. "Commissioner" means the Commissioner of Environmental Protection;

d. "Construct" and "construction" mean, in addition to the usual meaning thereof, acts of construction, reconstruction, replacement, extension, improvement and betterment;

e. "Cost" means the cost of acquisition or construction of all or any part of a shore protection project and of all or any real or personal property agreements and franchises deemed by the department to be necessary or useful and convenient therefor or in connection therewith, including: interest or discount on bonds; cost of issuance of bonds; cost of a bond registrar and authenticating

agent; cost of geological and hydrological surveys; up to $500,000.00 per year in administrative costs incurred by the department in implementing this act; engineering and inspection costs and legal expenses; cost of financial, professional or other estimates and advice; organization, operating and other expenses prior to and during this acquisition or construction; and all such expenses as may be necessary or incident to the financing, acquisition, construction and completion of the project or part thereof and the placing of the same in operation, and also the provisions for a reserve fund, or reserves for working capital, operating, maintenance or replacement expenses and for payment or security of principal or interest on bonds during or after this acquisition or construction as the State Comptroller may determine; and also reimbursements to the General Fund or to any other fund from which moneys may have been transferred to the General Fund, of any moneys expended for or in connection with this project;

f. "Department" means the Department of Environmental Protection;

g. "Project" means any work relating to shore protection, whether undertaken singly or jointly by the State, a county, a municipality or agencies thereof.

4. The commissioner shall adopt, pursuant to law, rules and regulations necessary and appropriate to carry out 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 hereby authorized to be issued in the aggregate principal amount of $50,000,000.00 for the purpose of State projects and the making of State grants and loans to counties and municipalities for the cost of researching, planning, acquiring, developing, constructing and maintaining of county and municipal shore protection projects.

b. Of the total moneys available pursuant to this act, $40,000,000.00 is allocated for State shore protection projects and for State grants to counties and municipalities, or agencies thereof, for county and municipal shore protection projects, and $10,000,000.00 is allocated for State loans to counties and municipalities. These loans shall be made to provide the local share of a State grant until the portion allocated for State grants is exhausted for county and municipal shore protection projects.

c. State grants to counties and municipalities, or agencies thereof, made pursuant to this act shall provide no more than 75% of the total cost of a county or municipal shore protection project, and the affected county or municipality, or agency thereof, shall provide the remainder.

d. State loans to counties and municipalities, or agencies thereof, made pursuant to this act shall be used to provide the county or municipal share of State grants for county or municipal shore protection projects, as the case may be, made from the Shore Protection Fund or other State funds appropriated or otherwise made available for similar purposes.

e. When a federal agency pays part of the cost of a project, the State and local share shall be computed after deducting the federal contribution.

f. Loan rates shall be established by the State Treasurer taking into consideration rates available in the capital markets for comparable maturities. Local governments will be able to secure either interim financing, to enable a project to be undertaken before permanent financing is secured, or permanent financing with a final maturity related to the expected useful life of the project.

g. In selecting and approving county or municipal shore protection projects for funding with moneys made available pursuant to the provisions of this act, the commissioner shall give special consideration to the county's or municipality's ability to finance the shore protection project based on the county's or municipality's per capita income, equalized property tax rate, to shore protection projects which would be located in shorefront areas heavily used by the public, and to applications for shore protection projects which include a financial plan for the maintenance of the project by the applicant.

6. These bonds shall be serial bonds, term bonds or a combination thereof and known as "Shore Protection Bonds," and they shall be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the date of their issuance but may be issued in whole or in part for a shorter term. These bonds may be issued in coupon form, fully registered form, or book-entry form.

These bonds shall be issued from time to time as the issuing officials herein named shall determine.

7. The Governor, State Treasurer and the Comptroller 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. In case any of these issuing officials shall be absent from the State or incapable of acting for any reason, his powers and duties shall be exercised and performed by the person authorized by law to act in his place as a State 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 thereon as it shall become due and for the payment of the principal at maturity. The principal 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 the Governor or by his facsimile signature, under the Great Seal of the State, and attested by manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Comptroller of the Treasury and may be authenticated by an agent or registrar, as the issuing officials shall determine. Interest coupons attached to bonds shall be signed by the facsimile signature of the Comptroller of the Treasury. The bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the bonds or coupons shall cease to hold office at the time of the issue or at the time of the delivery of the bonds to the purchaser.

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 of this act and that they are issued pursuant to this act and that this act was submitted to the people of the State at the general election held in the month of November, 1983 and that it 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 of their validity. Any bonds containing that 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 statutes applicable thereto, and shall be incontestable for any cause.

b. The bonds shall be issued in denominations and in a form or forms, whether coupon or registered as to both principal and

interest, 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 the rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; provided, that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. These bonds shall be issued and sold at such 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 the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in the city of New York or in New Jersey, the first notice to be at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any or all bids in pursuance thereof may be rejected. In the event of rejection or of 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 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 private sale, without advertisement.

13. Until permanent bonds can be prepared, the issuing officials may, in their discretion, issue in lieu of the permanent bonds temporary bonds in the form and with the privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer and be held by him in a separate fund, and be deposited in the depositories as may be selected by him to the credit of the fund, which fund shall be known as the "Shore Protection Fund."

15. a. The moneys in the "Shore Protection Fund" are hereby specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act, and all such moneys are hereby appropriated for those purposes, and no such moneys shall

be expended for such purpose (except as otherwise hereinbelow authorized) 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 specific appropriation of any of the moneys.

b. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is hereby authorized to transfer from any available money in the treasury of the State to the credit of the "Shore Protection Fund" a sum as he may deem necessary. The sum so transferred shall be returned to the treasury of this State by the treasurer thereof from the proceeds of the sale of the first issue of bonds.

c. Pending their application to the purposes provided in this act, moneys in the "Shore Protection Fund" may be invested and reinvested as other trust funds in the custody of the State Treasurer in the manner provided by law. Net earnings received from the investment or deposit of that fund shall be paid into the General State Fund.

16. In case any coupon bonds or coupons thereunto appertaining or any registered bond shall become lost, mutilated or destroyed, a new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bonds or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction, proof of ownership and security and indemnity and reimbursement for expenses as the issuing officials may require.

17. Accrued interest 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 Comptroller 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 thirty-fifth year from the date of issue of the series, and in such 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 all or 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. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are subject to redemption prior to maturity, provided the refunding bonds shall mature at any time or times not later than the latest maturity date of the series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest which would be paid on the bonds refunded if the bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to the maturities thereof and to the extent herein otherwise expressly provided.

20. To provide funds to meet the interest and principal payment requirements for the bonds issued under this act and outstanding, there is hereby appropriated in the order following:

a. Revenue derived from the collection of taxes as provided by the "Sales and Use Tax Act" (P. L. 1966, c. 30; C. 54:32B–1 et seq.) as amended and supplemented, or so much thereof as may be required; and

b. If in any year or at any time funds, as hereinabove appropriated, necessary to meet interest and principal payments upon outstanding bonds issued under this act, be insufficient or not available then and in that case there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State a tax on 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 as it is proposed to issue under this act in the calendar year in which such 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 thus imposed shall be assessed, levied and collected in the same manner and at the same time as other taxes

upon real and personal property are assessed, levied and collected. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which such 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 said 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 shall determine that there are moneys in the General State Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest payable in the ensuing calendar year, then and in that event the issuing officials shall by resolution so find and shall file the same in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by him, and shall pay the principal and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal 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 thereon be considered and treated as part of the General State Fund, available for general purposes.

21. Should the State Treasurer, by December 31 of any year, deem it necessary, because of insufficiency of funds to be collected from the sources of revenues as herinabove provided, to meet the interest and principal payments for the year after the ensuing year, then the treasurer shall certify to the Comptroller 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 ensuing calendar year. In this case the Comptroller of the Treasury shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected as herein set forth in each county. Such calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which such tax is to be assessed, but such tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The Comptroller of the Treasury shall certify the amount to the county board of taxation and the county 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.

22. For the purpose of complying with the provisions of the State Constitution this act shall, at the general election to be held in the month of November, 1983 be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, after this section shall take effect, and at least 15 days prior to the election, to cause this act to be published in at least 10 newspapers published in the State 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 cause to be printed on each of the said ballots, the following:

If you approve the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "Yes."

If you disapprove the act entitled below, make a cross (×), 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 such markings respectively.

	Yes.	SHORE PROTECTION BOND ISSUE Should the "Shore Protection Bond Act of 1983" which authorizes the State to issue bonds in the amount of $50,000,000.00 for the purpose of State projects and the making of State grants and loans to counties and municipalities for the researching, planning, acquiring, developing, constructing and maintaining of county and municipal shore protection projects, providing the ways and means to pay that interest of such debt and also to pay and discharge the principal thereof, be approved?" INTERPRETATIVE STATEMENT Approval of this act would authorize the sale of $50,000,000.00 in bonds to be used for State shore protection projects and for State grants and loans to counties and municipalities for the development, construction, and maintenance of county and municipal shore protection projects.
	No.	

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 said 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 shall be 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.

23. There is hereby appropriated the sum of $5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to this section.

24. 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 Shore Protection Fund for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the fund 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 Shore Protection Fund; and an estimate of expenditures for the upcoming fiscal year.

25. Immediately following the submission to the Legislature of the Governor's Annual Budget Message the commissioner shall submit to the General Assembly Agriculture and Environment Committee, the Senate Energy and Environment Committee, or their successors, and the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature, as reconstituted and continued by the Legislature from time to time, a copy of the plan called for under section 24 of this act, together with such changes therein as may have been required by the Governor's budget message.

26. No less than 30 days prior to the commissioner entering into any contract, lease, obligation, or agreement to effectuate the

purposes of this act the commissioner shall report to and consult with the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature as reconstituted and continued from time to time by the Legislature.

27. This section and sections 22 and 23 of this act shall take effect immediately and the remainder of the act shall take effect as and when provided in section 22.

Approved October 2, 1983.

CHAPTER 357

AN ACT concerning financial disclosure and excess profits by automobile insurers, and supplementing P. L. 1944, c. 27 (C. 17:29A–1 et seq.).

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

C. 17:29A-5.2 Financial disclosure by automobile insurers.

1. a. An insurer transacting private passenger automobile insurance business in this State shall annually file, on or before July 1 of each year, separate financial information with the commissioner required pursuant to paragraphs (1) through (10) of this subsection for the following categories of private passenger automobile coverages: bodily injury liability; property damage liability; uninsured motorist and underinsured motorist; personal injury protection benefits; comprehensive; collision. The information shall be on direct insurance writings in this State, and shall represent total limits data. The information required pursuant to paragraphs (1) through (10) shall be for each of the latest three calendar-accident years and for all three years combined, with an evaluation date of March 31 of the reporting year.

The financial information shall include:

(1) Premiums earned;

(2) Policyholder dividends incurred;

(3) Expenses for acquisition and general expenses;

(4) Expenses for agents' commissions, taxes, licenses and fees;

(5) Profit and contingency factors as utilized in the insurer's automobile rate filings for the applicable years;

(6) Losses paid;
(7) Losses unpaid stated at the final settlement value;
(8) Loss adjustment expenses paid; and
(9) Loss adjustment expenses unpaid stated at the final settlement value;
(10) Actuarial gain or loss, equal to the difference between paragraph (1) and the sum of paragraphs (2) through (9), inclusive.

b. Each insurer subject to the provisions of subsection a. which has an actuarial gain as set forth in paragraph (10) of subsection a. for all coverages combined and all years combined shall also file with the commissioner the following information for direct private passenger automobile insurance business transacted in this State, to be reported on a calendar year basis not later than April 15 of the following year:

(1) Direct premiums written;
(2) Direct premiums earned;
(3) Loss reserves for all known claims for the beginning and end of the year;
(4) Reserves for losses incurred but not reported for the beginning and end of the year;
(5) Incurred allocated loss adjustment expenses;
(6) Incurred unallocated loss adjustment expenses;
(7) Direct losses paid;
(8) Underwriting income or loss;
(9) Commissions and brokerage fees;
(10) Taxes, licenses, and fees;
(11) Other acquisition costs;
(12) General expenses;
(13) Policyholder dividends; and
(14) Net investment gain or loss and other income gain or loss allocated pro rata by earned premium to New Jersey business utilizing the investment allocation formula contained in the National Association of Insurance Commissioners' Profitability Report by line by state.

Any insurer which does not write at least 0.5% of the New Jersey private passenger automobile market, based on direct premiums written, shall not have to file any report required by this section, other than a report indicating its percentage of the market share. That percentage shall be calculated by dividing the insurer's current premiums written in this State by the preceding year's total premiums written by all those insurers.

A summary of the information provided pursuant to this section shall be provided in the commissioner's annual report.

The financial information required by this act shall be filed on July 1 next following the operative date of this act for the preceding calendar year.

"Private passenger automobile" means an automobile as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A–2).

C. 17:29A-5.3 Computations.

2. Excess profits shall exist if the combined underwriting gain for the three most recent calendar-accident years of an insurer transacting automobile insurance in this State is greater than the insurer's anticipated underwriting profit, plus 5% of earned premiums for those calendar-accident years. An insurer's underwriting gain or loss for each calendar-accident year shall be computed by subtracting the sum of the accident year incurred losses and loss adjustment expenses as of March 31 of the following year, developed to an ultimate basis, plus the administrative and selling expenses incurred in, and policyholder dividends applicable to the calendar year, from the calendar year earned premiums. Any refund or renewal credit made pursuant to this section shall be deemed a policyholder dividend applicable to the year in which it is incurred, for purposes of reporting under this section for subsequent years.

Anticipated underwriting profit shall be computed by multiplying the earned premiums applicable to each rate filing of the insurer in effect during the three-year period by the percentage factor included in the rate filing for profit and contingencies, which factor shall be determined with due recognition to investment income from funds generated by New Jersey business. Separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies.

Excess profits reporting shall be made to the commissioner, on forms prescribed by the commissioner, not later than July 1 of each year.

The first calculation and reporting of excess profits data shall begin with the third year for which financial reports are filed in accordance with section 1 of this act.

C. 17:29A-5.4 Excess profits.

3. Every insurer transacting private passenger automobile insurance in this State shall establish, subject to the approval of the

commissioner, a fair, practicable and nondiscriminatory plan for the refund or application of credit against a policy renewal to current policyholders of any excess profits earned by the insurer from all private passenger automobile coverages written in this State. If the commissioner finds that an excess profit, as defined in section 2 of this act, has been made by any insurer, he shall, after giving notice to the insurer, order the insurer to redistribute all excess profits.

C. 17:29A-5.5 Regulations.

4. The commissioner shall adopt regulations with respect to refunds, renewal credits and any other matter that he may deem necessary or appropriate for the implementation of the provisions of this act.

5. This act shall take effect immediately but remain inoperative until January 1, 1984.

Approved October 4, 1983.

CHAPTER 358

AN ACT providing for the arbitration of certain automobile accident claims in certain cases.

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

C. 39:6A-24 Purpose.

1. The purpose and intent of this act is to establish an informal system of settling tort claims arising out of automobile accidents in an expeditious and least costly manner, and to ease the burden and congestion of the State's courts.

C. 39:6A-25 Arbitration.

2. a. Any cause of action filed in the Superior Court after the operative date of this act, for the recovery of noneconomic loss, as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A–2), or the recovery of uncompensated economic loss, other than for damages to property, arising out of the operation, ownership, maintenance or use of an automobile, as defined in that section 2, shall be submitted, except as hereinafter provided, to arbitration by the assignment judge of the court in which the action is filed, if the court determines that the

amount in controversy is $15,000.00 or less, exclusive of interest and costs; provided that if the action is for recovery for both noneconomic and economic loss, the controversy shall be submitted to arbitration if the court determines that the amount in controversy for noneconomic loss is $15,000.00 or less, exclusive of interest and costs.

b. Notwithstanding that the amount in controversy of an action for noneconomic loss is in excess of $15,000.00, the court may refer the matter to arbitration, if all of the parties to the action consent in writing to arbitration and the court determines that the controversy does not involve novel legal or unduly complex factual issues.

No cause of action determined by the court to be, upon proper motion of any party to the controversy, frivolous, insubstantial or without actionable cause shall be submitted to arbitration.

The provisions of this section shall not apply to any controversy on which an arbitration decision was rendered prior to the filing of the action.

The provisions of this section shall apply to any cause of action, subject to this section, filed prior to the operative date of this act, if a pretrial conference has not been concluded thereon.

C. 39:6A-26 Tolling of statute.

3. Submission of a controversy to arbitration shall toll the statute of limitations for filing an action until the filing of the arbitration decision in accordance with section 7 of this act.

C. 39:6A-27 Selection of arbitrators.

4. a. The number or selection of arbitrators may be stipulated by mutual consent of all of the parties to the action, which stipulation shall be made in writing prior to or at the time notice is given that the controversy is to be submitted to arbitration. The assignment judge shall approve the arbitrators agreed to by the parties, whether or not the designated arbitrators satisfy the requirements of subsection b. of this section, upon a finding that the designees are qualified and their serving would not prejudice the interest of any of the parties.

b. If the parties fail to stipulate the number or names of the arbitrators, the arbitrators shall be selected, in accordance with the Rules of Court adopted by the Supreme Court of New Jersey, from a list of arbitrators compiled by the assignment judge, to be comprised of retired judges and qualified attorneys in this State

with at least seven years' negligence experience and recommended by the county or State bar association.

C. 39:6A-28 Compensation; fees; offers of judgment.

5. Compensation for arbitrators shall be set by the Rules of the Supreme Court of New Jersey. The Supreme Court may also establish a schedule of fees for attorneys representing the parties to the dispute and for witnesses in arbitration proceedings. Attorney's fees may exceed these limits upon application made to the assignment judge in accordance with the Rules of the Court for the purpose of determining a reasonable fee in the light of all the circumstances.

The Supreme Court may adopt rules governing offers of judgment by the claimant or defendant prior to the start of arbitration, including the assessment of the costs of arbitration proceedings and attorney's fees, where an offer is made but refused by the other party to the controversy.

C. 39:6A-29 Subpenas.

6. The arbitrators may, at their initiative or at the request of any party to the arbitration, issue subpenas for the attendance of witnesses and the production of books, records, documents and other evidence. Subpenas shall be served and shall be enforceable in the manner provided by law.

C. 39:6A-30 Amount of award.

7. Notwithstanding that a controversy was submitted pursuant to subsection a. of section 2 of this act, the arbitration award for noneconomic loss may exceed $15,000.00. The arbitration decision shall be in writing, and shall set forth the issues in controversy, and the arbitrators' findings and conclusions of law and fact.

C. 39:6A-31 Confirmation by court.

8. Unless one of the parties to the arbitration petitions the court, within 30 days of the filing of the arbitration decision with the court: a. for a trial de novo, or b. for the modification or vacation of the arbitration decision for any of the reasons set forth in chapter 24 of Title 2A of the New Jersey Statutes, or an error of law or factual inconsistencies in the arbitration findings, the court shall, upon motion of any of the parties, confirm the arbitration decision, and the action of the court shall have the same effect and be enforceable as a judgment in any other action.

C. 39:6A-32 Trial de novo.

9. Except in the case of an arbitration decision vacated by the court or offers of judgment made pursuant to court rules, the party

petitioning the court for a trial de novo shall pay to the court the fees of the arbitrators.

C. 39:6A-33 Arbitration decision inadmissible.

10. No statements, admissions or testimony made at the arbitration proceedings, nor the arbitration decision, as confirmed or modified by the court, shall be used or referred to at the trial de novo by any of the parties, except that the court may consider any of those matters in determining the amount of any reduction in assessments made pursuant to section 11 of this act.

C. 39:6A-34 Assessment of costs.

11. The party having filed for a trial de novo shall be assessed court costs and other reasonable costs of the other party to the judicial proceeding, including attorney's fees, investigation expenses and expenses for expert or other testimony or evidence, which amount shall be, if the party assessed the costs is the one to whom the award is made, offset against any damages awarded to that party by the court, and only to that extent; except that if the judgment is more favorable to the party having filed for a trial de novo, the court may reduce or eliminate the amount of the assessment in accordance with the extent to which the decision of the court is more favorable to that party than the arbitration decision, and as best serves the interest of justice. The court may waive an assessment of costs required by this section upon a finding that the imposition of costs would create a substantial economic hardship as not to be in the interest of justice.

C. 39:6A-35 Rule adoption; report.

12. The Supreme Court of New Jersey shall adopt Rules of Court appropriate or necessary to effectuate the purpose of this act. The Administrative Office of the Courts shall not later than March 1 of each year file with the Governor and Legislature a report on the impact of the implementation of this act on automobile insurance settlement practices and costs, and on court calendars and workload.

13. This act shall take effect immediately but sections 1 through 11 shall remain inoperative until January 1, 1984 or until the adoption of appropriate rules by the Supreme Court of New Jersey, whichever shall be later.

Approved October 4, 1983.

CHAPTER 359

AN ACT concerning automobile insurance collision coverage and amending P. L. 1983, c. 65.

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

1. Section 10 of P. L. 1983, c. 65 (C. 17:29A–39) is amended to read as follows:

C. 17:29A-39 Deductible, coinsurance options.

10. The commissioner shall promulgate rules and regulations requiring insurers to offer: *a.* a range of deductibles up to at least $2,000.00 for private passenger automobile collision and comprehensive coverages; and b. coinsurance options applicable separately to private passenger automobile collision and comprehensive coverages whereby the insured is responsible for paying a percentage, in the amount of at least 10% but subject to a limit established by the commissioner by regulation, of a loss covered by the policy in excess of an applicable deductible.

2. This act shall take effect immediately.

Approved October 4, 1983.

CHAPTER 360

AN ACT concerning the licensure of auto body repair facilities and supplementing Title 17 of the Revised Statutes.

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

C. 39:13-1 Definitions.

1. For the purposes of this act:

a. "Auto body repair facility" means a business or person who for compensation engages in the business of repairing, removing, or installing integral component parts of an engine, power train, chassis, or body of an automobile damaged as a result of a collision.

b. "Automobile" means a private passenger automobile of a private passenger, station wagon, or van type that is owned or hired

and is neither used as public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, a delivery sedan or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

C. 39:13-2 Licensure of auto body repair facilities.

2. The Commissioner of Insurance shall establish a system for the licensure of auto body repair facilities. No person may engage in the business of an auto body repair facility unless it is licensed by the commissioner. An auto body repair facility shall be licensed by the commissioner upon submission of an application and payment of a reasonable application fee sufficient to cover the cost of implementing the provisions of this act and to be prescribed by the commissioner. The commissioner may require biennial renewal of applications for licensure and may stagger the renewal dates and adjust the application fees accordingly.

C. 39:13-3 Investigation for violations.

3. The commissioner shall, on his own initiative or in response to complaints, investigate on a continuing basis and gather evidence of violations of this act and of any regulation adopted pursuant to this act by auto body repair facilities.

C. 39:13-4 Denial, suspension, revocation of licenses.

4. The commissioner may fine or refuse to grant or may suspend or revoke a license of an auto body repair facility for any of the following acts or omissions related to the conduct of the business of auto body repair done by the auto body repair facility:

a. Making or authorizing any material written or oral statement, which is known to be untrue or misleading;

b. Causing or allowing a customer to sign any estimate for repairs which does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;

c. Failing to provide a customer with a copy of any estimate or document requiring his signature, as soon as a customer signs the estimate or document;

d. Making false promises or representations intended to influence, persuade, or induce a customer to authorize a repair of an automobile which has been damaged as a result of a collision;

e. Giving an adjuster or appraiser directly or indirectly any gratuity or other consideration in connection with his appraisal service;

f. Making appraisals of the cost of repairing an automobile which has been damaged as a result of a collision through the use of photographs, telephone calls, or any manner other than personal inspection;

g. Making an estimate for repairs or charging for repairs in such amount as to compensate the insured for the cost of the deductible applicable under the automobile insurance policy;

h. A pattern of conduct which includes any of the acts or omissions prohibited in this section or any other unconscionable or fraudulent commercial practice prohibited by the commissioner pursuant to regulations promulgated under the provisions of this act.

C. 39:13-5 Notification; hearing.

5. Upon refusal to grant a license or suspension or revocation of a license of an auto body repair facility, the commissioner shall notify the auto body repair facility in writing by registered mail. The auto body repair facility shall be given a hearing by the commissioner if, within 60 days thereafter, it files with the commissioner a written request for a hearing concerning the refusal to grant a license or suspension or revocation of the license.

C. 39:13-6 Penalties.

6. The commissioner may impose upon an auto body repair facility violating this act a civil penalty of not more than $2,000.00 for the first offense and not more than $5,000.00 for the second and each subsequent offense. The civil penalty shall be issued for and recovered by and in the name of the commissioner and shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

C. 39:13-7 Rules, regulations.

7. The Commissioner of Insurance shall promulgate rules and regulations necessary to effectuate the purposes of this act.

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

Approved October 4, 1983.

CHAPTER 361

A SUPPLEMENT to "An act making appropriations for the support of State Government and the several public purposes for the fiscal year ending June 30, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

DEPARTMENT OF AGRICULTURE

Economic Planning, Development and Security

51 Economic Planning and Development

07-3360 Commodity Distribution $1,270,000

Special Purpose:
Distribution of commodities for emergency food assistance ..... ($1,270,000)

All federal funds appropriated for distribution of commodities for emergency food assistance may be accounted for in accordance with receivable accounting procedures as may be determined by the Director of the Division of Budget and Accounting.

2. This act shall take effect immediately.

Approved October 4, 1983.

CHAPTER 362

AN ACT concerning automobile insurance, to be known as "The New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984," and revising parts of the statutory law.

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

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

C. 17:28-1.1 Uninsured, underinsured motorist coverage.

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

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

(2) an amount or limit, subject to such limit for any one person so injured or killed, of $30,000.00, exclusive of interest and costs, on account of injury to or death of more than one person, in any one accident,

under provisions approved by the Commissioner of Insurance, for payment of all or part of the sums which the insured or his legal representative shall be legally entitled to recover as damages from the operator or owner of an uninsured motor vehicle, or hit and run motor vehicle, as defined in section 18 of P. L. 1952, c. 174 (C. 39:6–78), because of bodily injury, sickness or disease, including death resulting therefrom, sustained by the insured, caused by accident and arising out of the ownership, maintenance or use of such uninsured or hit and run motor vehicle anywhere within the United States or Canada; except that uninsured motorist coverage shall provide that in order to recover for noneconomic loss, as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A–2), for accidents to which the benefits of section 4 of that act apply (C. 39:6A–4) the injured person shall have sustained an injury or incurred the medical expenses described under the tort option elected pursuant to section 8 of that act (C. 39:6A–8).

All motor vehicle liability policies shall also include coverage for the payment of all or part of the sums which persons insured thereunder shall be legally entitled to recover as damages from owners or operators of uninsured motor vehicles, other than hit and

run motor vehicles, because of injury to or destruction to the personal property of such insured, with a limit in the aggregate for all insureds involved in any one accident of $5,000.00, and subject, for each insured, to an exclusion of the first $250.00 of such damages.

b. Uninsured and underinsured motorist coverage shall be provided as an option by an insurer to the named insured up to at least the following limits: $250,000.00 each person and $500,000.00 each accident for bodily injury; $100,000.00 each accident for property damage or $500,000.00 single limit, subject to an exclusion of the first $250.00 of such damage to property for each accident, except that the limits for uninsured and underinsured motorist coverage shall not exceed the insured's motor vehicle liability policy limits for bodily injury and property damage, respectively.

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

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

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

e. For the purpose of this section, (1) "underinsured motorist coverage" means insurance for damages because of bodily injury and property damage resulting from an accident arising out of the ownership, maintenance or use of an underinsured motor vehicle. Underinsured motorist coverage shall not apply to an uninsured motor vehicle. A motor vehicle is underinsured when the sum of the limits of liability under all bodily injury and property damage liability bonds and insurance policies available to a person against whom recovery is sought for bodily injury or property damage is, at the time of the accident, less than the applicable limits for underinsured motorist coverage afforded under the motor vehicle insurance policy

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

(2) "uninsured motor vehicle" means:

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

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

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

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

2. Section 10 of P. L. 1952, c. 174 (C. 39:6–70) is amended to read as follows:

C. 39:6-70 Hearing on application for payment of judgment.

10. Hearing on application for payment of judgment. The court shall proceed upon such application, in a summary manner, and, upon the hearing thereof, the applicant shall be required to show:

(a) He is not a person covered with respect to such injury or

death by any workers' compensation law, or the personal representative of such a person,

(b) He is not a spouse, parent or child of the judgment debtor, or the personal representative of such spouse, parent or child,

(c) He was not at the time of the accident a person (1) operating or riding in a motor vehicle which he had stolen or participated in stealing or (2) operating or riding in a motor vehicle without the permission of the owner, and is not the personal representative of such a person,

(d) He was not at the time of the accident, the owner or registrant of an uninsured motor vehicle, or was not operating a motor vehicle in violation of an order of suspension or revocation,

(e) He has complied with all of the requirements of section 5,

(f) The judgment debtor at the time of the accident was not insured under a policy of automobile liability insurance under the terms of which the insurer is liable to pay in whole or in part the amount of the judgment,

(g) He has obtained a judgment as set out in section 9 of this act, stating the amount thereof and the amount owing thereon at the date of the application,

(h) He has caused to be issued a writ of execution upon said judgment and the sheriff or officer executing the same has made a return showing that no personal or real property of the judgment debtor, liable to be levied upon in satisfaction of the judgment, could be found or that the amount realized on the sale of them or of such of them as were found, under said execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized,

(i) He has caused the judgment debtor to make discovery under oath, pursuant to law, concerning his personal property and as to whether such judgment debtor was at the time of the accident insured under any policy or policies of insurance described in subparagraph (f) of this section,

(j) He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of personal or real property or other assets, liable to be sold or applied in satisfaction of the judgment,

(k) By such search he has discovered no personal or real property or other assets, liable to be sold or applied or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so sold and applied and that he has taken

all necessary action and proceedings for the realization thereof and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized,

(l) The application is not made by or on behalf of any insurer by reason of the existence of a policy of insurance, whereby the insurer is liable to pay, in whole or in part, the amount of the judgment and that no part of the amount to be paid out of the fund is sought in lieu of making a claim or receiving a payment which is payable by reason of the existence of such a policy of insurance and that no part of the amount so sought will be paid to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of such a policy of insurance,

(m) Whether or not he has recovered a judgment in an action against any other person against whom he has a cause of action in respect of his damages for bodily injury or death or damage to property arising out of the accident and what amounts, if any, he has received by way of payments upon the judgment, or by way of settlement of such cause of action, in whole or in part, from or on behalf of such other person,

(n) In order to recover for noneconomic loss, as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A–2) for accidents to which the benefits of sections 7 and 10 of P. L. 1972, c. 198 (C. 39:6–86.1 and C. 39:6–86.4) apply, the injured person shall have sustained an injury or incurred the medical expenses described in subsection a. of section 8 of P. L. 1972, c. 70 (C. 39:6A–8).

Whenever the applicant satisfies the court that it is not possible to comply with one or more of the requirements enumerated in subparagraphs (h) and (i) of this section and that the applicant has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the court may dispense with the necessity for complying with such requirements.

The board or any insurer to which the action has been assigned may appear and be heard on application and show cause why the order should not be made.

2.1. Section 18 of P. L. 1952, c. 174 (C. 39:6–78) is amended to read as follows:

C. 39:6-78 Identity of vehicle, operator, owner unascertainable.

18. When the death of, or personal injury to, any person arises out of the ownership, maintenance or use of a motor vehicle in this State on or after April 1, 1955, but the identity of the motor vehicle and of the operator and owner thereof cannot be ascertained or it is established that the motor vehicle was, at the time said accident occurred, in the possession of some person other than the owner without the owner's consent and that the identity of such person cannot be ascertained, any qualified person who would have a cause of action against the operator or owner or both in respect to such death or personal injury may bring an action therefor against the director in any court of competent jurisdiction, but no judgment against the director shall be entered in such an action unless the court is satisfied, upon the hearing of the action, that—

(a) The claimant has complied with the requirements of section 5,

(b) The claimant is not a person covered with respect to such injury or death by any workers' compensation law, or the personal representative of such a person,

(c) The claimant was not at the time of the accident the owner or registrant of an uninsured motor vehicle, or was not operating a motor vehicle in violation of an order of suspension or revocation,

(d) The claimant has a cause of action against the operator or owner of such motor vehicle or against the operator who was operating the motor vehicle without the consent of the owner of the motor vehicle,

(e) All reasonable efforts have been made to ascertain the identity of the motor vehicle and of the owner and operator thereof and either that the identity of the motor vehicle and the owner and operator thereof cannot be established, or that the identity of the operator, who was operating the motor vehicle without the owner's consent, cannot be established,

(f) The action is not brought by or on behalf of an insurer under circumstances set forth in paragraph (1) of section 10.

3. Section 7 of P. L. 1972, c. 198 (C. 39:6–86.1) is amended to read as follows:

C. 39:6-86.1 Unsatisfied Claim and Judgment Fund benefits.

7. When any person qualified to receive payments under the provisions of the "Unsatisfied Claim and Judgment Fund Law" suffers bodily injury or death through being struck, as a pedestrian, as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A–2), by a motor vehicle, including an automobile as defined in section 2 of P. L.

1972, c. 70 (C. 39:6A–2), and a motorcycle, or by an object propelled therefrom, or arising out of an accident while occupying, entering into, alighting from, or using an automobile, registered or principally garaged in this State for which personal injury protection benefits under the "New Jersey Automobile Reparation Reform Act," P. L. 1972, c. 70 (C. 39:6A–1 et seq.), or section 19 of this 1983 amendatory and supplementary act, would be payable to such person if personal injury protection coverage were in force and the damages resulting from such accident or death are not satisfied due to the personal injury protection coverage not being in effect with respect to such accident, then in such event the Unsatisfied Claim and Judgment Fund shall provide, under the following conditions, the following benefits:

a. Medical expense benefits. Payment of all reasonable medical expenses incurred as a result of personal injury sustained in a motor vehicle accident. In the event of death, payment shall be made to the estate of the decedent.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of $100.00. Such sums shall be payable during the life of the injured person and shall be subject to an amount or limit of $5,200.00, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of $12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of $4,380.00, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under section 7 of this act, the maximum amount of benefits which could have been paid to the income producer, but for his death, under section 7b. 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 section 7c. of this act, the maximum amount of benefits which could have been paid such person, under section 7c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of $1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.

Provided, however, that no benefits shall be paid under this section unless the person applying for benefits has demonstrated that he is not disqualified by reason of the provisions of subsection (a), (c), (d) or (l) of section 10 of P. L. 1952, c. 174 (C. 39:6–70), or any other provision of law.

4. Section 8 of P. L. 1972, c. 198 (C. 39:6–86.2) is amended to read as follows:

C. 39:6-86.2 Deductions from benefits.

8. The benefits provided in sections 7 and 10 shall be payable as loss accrues, upon written notice of such loss, including reasonable proof of such loss, except that benefits collectible under:

a. Employees' temporary disability benefit statutes and medicare provided under Federal law shall be deducted from the benefits collectible under sections 7 and 10; and

b. Any hospital, medical or dental benefit plan or policy coverage with benefits similar to those provided under section 7, in an amount not to exceed $2,500.00 for any one claim for any one person, shall be deducted from the benefits collectible under sections 7 and 10.

Evidence of benefit payments collectible under subsections a. and b. of this section shall not be admissible in a civil action by the claimant for recovery of damages for bodily injury from the fund.

5. Section 10 of P. L. 1972, c. 198 (C. 39:6–86.4) is amended to read as follows:

C. 39:6-86.4 Benefits when identity of vehicle, operator, owner unknown.

10. When the death of or personal injury to any person arises out of the ownership, maintenance or use of an automobile in this State on or after the effective date of this act, but the identity of the

automobile and of the operator and owner thereof cannot be ascertained or it is established that the automobile was, at the time said accident occurred, in the possession of some person other than the owner without the owner's consent and that the identity of such person cannot be ascertained, any person qualified to receive payments under the provisions of the "Unsatisfied Claim and Judgment Fund Law" shall be entitled to receive payment under sections 7 and 10 of this act, provided that:

a. The claimant is not a person covered with respect to such injury or death by any workers' compensation law, or the personal representative of such a person,

b. The claimant was not at the time of the accident the owner or registrant of an uninsured motor vehicle, or was not operating a motor vehicle in violation of an order of suspension or revocation,

c. The claimant was not at the time of the accident:

(1) A person operating or riding in a motor vehicle which he had stolen or participated in stealing, or

(2) Operating a motor vehicle without the permission of the owner, and is not the personal representative of such a person,

d. All reasonable efforts have been made to ascertain the identity of the motor vehicle and of the owner and operator thereof and either that the identity of the motor vehicle and the owner and operator thereof cannot be established, or that the identity of the operator, who was operating the motor vehicle without the owner's consent, cannot be established, or

e. (Deleted by amendment, P. L. 1983, c. 362.)

f. The action or claim is not brought by or on behalf of an insurer.

6. Section 2 of P. L. 1972, c. 70 (C. 39:6A–2) is amended to read as follows:

C. 39:6A-2 Definitions.

2. Definitions. As used in this act:

a. "Automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pick-up body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a

farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relatives resident in the same household.

b. "Essential services" means those services performed not for income which are ordinarily performed by an individual for the care and maintenance of such individual's family or family household.

c. "Income" means salary, wages, tips, commissions, fees and other earnings derived from work or employment.

d. "Income producer" means a person who, at the time of the accident causing personal injury or death, was in an occupational status, earning or producing income.

e. "Medical expenses" means expenses for medical treatment, surgical treatment, dental treatment, professional nursing services, hospital expenses, rehabilitation services, X-ray and other diagnostic services, prosthetic devices, ambulance services, medication and other reasonable and necessary expenses resulting from the treatment prescribed by persons licensed to practice medicine and surgery pursuant to R. S. 45:9–1 et seq., dentistry pursuant to R. S. 45:6–1 et seq., psychology pursuant to P. L. 1966, c. 282 (C. 45:14B–1 et seq.) or chiropractic pursuant to P. L. 1953, c. 233 (C. 45:9–41.1 et seq.) or by persons similarly licensed in other states and nations or any nonmedical remedial treatment rendered in accordance with a recognized religious method of healing.

f. "Hospital expenses" means:

(1) The cost of a semiprivate room, based on rates customarily charged by the institution in which the recipient of benefits is confined;

(2) The cost of board, meals and dietary services;

(3) The cost of other hospital services, such as operating room; medicines, drugs, anesthetics; treatments with X-ray, radium and other radioactive substances; laboratory tests, surgical dressings and supplies; and other medical care and treatment rendered by the hospital;

(4) The cost of treatment by a physiotherapist;

(5) The cost of medical supplies, such as prescribed drugs and medicines; blood and blood plasma; artificial limbs and eyes; surgical dressings, casts, splints, trusses, braces, crutches; rental

of wheelchair, hospital bed or iron lung; oxygen and rental of equipment for its administration.

g. "Named insured" means the person or persons identified as the insured in the policy and, if an individual, his or her spouse, if the spouse is named as a resident of the same household, except that if the spouse ceases to be a resident of the household of the named insured, coverage shall be extended to the spouse for the full term of any policy period in effect at the time of the cessation of residency.

h. "Pedestrian" means any person who is not occupying, entering into, or alighting from a vehicle propelled by other than muscular power and designed primarily for use on highways, rails and tracks.

i. "Noneconomic loss" means pain, suffering and inconvenience.

j. "Motor vehicle" means a motor vehicle as defined in R. S. 39:1–1, exclusive of an automobile as defined in subsection a. of this section.

7. 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 insuring an automobile as defined in this act 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 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, being struck by 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 all reasonable medical expenses incurred as a result of personal injury sustained in an

automobile accident. In the event of death, payment shall be made to the estate of the decedent. In the event benefits paid by an insurer pursuant to this subsection are in excess of $75,000.00 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 section 4 of this act, the maximum amount of benefits which could have been paid to the income producer, but for his death, under section 4b. 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 section 4c. of this act, the maximum amount of benefits which could have been paid such person, under section 4c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of $1,000.00, on

account of the death to any one person in any one accident shall be payable to decedent's estate.

Benefits payable under this section shall:

(1) Be subject to any deductibles or exclusions elected by the policyholder pursuant to section 13 of this 1983 amendatory and supplementary act;

(2) Not be assignable, except to a provider of service benefits under this section, nor subject to levy, execution, attachment or other process for satisfaction of debts.

8. Section 5 of P. L. 1972, c. 70 (C. 39:6A–5) is amended to read as follows:

C. 39:6A-5 Payment of personal injury protection coverage benefits.

5. Payment of personal injury protection coverage benefits.

a. An insurer may require written notice to be given as soon as practicable after an accident involving an automobile with respect to which the policy affords personal injury protection coverage benefits required by this act.

b. Personal injury protection coverage benefits shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer; provided, however, that any payment shall not be deemed overdue where, within 30 days of receipt of notice of the claim, the insurer notifies the claimant or his representative in writing of the denial of the claim or the need for additional time, not to exceed 45 days, to investigate the claim, and states the reasons therefor. The written notice stating the need for additional time to investigate the claim shall set forth the number of the insurance policy against which the claim is made, the claim number, the address of the office handling the claim and a telephone number, which is toll free or can be called collect, or is within the claimant's area code. For the purpose of determining interest charges in the event the injured party prevails in a subsequent proceeding where an insurer has elected a 45 day extension pursuant to this subsection, payment shall be considered overdue at the expiration of the 45 day period or, if the injured person was required to provide additional in-

formation to the insurer, within 10 business days following receipt by the insurer of all the information requested by it, whichever is later.

For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.

c. All overdue payments shall bear interest at the percentage of interest prescribed in the Rules Governing the Courts of the State of New Jersey for judgments, awards and orders for the payment of money. All automobile insurers shall provide any claimant with the option of submitting a dispute under this section to binding arbitration. Arbitration proceedings shall be administered and subject to procedures established by the American Arbitration Association. If the claimant prevails in the arbitration proceedings, the insurer shall pay all the costs of the proceedings, including reasonable attorney's fees, to be determined in accordance with a schedule of hourly rates for services performed, to be prescribed by the Supreme Court of New Jersey.

9. Section 6 of P. L. 1972, c. 70 (C. 39:6A–6) is amended to read as follows:

C. 39:6A-6 Collateral source.

6. Collateral source. The benefits provided in section 4 and section 10 shall be payable as loss accrues, upon written notice of such loss and without regard to collateral sources, except that benefits, collectible under workers' compensation insurance, employees' temporary disability benefit statutes medicare provided under Federal law, and benefits, in fact collected, that are provided under Federal law to active and retired military personnel shall be deducted from the benefits collectible under section 4 and section 10.

If an insurer has paid those benefits and the insured is entitled to, but has failed to apply for, workers' compensation benefits or employees' temporary disability benefits, the insurer may immediately apply to the provider of workers' compensation benefits or of employees' temporary disability benefits for a reimbursement of any section 4 and section 10 benefits it has paid.

10. Section 7 of P. L. 1972, c. 70 (C. 39:6A–7) is amended to read as follows:

C. 39:6A-7 Exclusions.

7. a. Exclusions. a. Insurers may exclude a person from benefits under section 4 and section 10 where such person's conduct contributed to his personal injuries or death occurred in any of the following ways:

(1) while committing a high misdemeanor or felony or seeking to avoid lawful apprehension or arrest by a police officer; or

(2) while acting with specific intent of causing injury or damage to himself or others.

b. An insurer may also exclude from section 4 and section 10 benefits any person having incurred injuries or death, who, at the time of the accident:

(1) was the owner or registrant of an automobile registered or principally garaged in this State that was being operated without personal injury protection coverage;

(2) was occupying or operating an automobile without the permission of the owner or other named insured.

11. Section 12 of P. L. 1972, c. 70 (C. 39:6A–12) is amended to read as follows:

C. 39:6A-12 Inadmissability of evidence of losses collectible under personal injury protection coverage.

12. Inadmissibility of evidence of losses collectible under personal injury protection coverage. Except as may be required in an action brought pursuant to section 20 of this 1983 amendatory and supplementary act, evidence of the amounts collectible or paid pursuant to sections 4 and 10 of this act to an injured person, including the amounts of any deductibles or exclusions elected by the named insured pursuant to section 13 of this 1983 amendatory and supplementary act, otherwise compensated is inadmissible in a civil action for recovery of damages for bodily injury by such injured person.

The court shall instruct the jury that, in arriving at a verdict as to the amount of the damages for noneconomic loss to be recovered by the injured person, the jury shall not speculate as to the amount of the medical expense benefits paid or payable under section 4 to the injured person.

Nothing in this section shall be construed to limit the right of recovery, against the tortfeasor, of uncompensated economic loss sustained by the injured party.

12. (New section) P. L. 1972, c. 70 (C. 39:6A–1 et seq.) is supplemented as follows:

C. 39:6A-4.2 Primacy of coverages.

Primacy of coverages. The personal injury protection coverage of the named insured shall be the primary coverage for the named insured and any resident relative in the named insured's household who is not a named insured under an automobile insurance policy of his own. No person shall recover personal injury protection benefits under more than one automobile insurance policy for injuries sustained in any one accident.

13. (New section) P. L. 1972, c. 70 (C. 39:6A–1 et seq.) is supplemented as follows:

C. 39:6A-4.3 Personal injury protection coverage deductibles, exclusions and setoffs.

Personal injury protection coverage deductibles, exclusions and setoffs. 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, at appropriately reduced premiums, 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 for any one person;

b. the option to exclude all benefits offered under subsections b., c., d., and e. of section 4;

c. a setoff option entitling an automobile insurer paying medical expense benefits under section 4 to reimbursement from, and a lien on, any recovery for noneconomic loss by an injured party pursuant to an arbitration award, judicial judgment or voluntary settlement for the amount of the medical expense benefits paid, not to exceed 20% of the amount of the award, judgment or settlement, including recoveries under uninsured and underinsured motorist coverage. except that if, at the time of the award, judgment or settlement, the amount of medical expense benefits does not exceed 20% but additional expense benefits of an indeterminate amount are anticipated, the amount of the setoff shall be 20% of the award, judgment or settlement, with the difference between the value of the 20% and the amount of medical expense benefits previously paid to be placed in an interest bearing trust account for use to indemnify the insurer paying the medical expense benefits, as the benefits are paid. Attorney's contingent fees shall be computed on the amount of the award, judgment or settlement, less the amount of the setoff, which setoff shall be, if the medical expense benefit claim of the injured person, as of the date of the award, judgment or settlement is made, is: (1) closed, the amount of medical expense bene-

fits paid, not to exceed 20% of the award, judgment or settlement, or (2) open, 20% of the award, judgment or settlement. Under a contingent fee arrangement, the attorney shall also be entitled to reimbursement out of the amount of the setoff for costs actually incurred in the institution and prosecution of the claim or action, which amount shall in no instance exceed 10% of the amount of the setoff, in a manner to be prescribed by the Supreme Court. Nothing in this subsection shall be construed to prohibit an attorney representing the injured party from recovering from the insurer providing personal injury protection benefits the reasonable cost of any legal services rendered to that insurer primarily in conjunction with the setoff reimbursement.

A deductible, exclusion or setoff 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, and not to any other person eligible for personal injury protection benefits required to be provided in accordance with section 4.

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.

Where a trust account has been established in accordance with subsection c. of this section, any remaining principal and all accrued interest in the trust account at the time the final payment of medical expense benefits is made shall be paid to the party to whom the award, judgment or settlement was made, or to his estate.

The Commissioner of Insurance shall adopt rules and regulations to effectuate the purposes of this section.

14. Section 8 of P. L. 1972, c. 70 (C. 39:6A–8) is amended to read as follows:

C. 39:6A-8 Tort exemption; limitation on the right to noneconomic loss.

8. Tort exemption; limitation on the right to noneconomic loss.

One of the following two tort options shall be elected, in accordance with section 14.1 of this 1983 amendatory and supplementary act, by any named insured required to maintain personal injury protection coverage pursuant to section 4 of P. L. 1972, c. 70 (C. 39:6A–4):

a. Every owner, registrant, operator or occupant of an automobile to which section 4, personal injury protection coverage,

regardless of fault, applies, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain the coverage mandated by this act, or is a person who has a right to receive benefits under section 4 of this act as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State, if the bodily injury is confined solely to the soft tissue of the body and the medical expenses incurred or to be incurred by such injured person or the equivalent value thereof for the reasonable and necessary treatment of such bodily injury is less than $200.00, exclusive of hospital expenses, X-rays and other diagnostic medical expenses. There shall be no exemption from tort liability if the injured party has sustained death, permanent disability, permanent significant disfigurement, permanent loss of any bodily function or loss of a body member in whole or in part, regardless of the right of any person to receive benefits under section 4 of this act. Bodily injury confined solely to the soft tissue, for the purpose of this section, means injury in the form of sprains, strains, contusions, lacerations, bruises, hematomas, cuts, abrasions, scrapes, scratches, and tears confined to the muscles, tendons, ligaments, cartilages, nerves, fibers, veins, arteries and skin of the human body; or

b. As an alternative to the basic tort option specified in subsection a. of this section, every owner, registrant, operator, or occupant of an automobile to which section 4 of P. L. 1972, c. 70 (C. 39:6A–4) applies, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for noneconomic loss to a person who is subject to this subsection and who is either a person who is required to maintain the coverage mandated by P. L. 1972, c. 70 (C. 39:6A–1 et seq.) or is a person who has a right to receive benefits under section 4 of that act (C. 39:6A–4), as a result of bodily injury, arising out of the ownership, operation, maintenance or use of such automobile in this State, if the medical expenses incurred or to be incurred by that injured person, or the equivalent value thereof, for the reasonable and necessary treatment of the bodily injury, is less than $1,500.00, which amount shall be adjusted annually on January 1 of each year following the operative date of this act by the Commissioner of Insurance to reflect increases or decreases in the national Consumer Price Index for the professional services component of medical care services, all urban consumers, U. S. city

average, and which amount shall be exclusive of hospital expenses, X-rays and other diagnostic medical expenses. The adjusted rate shall apply to any claim for noneconomic loss arising from any automobile accident occurring on or after the adjustment date. There shall be no exemption from tort liability if the injured party has sustained death, permanent disability, permanent significant disfigurement, permanent loss of any bodily function or loss of a body member in whole or in part, regardless of the right of any person to receive benefits under section 4 of P. L. 1972, c. 70 (C. 39:6A–4).

The tort option provisions of subsection a. of this section shall also apply to the right to recover for noneconomic loss of any person eligible for benefits pursuant to section 4 of P. L. 1972, c. 70 (C. 39:6A–4) but who is not required to maintain personal injury protection coverage and is not an immediate family member, as defined in section 14.1 of this 1983 amendatory and supplementary act, under an automobile insurance policy.

The tort option provisions of subsection b. of this section shall also apply to the right to recover for noneconomic loss of any person who is required but fails to maintain personal injury protection coverage mandated by P. L. 1972, c. 70 (C. 39:6A–1 et seq.) at the time of accident.

The tort option provisions of subsection b. of this section shall remain inoperative until July 1, 1984, and shall apply to accidents occurring on or after that date.

If any provision of subsection b. of this section shall be deemed to be unconstitutional, the provisions of the entire subsection shall be deemed null and void, and without further effect, but the decision of the court shall not affect the validity of any other provision of this act.

14.1. (New section) P. L. 1972, c. 70 (C. 39:6A–1 et seq.) is supplemented as follows:

C. 39:6A-8.1 Election of tort option.

Election of tort option. a. Election of a tort option pursuant to section 8 of P. L. 1972, c. 70 (C. 39:6A–8) shall be in writing by the named insured on a form approved by the Commissioner of Insurance. The tort option elected shall apply to the named insured and any immediate family member residing in the named insured's household. "Immediate family member" means the spouse of the named insured and any child of the named insured or spouse

residing in the named insured's household, who is not a named insured under another automobile insurance policy.

b. If the named insured fails to elect, in writing, any of the tort options offered pursuant to section 8 of P. L. 1972, c. 70 (C. 39:6A–8), the named insured shall be deemed to elect the tort option of subsection a. of that section 8. No new automobile policy issued on or after July 1, 1984 in this State shall be issued by an insurer unless the named insured has elected one of the tort options provided in section 8.

c. The tort option elected by a named insured shall continue in force as to subsequent renewal or replacement policies until the insurer or its authorized representative receives a properly executed form electing the other tort option.

d. The tort option elected by the named insured shall apply to all automobiles owned by the named insured and to any immediate family member who is not a named insured under another automobile insurance policy, except that in the case where more than one policy is applicable to the named insured or immediate family member, and the policies have different tort options, the tort option elected by the injured named insured shall apply or, in the case of an immediate family member who is not a named insured and is injured in an accident involving an automobile to which a policy issued to a named insured in the household of the injured immediate family member applies, the tort option elected by that named insured shall apply.

In the case of automobile insurance policies in force on July 1, 1984, notice of the tort options available pursuant to the aforesaid section 8 shall be given in accordance with section 17 of this 1983 amendatory and supplementary act.

15. (New section) P. L. 1972, c. 70 (C. 39:6A–1 et seq.) is supplemented as follows:

C. 39:6A-21 The New Jersey Automobile Risk Exchange: membership, board of directors.

The New Jersey Automobile Insurance Risk Exchange: membership, board of directors.

There shall be created, within 45 days of the operative date of this act, an unincorporated association, to operate on a nonprofit-nonloss basis, to be known as the New Jersey Automobile Insurance Risk Exchange, with its headquarters to be located within the State of New Jersey. Every insurer licensed to transact private-passenger automobile insurance in this State shall be a

member of the exchange and shall be bound by the rules of the exchange as a condition of the authority to transact insurance business in this State. The New Jersey Automobile Full Insurance Underwriting Association created pursuant to section 16 of P. L. 1983, c. 65 (C. 17:30E–4) shall also be a member of the exchange and shall be bound by the rules of the exchange. Any insurer which ceases to transact automobile insurance business in this State shall remain liable for any amounts due to the exchange for business transacted prior to the effective date of its cessation of business in the State.

The rules of the exchange shall be determined and its business affairs governed by a board of directors to be comprised of nine members who shall be appointed by the Governor, with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor, of whom two shall represent the Alliance of American Insurers, or its successor organization; two shall represent the National Association of Independent Insurers, or its successor organization; two shall represent the American Insurance Association, or its successor organization; two shall represent the independent companies; and one shall be an insurer representative on the board of directors of the New Jersey Automobile Full Insurance Underwriting Association. No insurer shall represent more than one organization on the board of directors of the exchange. Appointments shall be made from a list of names submitted by the Commissioner of Insurance. Vacancies on the board of directors of the exchange shall be filled in the same manner as the original appointments.

16. (New section) P. L. 1972, c. 70 (C. 39:6A–1 et seq.) is supplemented as follows:

C. 39:6A-22 Powers of exchange.

Powers of exchange. a. The exchange shall be empowered to raise sufficient monies to (1) pay its operating expenses, and (2) to compensate members of the exchange for claims for noneconomic loss, and associated claim adjustment expenses, which would not have been incurred had the tort limitation option provided in section 14 of this 1983 amendatory and supplementary act been elected by the injured party filing the claim for noneconomic loss.

b. In order to meet its obligations under subsection a. of this section, the exchange shall collect:

(1) from every insurer transacting automobile insurance in this State, a percentage designated by the board of directors of the

exchange of all bodily injury premiums paid by insureds not electing the tort limitation option;

(2) from the New Jersey Full Insurance Underwriting Association, the percentage designated by the board of directors of the exchange of the bodily injury portion of association's total income, as defined in section 20 of P. L. 1983, c. 65 (C. 17:30E–8), for every insured not electing the tort limitation option.

c. All exchange members shall furnish the exchange with, and periodically update, lists of all persons electing the tort limitation option, for claim verification by members.

d. The exchange shall have such powers as may be necessary or appropriate to effectuate the purposes of the exchange.

17. (New section) P. L. 1972, c. 70 (C. 39:6A–1 et seq.) is supplemented as follows:

C. 39:6A-23 Notice of available coverages and rate credits for deductible, exclusion, setoff and tort limitation options.

Notice of available coverages and rate credits for deductible, exclusion, setoff and tort limitation options.

a. No new automobile insurance policy shall be issued on or after July 1, 1984, unless the application for the policy is accompanied by a written notice identifying and containing a brief description of all available policy coverages and benefit limits, and identifying which coverages are mandatory and which are optional under State law, as well as all deductible, exclusion, setoff and tort limitation options offered by the insurer. The insurer shall identify the percentage of premium rate credit for each option or combination of options, as the case may be.

The written notice shall also contain a statement on the possible coordination of other health benefit coverages with the personal injury protection coverage options, the form and contents of which shall be prescribed by the Commissioner of Insurance.

The applicant shall indicate the options elected on the written notice which shall be signed and returned to the insurer. Each applicant shall also be provided with a buyer's guide containing a description of the policy coverages, benefit limits and coverage options offered by the insurer, and a statement on the possible coordination of personal injury protection coverage benefits with other health benefit coverages.

b. In the case of any automobile insurance policy in force on July 1, 1984, the named insured shall be provided not later than

May 15, 1984 with a written notice and buyer's guide, as required under subsection a. of this section. Every policy subject to this subsection shall be endorsed and, if necessary, rerated in accordance with the instructions provided by the named insured, as indicated on the written notice, which instructions shall be executed and shall take effect on July 1, 1984.

c. Any notice of renewal of an automobile insurance policy with an effective date subsequent to July 1, 1984, shall be accompanied by a written notice of all policy coverage information required to be provided under subsection a. of this section.

The Commissioner of Insurance shall, within 45 days following the effective date of this act, promulgate standards for the written notice and buyer's guide required to be provided under this section.

18. (New section) P. L. 1944, c. 27 (C. 17:29A–1 et seq.) is supplemented as follows:

C. 17:29A-15.1 Premium credits.

Premium credits shall be provided for each deductible, exclusion and setoff on personal injury protection coverage offered in accordance with section 13, and for the tort limitation option on bodily injury liability coverage offered in accordance with section 14 of this 1983 amendatory and supplementary act. All premium credits to which this section applies shall be calculated and represented to the insured as a percentage of the applicable premium, and the percentage shall be uniform by filer on a Statewide basis.

The premium charged for each coverage shall be clearly set forth in any policy or endorsement provided the insured.

The percentage rate of commission or rate of other compensation payable by an automobile insurer to an agent or broker shall not vary by reason of the selection or nonselection of any option provided in sections 13 and 14 of this 1983 amendatory and supplementary act.

19. (New section) P. L. 1968, c. 385 (C. 17:28–1.1 et seq.) is supplemented as follows:

C. 17:28-1.3 Personal injury protection coverage benefits to pedestrians.

Every liability insurance policy issued in this State on a motor vehicle, exclusive of an automobile as defined in section 2 of P. L. 1972, c. 70 (C. 39:6A–2), but including a motorcycle, insuring against loss resulting from liability imposed by law for bodily injury, death, and property damage sustained by any person aris-

ing out of the ownership, operation, maintenance, or use of a motor vehicle shall provide personal injury protection coverage benefits, in accordance with section 4 of P. L. 1972, c. 70 (C. 39:6A–4), to pedestrians who sustain bodily injury in the State caused by the named insured's motor vehicle or by being struck by an object propelled by or from the motor vehicle.

20. (New section) P. L. 1972, c. 70 (C. 39:6A–1 et seq.) is supplemented as follows:

C. 39:6A-9.1 Recovery from tortfeasor.

An insurer paying personal injury protection benefits in accordance with section 4 or section 10 of P. L. 1972, c. 70 (C. 39:6A–4 or C. 39:6A–10), as a result of an accident occurring within this State shall, within two years of the filing of the claim, have the right to recover the amount of payments from any tortfeasor who was not, at the time of the accident, required to maintain personal injury protection coverage, other than for pedestrians. In the case of an accident occurring in this State involving an insured tortfeasor, the determination as to whether an insurer is legally entitled to recover the amount of payments and the amount of recovery, including the costs of processing benefit claims and enforcing rights granted under this section, shall be made against the insurer of the tortfeasor, and shall be by agreement of the involved insurers or, upon failing to agree, by arbitration.

21. Section 9 of P. L. 1952, c. 174 (C. 39:6–69) is amended to read as follows:

C. 39:6-69 Unpaid judgments.

9. When any qualified person recovers a valid judgment in any court of competent jurisdiction in this State against any other person, who was the operator or owner of a motor vehicle, for injury to, death of, any person or persons, or a similar valid judgment in such court against such a defendant for an amount in excess of $250.00, exclusive of interest and costs, for damage to property, except property of others in charge of such operator or owner or such operator's or owner's employees, arising out of the ownership, maintenance or use of the motor vehicle in this State on or after April 1, 1955, and any amount remains unpaid thereon in the case of a judgment for bodily injury or death, or any amount in excess of $250.00 remains unpaid thereon in case of a judgment for damage to property, such judgment creditor may, upon the termination of all proceedings, including reviews and appeals in connection with such judgment, file a verified claim

in the court in which the judgment was entered, and upon 10 days' written notice to the board may apply to the court for an order directing payment out of the fund, of the amount unpaid upon such judgment for bodily injury or death, which does not exceed, or upon such judgment for damage to property, which exceeds the sum of $250.00 and does not exceed—

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

(b) The maximum amount or limit, subject to such limit for any one person so injured or killed, of $30,000.00, exclusive of interest and costs, on account of injury to, or death of, more than one person, in any one accident, and

(c) The maximum amount or limit of $5,000.00, exclusive of interest and costs, for damage to property in any one accident.

22. Section 13 of P. L. 1952, c. 174 (C. 39:6–73) is amended to read as follows:

C. 39:6-73 $250 exclusion.

13. Except with respect to medical expense benefits paid pursuant to section 2 of P. L. 1977, c. 310 (C. 39:6–73.1), no order shall be made for the payment and the treasurer shall make no payment, out of the fund, of

(a) Any claim for damage to property for less than $250.00,

(b) The first $250.00 of any judgment for damage to property or of the unsatisfied portion thereof, or

(c) The unsatisfied portion of any judgment which, after deducting $250.00 therefrom if the judgment is for damage to property, exceeds

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

(2) the maximum amount or limit, subject to such limit for any one person so injured or killed, of $30,000.00, exclusive of interest and costs, on account of injury to, or death of, more than one person, in any one accident, and

(3) the maximum amount or limit of $5,000.00, exclusive of interest and costs, for damage to property in any one accident; provided, that such maximum amounts shall be reduced by any amount received or recovered as specified in subparagraph (m) of section 10.

(d) Any claim for damage to property which includes any sum greater than the difference between said maximum amounts and the sum of $250.00 and any amount paid out of the fund in excess of the amount so authorized may be recovered by the treasurer in an action brought to him against the person receiving the same.

23. Section 27 of P. L. 1983, c. 65 (C. 17:30E–15) is amended to read as follows:

C. 17:30E-15 Mandatory coverage limits.

27. A qualified applicant who is eligible for coverage through the association shall be offered and entitled to coverage up to at least the following limits: a. bodily injury liability: $250,000.00 each person, $500,000.00 each accident; b. property damage liability: $100,000.00; c. bodily injury and property damage: $500,000.00 single limit each accident; d. comprehensive and collision coverage; e. uninsured motorist and underinsured motorist coverage: $250,000.00 each person and $500,000.00 each accident for bodily injury; $100,000.00 each accident for property damage or $500,000.00 single limit, subject to an exclusion of the first $250.00 of the damage to property for each accident, except that the limits for uninsured and underinsured motorist coverages on association coverage shall not exceed the insured's policy limits for bodily injury and property damage, respectively; f. personal injury protection coverage as required by law; g. additional personal injury protection coverage required to be offered by law; and h. any other automobile insurance required to be offered by law and subject to the limits stated in the law. Motorcycles shall not be written for the coverages required or required to be offered pursuant to P. L. 1972, c. 70 (C. 39:6A–1 et seq.).

24. This act shall take effect immediately, but subsection a. of section 13 shall remain inoperative for 60 days following enactment; sections 1, 2, 2.1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14.1, 15, 16, 17, 18, 19, 20, 21, 22 and 23 shall remain inoperative until January 1, 1984; and subsections b. and c. of section 13 and section 14 shall remain inoperative until July 1, 1984.

Approved October 4, 1983.

CHAPTER 363

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of $135 million for the purpose of rehabilitating and improving bridges in the State; providing the ways and means to pay and discharge the principal thereof and interest thereon; providing for the submission of this act to the people at a general election; and making an appropriation.

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 "New Jersey Bridge Rehabilitation and Improvement Bond Act of 1983."

2. The Legislature finds and determines that:

a. A safe and reliable system of rail and road transportation is essential to the well-being of the citizens and the economy of this State.

b. New Jersey's rail and road system is one of the busiest in the world and provides a corridor for goods and passengers to and from not only New York, Pennsylvania and Delaware, but also to and from distant points in the western, northern, and southern regions of our nation.

c. More than 150,000 commuters daily rely on New Jersey's railroads for transportation to and from their places of employment.

d. Due to the destructive effect of the elements, the structural pressures of regular usage, and significant material deterioration stemming from a lack of regular maintenance in recent decades, bridges in the State's rail and road system are desperately in need of rehabilitation and improvement.

e. The cost of such essential rehabilitation and improvement far exceeds the funds which can be provided by regular State appropriations or will be available from the federal government or the "New Jersey Transportation Rehabilitation and Improvement Bond Act of 1979."

f. It is in the public interest, and a wholly valid and essential public purpose, to rehabilitate and improve bridges in the State's rail and road system through the authorization of the bond issue provided for herein.

3. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Transportation.

b. "Department of Transportation" means the New Jersey Department of Transportation established by the "Transportation Act of 1966," P. L. 1966, c. 301 (C. 27:1A–1 et seq.) or any agency or department successor to its powers and responsibilities.

c. "Fund" means the New Jersey Bridge Rehabilitation and Improvement Fund established in section 14 of this act.

d. "Rehabilitation and improvement of bridges" means the construction, reconstruction, replacement, improvement, repair or rebuilding of bridges carrying State highways or county or municipal roads, including railroad overhead bridges.

e. "Railroad overhead bridge" means any bridge or passage carrying a State highway or a county or municipal road over and across a railroad, subway, or street, traction, or electric railway, or over and across the right of way of such a railroad, subway or railway. Unless stated otherwise to the contrary, this definition shall not include those bridges or passages over and across a railroad or electric railway operated by the State, the State Department of Transportation or the New Jersey Transit Corporation.

f. "Cost" means, but is not limited to, the construction, reconstruction, improvement, rehabilitation, relocation, renewal, establishment, or repair of bridges; the cost of engineering, inspection, planning, legal, financial and other professional services; the cost of a bond registrar and an authenticating agent; the cost of reimbursement of any fund of the State from which moneys shall have been advanced to the fund created herein; and for payment or security of principal or interest on bonds as the Comptroller of the Treasury may determine.

4. a. Bonds of the State of New Jersey in the sum of $135,000,000.00 are hereby authorized for the purpose of rehabilitation and improvement of bridges in the State. Of this sum, $97,500,000.00 shall be reserved for the cost of rehabilitation and improvement of bridges carrying State highways, and $37,500,000.00 shall be reserved for the State share of the cost of rehabilitation and improvement of bridges carrying county and municipal roads, to be allocated and expended in compliance with the cost sharing requirements of this section.

b. With respect to those bridges which carry State highways and which are constructed, owned or maintained by the State and

those railroad overhead bridges over and across a railroad or electric railway operated by the State, the State Department of Transportation or the New Jersey Transit Corporation, the State shall defray the cost of rehabilitation and improvement.

c. With respect to those bridges which carry county or municipal roads and which are constructed, owned or maintained by a county or municipality, the State shall defray 80% of the cost of rehabilitation and improvement, with the county or municipality defraying 20% of the cost.

d. With respect to those railroad overhead bridges which carry county or municipal roads and which are not constructed, owned or maintained by the State or by a county or municipality, notwithstanding the provisions of chapter 12 of Title 48 of the Revised Statutes, the State shall defray 55% of the cost of rehabilitation and improvement, with the county or municipality defraying 20% of the cost, and with the railroad company over and across whose tracks or right of way the bridge crosses defraying 25% of the cost.

e. With respect to those railroad overhead bridges which carry county or municipal roads and whose ownership is not determined or is in doubt, the State shall defray 80% of the cost, with the county or municipality defraying 20% of the cost. The authority to rehabilitate and improve these bridges shall be exercised in accordance with procedures to be prescribed by law.

All cost sharing prescribed in this section shall be determined after first reducing the cost of rehabilitation and improvement of bridges by the amount of available federal funding.

5. The commissioner is authorized to promulgate rules and regulations in order to effectuate the purposes of this act.

6. Said bonds shall be serial bonds or term bonds or a combination thereof and known as "Bridge Rehabilitation and Improvement Bonds" and shall be issued from time to time as the issuing officials herein named shall determine. The bonds may be subject to redemption before maturity and shall mature and be paid not later than 35 years from the date of their issuance.

7. The Governor, State Treasurer and Comptroller of the Treasury or any two of such officials (hereinafter referred to as "the issuing officials") are hereby authorized to carry out the provisions of this act relating to the issuance of said bonds, and shall determine all matters in connection therewith subject to provisions hereof. In case any of said officials shall be absent

from the State or incapable of acting for any reason, his powers and duties shall be exercised and performed by such person as shall be authorized by law to act in his place.

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 thereon as same shall become due and for the payment of the principal at maturity. The principal and interest on such bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. Said bonds shall be signed in the name of the State by the Governor or by his facsimile signature, under the Great Seal of the State, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, shall be countersigned by the facsimile signature of the Comptroller of the Treasury and may be authenticated by an authenticating agent or bond registrar, as the issuing officials shall determine. Interest coupons attached to said bonds shall be signed by the facsimile signature of the Comptroller of the Treasury. Such bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the bonds or coupons shall have ceased to hold office at the time of such issue or at the time of delivery of such bonds to the purchaser.

10. a. Such bonds shall recite that they are issued for the purposes set forth in section 4 of this act and that they are issued in pursuance of this act and that this act was submitted to the people of the State at the general election held in the month of November, 1983, and that it was approved by a majority of the legally qualified voters of the State voting thereon at such election. Such recital in said bonds shall be conclusive evidence of the authority of the State to issue said bonds and their validity. Any bonds containing such 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 statutes applicable thereto, and shall be incontestable for any cause.

b. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered, as to both principal and interest, and with or without such 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 from time to time may be determined by the issuing officials, which interest shall be payable semiannually; provided, that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. Said bonds shall be issued and sold at such price or prices and under such terms, conditions and regulations as the issuing officials may prescribe, after notice of said sale, published at least once in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in the city of New York or in New Jersey, the first notice to be at least five days prior to the day of bidding. The said notice of sale may contain a provision to the effect that any or all bids in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale at such price or prices and under such 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 private sale, without advertisement.

13. Until permanent bonds can be prepared, the issuing officials may, in their discretion, in lieu of such permanent bonds, issue temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of bonds shall be paid to the State Treasurer and be held by him in a separate fund, and be deposited in such depositories as may be selected by him to the credit of the fund, which fund shall be known as the "New Jersey Bridge Rehabilitation and Improvement Fund."

15. The moneys in the said New Jersey Bridge Rehabilitation and Improvement Fund are hereby dedicated and shall be applied to the cost of the purposes set forth in section 4 of this act, and all such moneys are hereby appropriated to the Department of Transportation for such purposes, but no such moneys shall be expended

for such purposes, except as otherwise authorized, without the further specific appropriation thereof by the Legislature. Bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any said moneys.

Moneys in the New Jersey Bridge Rehabilitation and Improvement Fund may be appropriated or expended for the purpose of providing the nonfederal share of any federal program which finances the rehabilitation and improvement of bridges.

16. Pending their application to the purposes provided in this act, moneys in the New Jersey Bridge Rehabilitation and Improvement Fund may be invested and reinvested as other trust funds in the custody of the State Treasurer in the manner provided by law. Net earnings received from the investment or deposit of such funds shall be paid into the general treasury and become a part of the General Fund.

17. In case any coupon bonds or coupons thereunto appertaining or any registered bond shall become lost, mutilated or destroyed, a new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of such loss, mutilation or destruction, proof of ownership and such security and indemnity and reimbursement for expenses as the issuing officials may require.

18. Accrued interest received upon the sale of said bonds shall be applied to the discharge of a like amount of interest upon said 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 said bonds by the State Treasurer, upon warrant of the Comptroller of the Treasury, in the same manner as other obligations of the State are paid, except as otherwise provided herein.

19. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, at such times, not more then thirty-five years following the date of issuance thereof, and in such amounts as shall be determined by the issuing officials, and the issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem all or any of such

bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in such bonds.

20. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are subject to redemption prior to maturity, provided such refunding bonds shall mature at any time or times not later than the latest maturity date of such series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest which would be paid on the bonds refunded if such bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations, except as to the maturities thereof and to the extent herein otherwise expressly provided.

21. To provide funds to meet the interest and principal payment requirements for the bonds issued under this act and outstanding, there is hereby appropriated in the order following:

a. Revenues derived from the tax collected upon the sale of motor fuels under and by virtue of the tax upon the sale of motor fuels (Title 54, chapter 39 of the Revised Statutes, as amended and supplemented), or so much thereof as may be required; and

b. If in any year or at any time, funds, as hereinabove appropriated, necessary to meet interest and principal payments upon outstanding bonds issued under this act, be insufficient or not available, then and in that case there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State a tax on real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest due and to become due within one year on all outstanding bonds issued hereunder and on such bonds as are proposed to be issued under this act in the calendar year in which such 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 thus imposed shall be assessed, levied and collected in the same

manner and at the same time as other taxes upon real and personal property are assessed, levied and collected. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which such 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 said 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 shall 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 payable in the ensuing calendar year, then and in that event such issuing officials shall by resolution so find and shall file the same in the office of the State Treasurer, whereupon the State Treasurer shall transfer such moneys to a separate fund to be designated by him, and shall pay the principal and interest out of said fund as the same shall become due and payable, and the other sources of payment of said principal and interest provided for in this section shall not then be available, and receipts for said year from the taxes specified in subsection a. of this section shall hereupon 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 insufficiency of funds to be collected from the sources of revenues as hereinabove provided, to levy taxes to meet the interest and principal payments for the year after the ensuing year, then the treasurer shall certify to the Comptroller of the Treasury the amount necessary to be raised by taxation for such purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. In such case the Comptroller of the Treasury shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected as herein set forth in each county. Such calculation shall be based upon the corrected assessed valuation of such county for the year preceding the year in which such tax is to be assessed, but such tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The Comptroller of the Treasury shall certify said amount to the county board of taxation and the county treasurer of each county. The said 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, at the general election to be held in the month of November, 1983, be submitted to the people. In order to inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section shall take effect, and at least 15 days prior to the said election, to cause this act to be published in at least 10 newspapers published in the State and notify the clerk of each county of this State of the passage of this act, and the said clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the said ballots, the following: If you approve the act entitled below, make a cross (×), plus (+), or check (√) mark in the square opposite the word "Yes." If you disapprove the act entitled below, make a cross (×), 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 such markings respectively.

	Yes.	NEW JERSEY BRIDGE REHABILITATION AND IMPROVEMENT BOND ACT OF 1983 Shall the following act be approved: "An act authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of $135 million for the purpose of rehabilitating and improving bridges in the State; providing the ways and means to pay and discharge the principal thereof and interest thereon; providing for the submission of this act to the people at a general election; and making an appropriation?" INTERPRETIVE STATEMENT Approval of this act would provide $135 million for the rehabilitation and improvement of State, county and municipal bridges, with $37.5 million reserved for county and municipal bridge projects, and $97.5 million reserved for State bridge projects. These funds are essential to make necessary repairs and improvements the cost of which far exceeds funding which can be provided by State appropriations and moneys generated through the "New Jersey Transportation Rehabilitation and Improvement Bond Act of 1979." The full cost of rehabilitation and improvement of State bridges would be defrayed by the bond proceeds, while 80% of the cost would be defrayed on county or municipal bridges, with the county or municipality defraying 20% of the cost. Costs of the rehabilitation and improvement of railroad overhead bridges carrying State, county, or municipal roads are also to be defrayed by the bond proceeds in varying amounts.
	No.	

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 said 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 said 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 such 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 shall be a majority of all the votes cast for and against it at such an 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 $5,000.00 to the Secretary 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 New Jersey Commission on Capital Budgeting and Planning, with the department's annual budget request, a plan for the expenditure of funds from the New Jersey Bridge Rehabilitation and Improvement Fund for the upcoming fiscal year. Such plan shall include, but not be limited to, a performance evaluation of the expenditures made from said fund to date; a description of programs planned during the upcoming fiscal year; a copy of the rules and regulations governing the operation of programs to be financed, in part or in whole, by funds from the New Jersey Bridge Rehabilitation and Improvement Fund; and an estimate of expenditures for the upcoming fiscal year.

26. Not less than 30 days prior to the commissioner 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 Appropriations Committee's Subcommittee on Transfers, designated pursuant to Assembly Concurrent Resolution No. 52 of the 1982-1983 Legislature as the successor to the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of the 1968 Legislature as reconstituted and continued from time to time by the Legislature.

27. All appropriations from the bond fund shall be by specific allocation for each major project, and any transfer of any funds so appropriated shall require the approval of the Joint Appropriations Committee's Subcommittee on Transfers or its successor.

28. Immediately following the submission to the Legislature of the Governor's Annual Budget Message, the commissioner shall submit to the Transportation and Communications Committees of the Senate and General Assembly, or their designated successors, a copy of the plan pursuant to section 25 of this act, together with such changes therein as may have been required by the Governor's budget message.

29. This section and sections 23 and 24 of this act shall take effect immediately and the remainder of the act shall take effect as and when provided in section 23 of this act.

Approved October 4, 1983.

CHAPTER 364

AN ACT concerning the payment of health insurance premiums for certain retired municipal employees and amending N. J. S. 40A:10–23.

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

1. N. J. S. 40A:10–23 is amended to read as follows:

Payment of premiums after retirement.

40A:10–23. Payment of premiums after retirement. Retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at rates which are deemed to be adequate to cover the benefits, as affected by Medicare, of the retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of the older age classification; provided, however, that the total rate payable by a retired employee for himself and his dependents, for coverage under the contract and for Part B of Medicare, shall not exceed by more than 25% the total amount that would have been required to have been paid by the employee and his employer for the coverage

maintained had he continued in office or active employment and he and his dependents were not eligible for Medicare benefits.

The employer may, in its discretion, assume the entire cost of such coverage and pay all of the premiums for employees who have retired on a disability pension or after 25 years' or more service with the employer, or have retired and reached the age of 62 or older with at least 15 years of service where the retirement has been shown to the satisfaction of the employer to have been necessitated by medical illness or disability of the employee, including the premiums on their dependents, if any, under uniform conditions as the governing body of the local unit shall prescribe.

2. This act shall take effect immediately.

Approved October 6, 1983.

CHAPTER 365

AN ACT to amend "An act concerning alcoholic beverages, and supplementing chapter 1 of Title 33 of the Revised Statutes," approved March 30, 1945 (P. L. 1945, c. 55).

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

1. Section 1 of P. L. 1945, c. 55 (C. 33:1–46.1) is amended to read as follows:

C. 33:1-46.1 Club licenses.

1. It shall be lawful for the governing board or body of any municipality in which a referendum has been held pursuant to the provisions of R. S. 33:1–45 or R. S. 33:1–46, wherein a majority of the legal voters of said municipality voted "No," to issue a club license as defined in and regulated by subsection 5 of R. S. 33:1–12, to any constituent unit, chartered or otherwise duly enfranchised chapter or member club of a national or state order, organization or association, or to a bona fide golf and country club in said municipality, incorporated not for pecuniary gain, and which is in possession of a suitable premises and to adopt an enabling ordinance therefor.

2. Section 2 of P. L. 1945, c. 55 (C. 33:1–46.2) is amended to read as follows:

C. 33:1-46.2 Special permits.

2. The director may, subject to rules and regulations, issue special permits to a constituent unit, chartered or otherwise duly enfranchised chapter or member club of a national or state order, organization or association, or to a bona fide golf and country club in the event that the said municipality has failed or neglected to adopt an enabling ordinance as aforesaid, or has failed or neglected to properly act upon an application by such a constituent unit, chartered or otherwise duly enfranchised chapter or member club or a bona fide golf and country club for a club license, as aforesaid; the fee for the same shall be determined in each case by the director and shall not be less or more than the fee provided for by subsection 5 of R. S. 33:1–12.

3. Section 3 of P. L. 1945, c. 55 (C. 33:1–46.3) is amended to read as follows:

C. 33:1-46.3 Other powers unaffected.

3. Nothing in this act shall be deemed to limit or modify any powers otherwise granted by law to the director.

4. This act shall take effect immediately.

Approved October 13, 1983.

CHAPTER 366

AN ACT concerning lobsters and amending R. S. 23:5–9 and P. L. 1941, c. 211.

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

1. R. S. 23:5–9 is amended to read as follows:

Lobster restrictions.

23:5–9. a. No person shall take from the salt waters of this State by any means, import, export, have in his possession, buy, sell or offer to buy or sell any lobster of the genus Homarus americanus, which when measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell is less than: two and three-quarters inches in length, from the effective date of this amendatory act through December 31, 1983; two and seven-eighths inches in length, from January 1, 1984 through December 31, 1984; three inches in length, from January

1, 1985 through December 31, 1985; three and one-eighth inches in length, from January 1, 1986 through December 31, 1986; three and three-sixteenths inches in length, from January 1, 1987 and every year thereafter.

b. No person shall take from the salt waters of this State by any means, import, export, have in his possession, buy, sell or offer to buy or sell any lobster of the genus Homarus americanus, which is damaged or mutilated to the extent that its length cannot be determined under subsection a. of this section; except that this subsection shall not apply to: (1) any detached lobster claws, if these are together with detached lobster tails of the type exempted under subparagraph (2) of this subsection and the number of these detached lobster claws does not exceed twice the number of these detached lobster tails; or (2) any detached lobster tail which is composed of six abdominal segments and the fan of the tail, if the sixth abdominal segment, when measured along its dorsal center line with the tail flexed, is no less than: seven-eighths inch in length, from the effective date of this act through December 31, 1983; twenty-nine thirty-seconds inch in length, from January 1, 1984 through December 31, 1984; fifteen-sixteenths inch in length, from January 1, 1985 through December 31, 1985; one inch in length, from January 1, 1986 through December 31, 1986; one and one-sixteenth inches in length, from January 1, 1987 and every year thereafter.

c. No person shall take from the salt waters of this State by any means, import, export, have in his possession, buy, sell or offer to buy or sell any lobster of the genus Homarus americanus, with eggs attached, or from which the eggs have been removed.

d. This section shall not apply to the taking or possession of lobsters bearing a tag that has been issued or affixed by the Department of Environmental Protection or by any other State or federal agency with which the department cooperates in a research project.

2. Section 2 of P. L. 1941, c. 211 (C. 23:5–24.2) is amended to read as follows:

C. 23:5-24.2 Netting licenses.

2. A person intending to take fish with a net in the waters aforesaid shall, except as hereinafter provided, apply to the commissioner for a license therefor, and the commissioner upon receipt of the application and the fee hereinafter prescribed may in his discretion issue licenses for the taking of fish with nets as follows:

(a) Haul seines, the mesh of which shall not be smaller than two and three-quarter inches stretched, and not to exceed 70 fathoms in length, whether singly or attached, for all species, except those specifically protected. November 1 to April 30. Fee, $25.00.

(b) Fykes, the length of which including leaders shall not exceed 30 fathoms and no part of net or leaders to be larger than three inches stretched mesh, for all species, except those specifically protected. November 1 to April 30. Fee, $30.00.

(c) Special fykes for flounder only, the length of the net not to exceed 30 fathoms and the mesh of which shall not be less than four inches stretched. October 1 to April 30. Fee, $4.00.

(d) Miniature fykes or pots for the taking of catfish, suckers and eels, the same not to exceed 16 inches in diameter in the marine waters of this State except the Delaware bay. March 15 to December 15. Fee, $1.00 per pot or fyke.

(e) Run around nets, the smallest mesh of which shall be two and three-quarter inches stretched and the length of which net shall not exceed 200 fathoms, for all species, except those specifically protected. March 15 to December 15. Fee, $20.00. This net shall be used in the Atlantic ocean and the Delaware bay and its tributaries only. The limit shall be one run around net per boat.

(f) Shad nets, either drifting, staked or anchored, the smallest mesh of which shall be five inches stretched, for all species, except those specifically protected. February 1 to May 15. Fee, $20.00. These nets shall be used in the Atlantic ocean and the Delaware bay and its tributaries. Staked or anchored nets may be used in Raritan bay and Sandy Hook bay.

(g) Bait seines, over 50 feet long and not exceeding 150 feet. Fee, $3.00.

(h) Bait seines, not more than 50 feet long and cast nets, not more than 20 feet in diameter, may be used without application for or granting of license.

(i) Dip nets, not to exceed 24 inches in diameter, may be used for the taking of herring for live bait without application for or granting of license.

(j) Drifting gill nets, the smallest mesh of which shall be two and three-quarter inches stretched and the length of which net shall not exceed 200 fathoms and staked and anchored gill nets, the smallest mesh of which shall be two and three-quarter inches stretched and the length of which shall not exceed 30 fathoms, for all species, except shad and those specifically protected. Fee, $20.00 for the drifting gill net and $3.00 for the staked or anchored

gill net. These nets shall be used in the Atlantic ocean and the Delaware bay and its tributaries only. March 1 to December 15 for the Atlantic ocean and Delaware bay. March 1 to May 15 and July 15 to December 15 for the tributaries of the Delaware bay.

(k) Pound nets, the smallest mesh of which shall be two inches stretched for all species except those specifically protected. February 15 to May 15. Fee, $100.00. These nets shall be used in the Delaware bay only, except as otherwise provided by law.

(l) Wire pound nets, which do not extend into the Delaware bay more than 300 feet from the mean low water mark or 300 feet from the outside of the flats which fall bare at low water, which may be set and used in the Delaware bay only. March 1 to December 31. Fee, $25.00.

(m) Parallel nets, the mesh of which shall not be smaller than three and one-half inches stretched. September 1 to May 31.

(n) Lobster or fish pots, for the taking of all species except those specifically protected, shall be used in the Atlantic ocean, Delaware bay, Raritan bay and Sandy Hook bay only and shall be marked for identification in the manner prescribed by the commissioner. The commissioner may require that lobster or fish pots shall be designed to include escape vents.

The commissioner may adopt any rules and regulations which he deems necessary to carry out the purposes of this section.

3. This act shall take effect 90 days after enactment.

Approved October 19, 1983.

CHAPTER 367

AN ACT concerning the unclassified service of civil service and amending R. S. 11:22–2.

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

1. R. S. 11:22–2 is amended to read as follows:

Unclassified service.

11:22–2. The unclassified service shall not be subject to the provisions of this subtitle and shall include the following:

a. Officers elected by popular vote;

b. Members of district boards of elections; employees in voting machine departments and the chief deputy, chief clerk, secretary, clerical and other assistants or employees appointed by the superintendents of elections and commissioners of registration in counties of the first class having less than 800,000 inhabitants, and by the county boards of elections in all other counties and such of said officers, assistants and employees as are appointed by superintendents of elections in counties of the first class having more than 800,000 inhabitants, to serve for terms of six months or less in any one year;

c. Appointments of the mayor;

d. Heads of municipal departments, the members of commissions and boards elected by the board of aldermen, common council or other governing body of any county, municipality or school district operating under this subtitle;

e. Heads of such county departments as are created by the administrative code of any county organized pursuant to any of the plans contained in the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A–1 et seq.), which departments shall not exceed 12 in number, and the heads of any divisions created within such departments; provided, however, that the total number of positions created pursuant to this subsection by the administrative code shall not exceed 20 in number;

f. Law officers of a county, municipality or school district operating under this subtitle;

g. Teaching staff members, as defined in N. J. S. 18A:1–1, in the public schools and county superintendents and members and business managers of boards of education;

h. Police magistrates appointed by the mayor or other head officer of the municipality operating under this subtitle;

i. Officers and employees of county park commissioners in counties of the second class, appointed under the provisions of R. S. 40:37–96 to R. S. 40:37–174;

j. The superintendent of a county hospital for persons suffering from communicable diseases, appointed under the provisions of R. S. 30:9–61 and *R. S.* 30:9–69; and

k. The deputy or first assistant of principal executive officers authorized by law to act generally for and in place of his principal;

l. The legal assistants of the law departments of the counties, municipalities or school districts operating under this subtitle except as herein otherwise provided;

m. One secretary, clerk or executive director of each department, appointed board or commission authorized by law to appoint a secretary, clerk or executive director;

n. One secretary or confidential aide, if so provided in the administrative code of any county organized pursuant to any of the plans contained in the "Optional County Charter Law," to be appointed by each head of any county department or of any designated division within such department, when the head of any such division is an unclassified position;

o. One private secretary or clerk or stenographer of each judge or principal executive officer;

p. All officials of county or municipal institutions who must of necessity be physicians;

q. Offices or positions whose incumbents by specific statute serve for fixed terms, or whose incumbents by specific statute serve at the pleasure of the appointing authority;

r. One council secretary to the municipal council, appointed by the council in any city of the first class with a population of less than 300,000;

s. All directors of municipal free public libraries in cities of the first class having a population of not less than 300,000 inhabitants;

t. The following positions in school districts which have been reorganized pursuant to P. L. 1975, c. 169 (C. 18A:17-1 et seq.):

Executive director of board affairs;
Executive director of personnel;
Executive director of the budget;
Executive director of purchasing;
Executive director of physical facilities;
Executive director of data processing;
Executive director of financial affairs;
Executive controller;
Executive director of internal audit; and
Public information officer;

u. One confidential secretary, for each member of the board of freeholders of any county which has not adopted the provisions of the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40A:41A-1 et seq.); provided, however, that this subsection shall not be construed so as to authorize a board of chosen freeholders to increase the number of secretaries attached to such board of

chosen freeholders upon the effective date of this amendatory act;

v. The following positions in local housing authorities:

Executive director;

Assistant executive director;

Director of staff operations;

Director of administration;

Director of redevelopment; and

Urban initiatives coordinator;

w. Those management and executive positions in county hospitals in counties of the first class having less than 850,000 but more than 800,000 inhabitants, which have been designated pursuant to a management plan which has met the approval of the hospital board of managers, the governing body of the county, and the Commissioner of Health; and

x. Such other officers and positions not now included in the unclassified service by this section or by any other statute, as the Civil Service Commission shall, from time to time, determine, according to law, to be in the unclassified service.

2. This act shall take effect immediately.

Approved October 26, 1983.

CHAPTER 368

AN ACT requiring the identification of major motor vehicle component parts, providing penalties for violations of the act and supplementing Title 39 of the Revised Statutes.

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

C. 39:10B-1 Definitions.

1. As used in this act:

a. "Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

b. "Major motor vehicle component part" or "component part" means the following parts of any motor vehicle:

(1) engine;

(2) cowl;

(3) transmission;

(4) frame;
(5) each door;
(6) third member or rear end assembly;
(7) each front fender or each rear fender of a rear panel;
(8) front end assembly;
(9) rear clip; and
(10) any other parts of a motor vehicle designated by the director.

c. "Manufacturer's part number" means the original manufacturer's number located on a major motor vehicle component part.

d. "Scrap processor" means a person who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous metallic scrap, which is or has been a motor vehicle or component part, into prepared grades for sale for remelting purposes, and who does not sell the materials as motor vehicles or major motor vehicle component parts.

C. 39:10B-2 Identification of component parts; record.

2. a. All major motor vehicle component parts which do not contain a manufacturer's part number shall be identified by a person who deals in used motor vehicles, motor vehicle salvage or the component parts of motor vehicles. The identification shall be made in a manner to be determined by the director when the component part is removed from a motor vehicle.

b. A person who deals in used motor vehicles, motor vehicle salvage or the component parts of motor vehicles who purchases major motor vehicle component parts out of State shall identify the parts in the manner to be determined by the director.

c. A person authorized under this section to identify motor vehicle component parts shall maintain a record of all motor vehicles and component parts which come into that person's possession together with a record of the disposition of the motor vehicles or the component parts. The records shall be maintained in a manner and form prescribed by the director and shall include proof of ownership for the motor vehicles or the component parts in that person's possession.

The director may, by regulation, exempt motor vehicles or component parts from all or a portion of the record keeping requirements based upon the age of the motor vehicles or the component parts if the director finds that the record keeping serves no useful purpose.

Upon the request of an agent of the director or a law enforcement officer, a person shall produce the records and permit the agent or officer to examine them and the motor vehicle or component parts on the premises during business hours. For a failure to produce the records or to permit their inspection as required by this section, a person shall be subject to a fine of not less than $25.00 or more than $100.00 or imprisonment for not more than 90 days, or both. In addition, an agent of the director or a law enforcement officer may seize or take possession of the motor vehicles or component parts and hold and dispose of them in accordance with the rules and regulations adopted by the director.

C. 39:10B-3 Confiscation; arrest.

3. a. Members of the State and local law enforcement agencies or members of the division who are designated by the director for this function shall seize and confiscate a detached major motor vehicle component part if the manufacturer's part number, the identification number required by section 2 of this act, or the identification number assigned by the division under subsection e. of this section has been destroyed, removed, altered, defaced, or obliterated.

b. The entire motor vehicle shall be seized and confiscated if the manufacturer's part number, the identification number required by section 2 of this act, or the identification number assigned by the division under subsection e. of this section of a major motor vehicle component part has been destroyed, removed, altered, defaced, or obliterated.

c. Members of the State and local law enforcement agencies shall arrest the alleged owner or custodian thereof. It shall be the duty of the police to retain the custody of each motor vehicle or major motor vehicle component part seized pending the prosecution of the person arrested, which shall remain in the custody of the police until the ownership thereof shall have been ascertained.

d. If a person other than the person arrested be the owner, the motor vehicle shall be returned to him as soon as he has arranged to have the division affix a new number to the major motor vehicle component part, and the division has done so, as provided in subsection e. of this section. No person other than an authorized member of the division shall assign and affix a new number to the motor vehicle or major motor vehicle component part. The division shall not release any vehicle or part so seized until it has affixed a new number to the part. At the time of the arrest the director shall be notified by the arresting officer.

e. If a detached major motor vehicle component part is seized and confiscated because it does not have a manufacturer's part number or the identification number required by section 2 of this act, or the appropriate number has been destroyed, removed, altered, defaced, or obliterated, or the entire vehicle has been seized because the appropriate number of a major motor vehicle component part has been destroyed, removed, altered, defaced, or obliterated, the number may be restored under the following conditions:

(1) If the owner or custodian of the motor vehicle or major motor vehicle component part can demonstrate that the damage to the manufacturer's part number or the number required by section 2 of this act was done without his knowledge, and can produce a bill of sale and, if applicable, title papers for the motor vehicle or major motor vehicle component part, the division shall return the motor vehicle or major motor vehicle part to him, provided that he arranges to have the division restore the damaged or obliterated number to the part, if possible, or affix a unique number to the part, as provided for in paragraph (2) of this subsection. The director is authorized to establish a reasonable fee for this service.

(2) If the owner or custodian of the motor vehicle or major motor vehicle component part cannot furnish title papers for the motor vehicle or a bill of sale for the major motor vehicle component part or if the alleged owner or custodian is arrested and convicted of the theft of the motor vehicle or major motor vehicle component part, an agent of the director or any police officer may seize and take possession of the vehicle or part and hold and dispose of it in accordance with rules and regulations adopted by the director, provided that the division first affixes a unique number to the major motor vehicle component part. The composition of this number shall indicate that it designates a used major motor vehicle component part. The director is authorized to establish a reasonable fee for this service, and this fee may be added to the price of the motor vehicle or major motor vehicle component part. The new number shall thereafter be used for identification, registration and all purposes of this act.

C. 39:10B-4 Unlawful activities.

4. a. It shall be unlawful for a person to sell or offer for sale or transport a major motor vehicle component part or motor vehicle if a manufacturer's part number, an identification number required by section 2 of this act, or a number assigned by the division under

section 3 of this act shall have been destroyed, removed, altered, defaced or so covered as to be concealed.

b. It shall be unlawful for a person to sell or offer for sale a component part from a motor vehicle less than three years old without providing the purchaser with an invoice indicating:

(1) The name and address of the seller and the purchaser;

(2) The price of the component part;

(3) The year, make, model and color of the motor vehicle from which the component part was removed; and

(4) The vehicle identification number of the motor vehicle from which the component part was removed.

c. It shall be unlawful for a person to purchase a major motor vehicle component part from a motor vehicle less than three years old without obtaining from the seller the invoice defined in subsection b. of this section.

d. It shall be unlawful for a person to transport a major motor vehicle component part unless that component part has been marked with an identification number as required by section 2 of this act or an identification number assigned by the division under subsection e. of section 3 of this act and the transporter has in his possession an invoice indicating:

(1) The name and address of the owner of the component part;

(2) The price of the component part;

(3) The year, make, model and color of the motor vehicle from which the component part was removed; and

(4) The vehicle identification number of the motor vehicle from which the component part was removed.

e. A person selling, offering to sell, transporting or purchasing a major motor vehicle component part or a motor vehicle in violation of the provisions of subsection a., b., c., or d. of this section is guilty of a crime of the fourth degree. A person who willfully removes, defaces, covers, alters or destroys a manufacturer's part number, an identification number required by section 2 of this act, or a number assigned by the division under section 3 of this act is guilty of a crime of the third degree.

A person having possession of a major motor vehicle component part or a motor vehicle of which a manufacturer's part number, an identification number required by section 2 of this act, or a number assigned by the division under section 3 of this act has been destroyed, removed, altered, defaced or so covered as to be concealed is guilty of a crime of the fourth degree. Upon prosecution under this section lack of knowledge of the condition of the

number of the vehicle or part shall constitute a defense, but possession shall be prima facie evidence that the defendant had knowledge of the condition, and the burden of proof shall be upon him that he had no knowledge.

C. 39:10B-5 Not applicable to scrap processors.

5. The provisions of this act shall not apply to scrap processors as defined in section 1 of this act.

C. 39:10B-6 Rules, regulations.

6. The director shall prescribe rules and regulations necessary to carry out the provisions of this act.

7. This act shall take effect 90 days after its enactment or 90 days after the enactment of either the Assembly Committee Substitute for Assembly Bill No. 1301 of 1982 or Senate Bill No. 3176 with Senate committee amendments adopted on June 20, 1983, whichever is later.

Approved October 26, 1983.

CHAPTER 369

AN ACT to amend "An act creating a commission to determine the necessity of, examine the factors involved with, and assess the fiscal commitments necessary for creating and maintaining a chair of women's studies at Douglass College and making an appropriation therefor," approved January 12, 1982 (P. L. 1981, c. 555).

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

1. Section 6 of P. L. 1981, c. 555 is amended to read as follows:

6. The commission may meet and hold hearings at such place or places as it shall designate during the session or recesses of the Legislature and shall submit a final report to the Governor and the Legislature within one year from the effective date of this 1983 amendatory act. The commission shall terminate upon submission of the report, unless a later date is specified by the Governor.

2. This act shall take effect immediately and be retroactive to January 12, 1983.

Approved October 26, 1983.

CHAPTER 370

AN ACT concerning the "Local Bond Law" and amending N. J. S. 40A:2-25.

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

1. N. J. S. 40A:2-25 is amended to read as follows:

Execution of obligations.

40A:2-25. Obligations shall be executed in the name of the local unit by the manual or facsimile signatures of such officials, including a financial officer, as may be designated by resolution, or if none be designated, of the director of the board of chosen freeholders of a county or the mayor, or other executive officer of the municipality and of a financial officer of the local unit, and shall be under the seal of the local unit affixed, imprinted or reproduced thereon and attested by the manual signature of the clerk or deputy clerk. Coupons attached to any obligation shall be authenticated by the facsimile or manual signature of the financial officer whose manual or facsimile signature appears upon the obligation.

Delivery of obligations fully executed by the officers holding office at the time of such execution shall be valid, notwithstanding any change in such officers or in the seal occurring after such execution.

2. This act shall take effect immediately.

Approved October 27, 1983.

CHAPTER 371

AN ACT to amend "An act concerning the imposition of certain encumbrances against the estates of recipients of medical and health services and pharmaceutical assistance and supplementing P. L. 1968, c. 413," approved July 20, 1981 (P. L. 1981, c. 217).

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

1. Section 1 of P. L. 1981, c. 217 (C. 30:4D–7.2a) is amended to read as follows:

C. 30:4D-7.2a Limitations on recoveries from estates.

1. No encumbrance or recovery of any kind shall be imposed against or sought from the estate of a qualified applicant or an eligible person after his death because of assistance paid, or to be paid, on his behalf under:

a. The "New Jersey Medical Assistance and Health Services Act," P. L. 1968, c. 413 (C. 30:4D–1 et seq.), if the amount sought to be recovered is less than $500.00, the estate is less than $3,000.00 or there is a surviving spouse or child, except for assistance incorrectly or illegally paid, or for third party liability recovery sought under P. L. 1968, c. 413 (C. 30:4D–1 et seq.); or

b. The "Pharmaceutical Assistance to the Aged and Disabled" program, P. L. 1975, c. 194 (C. 30:4D–20 et seq.), except for assistance incorrectly or illegally paid, or for third party liability recovery sought under P. L. 1968, c. 413 (C. 30:4D–1 et seq.).

2. This act shall take effect immediately.

Approved October 27, 1983.

CHAPTER 372

AN ACT concerning joint insurance funds for local units of government, and supplementing chapter 10 of Title 40A of the New Jersey Statutes.

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

C. 40A:10-36 Joint insurance fund.

1. The governing body of any local unit may by resolution or ordinance, as appropriate, agree to join together with any other local unit or units to establish a joint insurance fund for the purpose of insuring against liability, property damage, and workers' compensation as provided in Articles 3 and 4 of chapter 10 of Title 40A of the New Jersey Statutes and may appropriate such moneys as are required therefor.

C. 40A:10-37 Appointment of commissioners.

2. Upon the establishment of a joint insurance fund, the officer or body of each local unit having the power to make appointments

for the unit shall appoint one member of the governing body or employee of the local unit to represent that local unit as insurance fund commissioner. Commissioners who are members of the governing body shall hold office for two years or for the remainder of their terms of office as members of the governing body, whichever shall be less, and until their successors shall have been duly appointed and qualified. Commissioners who are employees of the local unit shall hold office at the pleasure of the appointing officer or body. In the event that the number of local units represented is an even number, an additional member shall be annually selected by the participating local units on a rotating basis. If the total number of commissioners exceeds seven, the commissioners shall annually meet to select not more than seven commissioners to serve as the executive committee of the fund. The executive committee shall exercise the full power and authority of the commission. Vacancies on the executive committee shall be filled by election of the entire board. The commissioners shall serve without compensation. Any vacancy in the office of insurance fund commissioner, caused by any reason other than expiration of term as a member of the local unit governing body, shall be filled by the appointing authority in the manner generally prescribed by law. The commission shall annually elect a chairman and a secretary.

C. 40A:10-38 Powers, authority.

3. a. The commissioners of a joint insurance fund shall have the powers and authority granted to commissioners of individual local insurance funds under the provisions of subsections a., b., c., and e. of N. J. S. 40A:10–10.

b. The commissioners may invest the funds, including workers' compensation funds, as authorized under the provisions of subsection b. of N. J. S. 40A:10–10.

c. The commissioners or the executive board, as the case may be, of any joint insurance fund established pursuant to the provisions of this act shall be subject to and operate in compliance with the provisions of the "Local Fiscal Affairs Law" (N. J. S. 40A:5–1 et seq.), the "Local Public Contracts Law" (P. L. 1971, c. 198; C. 40A:11–1 et seq.) and such other rules and regulations as govern the custody, investment and expenditure of public funds by local units.

C. 40A:10-39 Bylaws.

4. The commissioners shall prepare and, after the approval by resolution of the governing body of each participating local gov-

ernmental unit, shall adopt bylaws for the joint insurance fund. The bylaws shall include, but not be limited to:

a. Procedures for the organization and administration of the joint insurance fund, the insurance fund commission and, if appropriate, the executive board of the fund. The procedures may include the designation of one member local unit to serve as the lead agency to be responsible for the custody and maintenance of the assets of the fund and such other duties as may be assigned by the commissioners of the fund;

b. Procedures for the assessment of members for their contributions to the fund and for the collection of contributions in default;

c. Procedures for the maintenance and administration of appropriate reserves in accordance with sound actuarial principles;

d. Procedures for the purchase of commercial direct insurance or reinsurance, if any;

e. Contingency plans for paying losses in the event that the fund is exhausted;

f. Procedures governing loss adjustment and legal fees;

g. Procedures for the joining of the fund by a non-member local unit;

h. Procedures for the withdrawal from the fund by a local unit;

i. Procedures for the expulsion of a member local unit;

j. Procedures for the termination and liquidation of the joint insurance fund and the payment of its outstanding obligations;

k. Such other procedures and plans as the Commissioner of the Department of Insurance may require by rule and regulation.

C. 40A:10-40 Plan of risk management.

5. The commissioners shall prepare, or cause to be prepared, a plan of risk management for the joint insurance fund. The plan shall include, but not be limited to:

a. The perils or liability to be insured against;

b. Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier, or reinsurance;

c. The amount of risk to be retained by the fund;

d. The amount of reserves to be established;

e. The proposed method of assessing contributions to be paid by each member of the fund;

f. Procedures governing loss adjustment and legal fees;

g. Coverage to be purchased from a commercial insurer, if any;

h. Reinsurance to be purchased, if any, and the amount of premium therefor;

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i. Such other procedures and information as the Commissioner of Insurance may require by rule or regulation.

C. 40A:10-41 Approval procedure.

6. No joint insurance fund shall begin providing insurance coverage to its member local units until its bylaws and plan of risk management have been approved as hereinafter provided.

a. The commissioners of each joint insurance fund shall concurrently file with the Commissioner of the Department of Insurance for his approval a copy of the fund's bylaws adopted pursuant to section 4 of this act and a copy of the fund's plan of risk management prepared pursuant to section 5 of this act.

b. Upon receipt of any such bylaws and plan of risk management, the Commissioner of Insurance shall immediately notify the Commissioner of the Department of Community Affairs and shall immediately provide that commissioner with a copy of the bylaws and plan of risk management. The Commissioner of the Department of Community Affairs, or if the commissioner shall so designate, the Director of Local Government Services in the Department of Community Affairs, is empowered to approve or disapprove any such bylaws and plans on the basis of whether or not they conform with rules and regulations governing the custody, investment or expenditure of public moneys. Within 25 working days of the receipt of any such bylaws and plan of risk management, the Commissioner of the Department of Community Affairs shall notify the Commissioner of Insurance of his approval or disapproval. As a condition of approval, the Commissioner of the Department of Community Affairs may require such modification of any bylaws or plan of risk management as he may deem necessary to bring them into conformity with the rules and regulations governing the custody, investment or expenditure of public moneys. No bylaws or plan of risk management disapproved by the Commissioner of the Department of Community Affairs, or his designee, shall take effect. If the Commissioner of the Department of Community Affairs, or his designee, fails to approve or disapprove any bylaws or plan of risk management within 25 working days, the bylaws or plan of risk management shall be deemed approved.

c. Within 30 working days of receipt, the Commissioner of Insurance shall either approve or disapprove the bylaws or plan of risk management of any joint insurance fund. If the Commissioner of Insurance shall fail to either approve or disapprove the bylaws or plan of risk management within that 30 working day period, the bylaws or plan shall be deemed approved.

If any bylaws or plan shall be disapproved, the Commissioner of Insurance shall set forth in writing the reasons for disapproval. Upon the receipt of the notice of disapproval, the commissioners of the affected joint insurance fund may request a public hearing. The public hearing shall be convened by the Commissioner of Insurance in a timely manner.

C. 40A:10-42 Types of coverage.

7. Upon the approval of its bylaws and plan of risk management pursuant to the provisions of section 6 of this act, a joint insurance fund may provide insurance coverage to its member local units by self-insurance, the purchase of commercial insurance or reinsurance, or any combination thereof.

C. 40A:10-43 Approval of amendments.

8. The commissioners may, from time to time, amend the bylaws and plan of risk management of the fund; provided, however, that no such amendment shall take effect until approved as hereinafter provided.

a. The commissioners shall file with the Commissioner of Insurance for his approval a copy of any amendment to the bylaws of the fund, upon approval by resolution of the governing body of each member local unit, or any amendment to the plan of risk management, upon adoption by the commissioners.

b. Upon receipt of the amendment, the Commissioner of Insurance shall immediately notify the Commissioner of the Department of Community Affairs and shall immediately provide that commissioner with a copy of the amendment. The Commissioner of the Department of Community Affairs, or by his designation, the Director of the Division of Local Government Services in the Department of Community Affairs, is empowered to approve or disapprove any amendment on the basis of whether or not it conforms with rules and regulations governing the custody, investment or expenditure of public moneys. Within 25 working days of the receipt of the amendment, the Commissioner of the Department of Community Affairs, or his designee, shall notify the Commissioner of Insurance of his approval or disapproval. As a condition of approval, the Commissioner of the Department of Community Affairs, or his designee, may require a modification of the amendment in order to bring its provisions into conformity with rules and regulations governing the custody, investment or expenditure of public moneys. No amendment disapproved by the Commissioner of the Department of Community Affairs, or his designee, shall take effect. If the Commissioner of the Department

of Community Affairs, or his designee, fails to approve or disapprove any amendment within 25 working days of receipt, the amendment shall be deemed to be approved.

c. Within 30 working days of receipt, the Commissioner of Insurance shall either approve or disapprove any amendment to the bylaws or plan of risk management. If the Commissioner of Insurance shall fail to either approve or disapprove the amendment within that 30 working day period, the amendment shall be deemed approved.

If any amendment shall be disapproved, the Commissioner of Insurance shall set forth in writing the reasons for disapproval. Upon the receipt of the notice of disapproval, the commissioners of the affected joint insurance fund may request a public hearing. The public hearing shall be convened by the Commissioner of Insurance in a timely manner.

C. 40A:10-44 Authority of Commissioner of Insurance.

9. The Commissioner of Insurance shall have the authority to suspend or terminate the authority of any joint insurance, or to assume control of the insurance fund, or to direct or take any action he may deem necessary, for good cause, to enable a fund to meet its obligations, cover its expected losses or to liquidate, rehabilitate or otherwise modify its affairs. Such action shall be taken by the Commissioner of Insurance in the event of:

a. A failure to comply with the rules and regulations promulgated by the Commissioner of Insurance or with any of the provisions of this act;

b. A failure to comply with a lawful order of the Commissioner of Insurance;

c. A deterioration of the financial condition of the fund to the extent that it causes an adverse effect upon the ability of the joint insurance fund to pay expected losses.

C. 40A:10-45 Filing of documents.

10. The Commissioner of Insurance may, in his discretion, require the commissioners of any fund to file copies of any agreements or contracts entered into by the commissioners of the fund, or any other pertinent documents as he may deem necessary.

C. 40A:10-46 Annual audit.

11. The insurance fund commissioners or the executive board thereof, as the case may be, shall cause an annual audit to be conducted by an independent certified public accountant or a registered municipal accountant in accordance with the rules and

regulations promulgated by the Commissioner of Insurance pursuant to section 14 of this act. Copies of every audit shall be submitted to the Commissioner of Insurance and the Commissioner of the Department of Community Affairs within 30 working days of its completion.

C. 40A:10-47 Examinations of funds.

12. The Commissioner of Insurance may conduct such examinations of any joint insurance fund as he deems necessary. The expense of any such examination shall be borne by the affected fund.

C. 40A:10-48 Not insurance company.

13. A joint insurance fund established pursuant to the provisions of this act is not an insurance company or an insurer under the laws of this State, and the authorized activities of the fund do not constitute the transaction of insurance nor doing an insurance business. A fund established pursuant to this act shall not be subject to the provisions of Subtitle 3 of Title 17 of the Revised Statutes.

C. 40A:10-49 Rules, regulations.

14. Within 180 days after the effective date of this act, the Commissioner of Insurance, after consultation with the Commissioner of the Department of Community Affairs, or if that commissioner shall so designate, the Director of the Division of Local Government Services in the Department of Community Affairs, shall promulgate rules and regulations to effectuate the purposes of this act. Such rules and regulations shall include, but not be limited to, the establishment, operation, modification and dissolution of joint insurance funds established pursuant to the provisions of this act.

15. This act shall take effect immediately, but no joint insurance fund shall be established prior to the date occurring 180 days following enactment.

Approved October 28, 1983.

CHAPTER 373

AN ACT concerning school facilities and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:33-1.1 Inspection of substandard facilities.

1. No substandard facility shall be approved for more than two consecutive years unless it is inspected by the Bureau of Facility Planning Services in the Division of Finance to insure that the buildings meet health, safety and educational standards for temporary facilities and that utilization of the facilities is of a temporary and limited nature. Any facility which is determined to be inadequate shall be ordered abandoned pursuant to N. J. S. 18A:20–36.

C. 18A:33-1.2 Rules, regulations.

2. The State Board of Education shall develop rules and regulations for the approval of substandard emergency building facilities for the accommodation of school pupils which regulations shall insure that the buildings meet health, safety and educational standards and that the utilization of the facilities are of a temporary and limited nature.

3. This act shall take effect immediately.

Approved October 28, 1983.

CHAPTER 374

AN ACT concerning the application and enforcement of the dimensional and weight limitations of certain vehicles or combinations thereof and amending P. L. 1950, c. 142.

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

1. Section 3 of P. L. 1950, c. 142 (C. 39:3–84.1) is amended to read as follows:

C. 39:3-84.1 Application of axle weight limitations.

3. a. The axle weight limitations as provided at R. S. 39:3–84b. shall apply to all vehicles registered in New Jersey subsequent to March 1, 1950, which have not been registered therein or contracted for purchase by New Jersey residents prior to that date. The weight limitations provided at R. S. 39:3–84b. (1); R. S. 39:3–84b. (2); and R. S. 39:3–84b. (3) relative to maximum gross axle weights shall not apply to vehicles registered as "constructor" or "solid waste" vehicles or to a combination of vehicles of which the "constructor" or "solid waste" vehicle is the drawing vehicle as provided at R. S. 39:3–20, except that said limitations shall apply to vehicles registered as "solid waste" when operated on any highway which is part of the National System of Interstate and Defense Highways, as provided at 23 U. S. C. § 103 (e). Except as otherwise provided in this section, the provisions of R. S. 39:3–84b. (5) shall apply to vehicles registered as "constructor" or "solid waste" or to a combination of vehicles of which the "constructor" or "solid waste" vehicle is the drawing vehicle as provided in R. S. 39:3–20, except that for any vehicle registered as a "constructor" or any combination of vehicles of which the drawing vehicle is registered as a "constructor," the provisions of R. S. 39:3–84b. (5) shall not apply; provided the vehicle or combination of vehicles is operated within an area that is 30 miles or less from the point established as a headquarters for the particular construction operation. Vehicles registered as "constructor" or "solid waste" or a combination of vehicles of which the "constructor" or "solid waste" vehicle is the drawing vehicle shall be limited to a maximum gross vehicle weight, including load or contents, as shown on the registration certificate of that vehicle.

b. The Commissioner of Transportation is authorized to adopt rules and regulations providing for exemptions from the provisions of R. S. 39:3–84b.(5) for the following:

(1) Vehicles registered as "solid waste" or combinations of vehicles of which the "solid waste" vehicle is the drawing vehicle as provided in R. S. 39:3–20.

(2) Vehicles not in excess of 73,280 pounds.

The commissioner is also authorized to adopt rules and regulations providing for any time limits, distinctions among classes of vehicles, or other conditions with respect to these exemptions.

c. In addition to any exemptions provided for by regulations adopted pursuant to subsection b. of this section, the commissioner is authorized to adopt rules and regulations providing for exemp-

tions for a transitional period from the provisions of R. S. 39:3–84b.(5) for the following:

(1) Tandem-axle dump trucks;
(2) Five-axle dump trailers;
(3) Two-axle dump trucks;
(4) Three-axle dump trucks;
(5) Four-axle dump trucks;
(6) Three-axle and four-axle ready-mix transit trucks;
(7) Four-axle and five-axle flatbed tractor trailers;
(8) Five-axle bulk carriers;
(9) Two-axle, three-axle, four-axle and five-axle liquid bulk carriers;
(10) Two-axle and three-axle emergency equipment wreckers;
(11) Solid waste rear-end loaders;
(12) Solid waste front-end loaders;
(13) Solid waste four-axle roll-offs;
(14) Four-axle and five-axle waste transfer tractor trailers;
(15) Two-axle, three-axle, four-axle and five-axle general freight carriers; and
(16) Intermodal ocean containers.

2. This act shall take effect upon the enactment into law of Assembly Bill No. 3003 of 1983 (enacted into law as P. L. 1983, c. 349), except that the provisions of section 1 (C. 39:3–84.1) of this act shall supersede the provisions of section 3 (C. 39:3–84.1) of Assembly Bill No. 3003 of 1983, insofar as they may be inconsistent therewith.

Approved October 31, 1983.

CHAPTER 375

AN ACT to amend and supplement "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. (New section) The following sum is appropriated from the General Fund in addition to the sums appropriated by P. L. 1983, c. 240:

DIRECT STATE SERVICES

DEPARTMENT OF HUMAN SERVICES

Special Government Services

83 Services to Veterans

7520 Division of Veterans' Services

19-7520 Management and Field Services $450,000

Special Purpose:
Expansion of field office services ..... ($450,000)

2. The following item on lines 16 through 21 of page 96 of P. L. 1983, c. 240 is amended to read as follows:

The revised maintenance schedule approved by the New Jersey Veterans' Facilities Council shall not be implemented by the Division of Veterans' Services.

3. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved November 9, 1983.

CHAPTER 376

AN ACT concerning group self-insurance by certain employers against liability for workers' compensation payments, amending R. S. 34:15–77 and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

1. R. S. 34:15–77 is amended to read as follows:

Insurance exemptions.

34:15–77. Any employer desiring to carry his own liability insurance may make application to the Commissioner of Insurance

showing his financial ability to pay compensation. The commissioner, if satisfied of the applicant's financial ability and the permanence of his business, shall by written order exempt the applicant from insuring the whole or any part of his compensation liability.

The commissioner may from time to time require any employer exempted as herein provided to furnish further statements of financial ability and if at any time it appears to him that any such employer is no longer financially able to carry the risk of compensation liability the commissioner shall revoke his order granting exemption, whereupon the employer shall immediately insure his liability under this chapter in a mutual association or other insurance company authorized to engage in workers' compensation in this State.

Whenever the commissioner is not satisfied with the financial ability and the permanence of the business of an employer exempted as herein provided, or of a new applicant for exemption, he may consider, and shall have the authority to accept, as evidence of such ability to pay compensation, (a) a guaranty by the parent corporation of such applicant that said parent corporation will discharge the applicant's liability under this chapter; (b) a separate account or reserve fund, or any deposit thereupon, maintained by an applicant to discharge his liability under this chapter; (c) a surety bond executed by an association or corporation licensed to do business in this State, provided the surety on any such surety bond undertakes to discharge the applicant's liability under this chapter; or (d) a contract of an employer with an insurance carrier covering liability for a portion of the compensation required under article 2, chapter 15, Title 34 of the Revised Statutes.

Any employer or group of employers exempted as herein provided may for its own protection insure its liability for the payment of any stated loss in excess of $100,000.00 by reason of any single accident or by reason of occupational diseases scheduled in this chapter; provided, that any such contract of insurance shall operate only between the employer or group of employers and its insurance carrier and shall not be subject to any of the provisions of this chapter.

An application pertaining only to a change of name of a presently exempt employer, without any change in the financial structure of said employer, shall not be considered as a new application for exemption under this act.

Pursuant to rules and regulations established by the Commissioner of Insurance, 10 or more employers licensed by the State as hospitals under the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) may make application to the commissioner for permission to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. An employer member of the approved group shall be classified as a self-insurer.

C. 34:15-77.1 Hospital self-insurance.

2. (New section) With respect to any group of employers licensed by the State as hospitals who adopt a plan for self-insurance for the payment of compensation to their employees, at least the following conditions shall apply:

a. Under such group plan, the group shall assume the liability of all the employers within the group under the terms of a trust agreement approved by the commissioner, and pay all compensation for which the employers are liable under Title 34 of the Revised Statutes.

b. When making application to the commissioner for permission to establish a group plan for self-insurance, the group shall present satisfactory proof to the commissioner of its financial ability to pay such compensation for the employers who are members of the group, including a statement of the group's revenues, their source, and assurance for their continuance;

c. If required by the commissioner, the group shall deposit with the commissioner such types and amounts of securities or surety bonds as the commissioner deems necessary to provide assurance that such benefits as are payable by the group will continue to be paid and that the group will meet its statutory obligations;

d. The commissioner may require the group to file any and all agreements, contracts, and such other pertinent documents as he may deem necessary relating to the organization of the employers in the group;

e. Each group self-insurer, in its application for self-insurance shall set forth the names and addresses of each of its officers, directors, trustees, and general manager. No officer, director, trustee, or employee of the group self-insurer may represent or participate directly or indirectly on behalf of an injured worker or his dependents in any workers' compensation proceeding.

C. 34:15-77.2 No relief from liability.

3. (New section) Any employer licensed by the State as a hospital who participates in group self-insurance shall not be relieved from

the liability for compensation prescribed by Title 34 of the Revised Statutes except by the payment thereof by the group self-insurer or by himself. The insolvency or bankruptcy of a participating employer shall not relieve the group self-insurer from the payment of compensation for injuries or death sustained by an employee during the time the employer was a participant in such group self-insurance.

C. 34:15-77.3 Notice of addition, termination of participants.

4. (New section) Such group self-insurer shall promptly notify the commissioner, on a form to be prescribed by the commissioner, of the addition of any participating employer or employers. Notice of termination of any participating employer in a group self-insurance plan shall be given to the commissioner at least 10 days before the effective date of such termination of participation. Such notice shall also be sent by registered mail to all other members of the group self-insurance plan.

C. 34:15-77.4 Termination of plan.

5. (New section) If such a group self-insurance plan is terminated, the securities or surety bond on deposit with the commissioner shall remain in the custody of the commissioner for a period of at least 26 months. At the expiration of such time or such further period as the commissioner may deem proper and necessary, he may accept in lieu thereof, and for the additional purpose of securing such further and future contingent liability as may arise from prior injuries to workers and be incurred by reason of any change in the condition of such workers which warrants awards for additional compensation, a policy of insurance furnished by the group self-insurer, its successor, assigns, or others carrying on or liquidating such self-insurance group.

C. 34:15-77.5 Financial statement; description of service organizations.

6. (New section) Every such group self-insurer shall, on an annual basis, or as often as the commissioner deems it necessary, furnish to the commissioner:

a. A financial statement of the group's assets and liabilities, the claims paid during the preceding 12 months, current reserves, incurred losses, and any other information that the commissioner may require; and

b. A description of the service organizations maintained by the employer or group for the prevention of injuries and claims administration services.

C. 34:15-77.6 Annual examinations.

7. (New section) The commissioner may conduct such annual examinations of each such group self-insurer as he deems necessary and proper.

C. 34:15-77.7 Denial; revocation.

8. (New section) The commissioner shall have the authority to deny the application of any group of self-insurers to pay such benefits, or to revoke his consent for any group continuing to pay, for good cause shown, including, but not limited to:

a. Failure to comply with regulations adopted by the commissioner or with any provisions of this act;

b. Failure to comply with a lawful order of the commissioner;

c. Deterioration of financial condition to such an extent that such deterioration would have an adverse effect on the ability of the self-insurance group to pay expected losses.

C. 34:15-77.8 Rules, regulations.

9. (New section) The Commissioner of Insurance shall promulgate such rules and regulations, including appropriate fee schedules, as he deems necessary to effectuate the provisions of this act.

10. This act shall take effect immediately.

Approved November 10, 1983.

CHAPTER 377

AN ACT appropriating $4,560,000.00, from the State Recreation and Conservation Land Acquisition and Development Fund for the State program to acquire lands for recreation and conservation purposes.

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 State Recreation and Conservation Land Acquisition and Development Fund created pursuant to the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974," P. L. 1974, c. 102 the sum of $4,560,000.00 for the acquisition of lands by the State for recreation and conservation purposes. Of this sum, $1,500,000.00 shall be allocated to the Pinelands

Development Credit Bank created pursuant to the provisions of P. L. 198., c. .... (C. .....) (now pending before the Legislature as Assembly Bill No. 1259 of 1982) for the purpose of purchasing Pinelands development credits under that act. This sum shall be appropriated from the funds which revert to the fund pursuant to the provisions of P. L. 1976, c. 50 (C. 4:1B–1 et seq.).

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P. L. 1974, c. 102 and P. L. 1975, c. 155 (C. 13:8A–35 et seq.).

3. This act shall take effect immediately.

Approved November 10, 1983.

CHAPTER 378

AN ACT creating a commission to plan Statewide celebrations of the 500th anniversary of Columbus' discovery of America and making an appropriation.

WHEREAS, Christopher Columbus's discovery of America was one of the great geographical discoveries of world history; and

WHEREAS, This achievement was the result of Columbus's enormous energy, determination, courage, talent, and intelligence, qualities which enabled him to convince the Spanish monarchy to entrust an expedition to him even though his country of origin was not Spain; and

WHEREAS, Columbus's historic voyage of discovery changed the course of world history by inaugurating regular contact between Europe and America and preparing the way for a massive migration of people from all parts of the world seeking freedom, democracy, and prosperity; and

WHEREAS, The result of this migration throughout the years since 1492 has been the formation in the "New World" of a unique civilization and society; and

WHEREAS, An observance of Columbus's discovery is altogether fitting and proper in New Jersey where Americans of Italian heritage comprise the State's largest ethnic group, consisting of 2 million residents whose contributions of talent, intelligence, creativeness and courage are so vital to New Jersey life; and

WHEREAS, The State of New Jersey should take steps immediately to prepare to celebrate the 500th anniversary of Columbus's discovery of America, to cooperate with the observances by other states in the Union and sister republics in the Americas, and to stimulate appropriate commemorative programs throughout New Jersey; now, therefore,

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

C. 52:9V-1 Columbus Commission.

1. There is created the Christopher Columbus Quincentennial Observance Commission (hereinafter referred to as the commission) which shall consist of two members of the Senate and two public members, appointed by the President of the Senate, two members of the General Assembly and two public members, appointed by the Speaker of the General Assembly, and six public members and two officials of the executive branch, appointed by the Governor with the advice and consent of the Senate. No more than one of each group of two members appointed by the President and the Speaker and no more than four of the group of eight members appointed by the Governor shall be of the same political party.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. All members shall serve without compensation but shall be reimbursed for their expenses actually incurred in the performance of their duties.

Selection of public members shall be made on the basis of their academic experience, their expertise or interest in historical research, or their experience in promoting community programs and activities.

C. 52:9V-2 Officers.

2. The commission shall organize as soon as may be after the appointment of its members and shall select a chairman and a vice chairman from among its members and a secretary, who need not be a member of the commission.

C. 52:9V-3 Duties.

3. It shall be the duty of the commission to plan State observances of the Quincentennial of Columbus's discovery of America, including festive programs in traditional communities of Italian character in New Jersey; to plan educational programs which shall be made available for use in New Jersey public schools to make students

aware of Columbus's achievement in discovering America; and to coordinate observances with sister states in the Union and sister republics in the Americas, including informing their governments and legislatures of New Jersey's actions.

C. 52:9V-4 Personnel; expenses.

4. The commission may employ such professional, stenographic, or clerical assistants, and may incur such traveling and other miscellaneous expenses, as it deems necessary in order to perform its duties and as may be within the limits of funds appropriated or otherwise made available to it for those purposes.

C. 52:9V-5 Use of public employees.

5. The commission may call to its assistance and avail itself of the services of such employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for that purpose.

C. 52:9V-6 Annual report.

6. The commission shall submit an annual report on its activities to the Governor and the Legislature.

C. 52:9V-7 Donations.

7. The commission may accept donations or grants of money, property or personal services from any source.

8. There is appropriated to the commission from the General State Fund the sum of $25,000.00 for the purposes of this act.

9. This act shall take effect immediately and shall expire on January 1, 1993.

Approved November 10, 1983.

CHAPTER 379

AN ACT concerning juvenile and domestic relations court judges and family court judges in certain counties, amending P. L. 1982, c. 78 and supplementing chapter 4 of Title 2A of the New Jersey Statutes.

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

1. (New section) In addition to the judges authorized under N. J. S. 2A:4–4, the Governor, with the advice and consent of the Senate, shall appoint in each county of the fifth class having a population greater than 500,000 according to the 1980 federal census, two attorneys-at-law to be judges of the juvenile and domestic relations court of the county. They shall devote their entire time to their judicial duties, shall not engage in the practice of law and shall be paid a salary as provided by law.

2. (New section) In addition to the judges authorized under N. J. S. 2A:4–4, the Governor, with the advice and consent of the Senate, shall appoint in each county of the second class having a population of not less than 400,000 nor more than 450,000, according to the 1980 federal census, two attorneys-at-law to be judges of the juvenile and domestic relations court of the county. They shall devote their entire time to their judicial duties, shall not engage in the practice of law and shall be paid a salary as is provided by law.

3. (New section) In addition to the judges authorized under N. J. S. 2A:4–4, the Governor, with the advice and consent of the Senate, shall appoint in each county of the first class having a population of not less than 800,000 nor more than 850,000 according to the 1980 federal census, two attorneys-at-law to be judges of the juvenile and domestic relations court of the county. They shall devote their entire time to their judicial duties, shall not engage in the practice of law and shall be paid a salary as provided by law.

4. Section 4 of P. L. 1982, c. 78 (C. 2A:4A–3) is amended to read as follows:

C. 2A:4A-3 50 family court judges.

4. a. The family court shall consist of 50 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. The family court shall consist of the following number of judges from the listed counties who at the time of their appointment and any reappointment were residents of that county:

Atlantic	1
Bergen	6
Burlington	1
Camden	4
Cumberland	1
Essex	6
Gloucester	2

Hudson	4
Mercer	1
Middlesex	4
Monmouth	6
Morris	4
Passaic	4
Somerset	1
Sussex	1
Union	4

c. In counties other than those in which the appointment of judges is provided by subsection b., the Supreme Court shall designate a Superior Court judge sitting in that county as the judge of the family court.

d. There shall be established in each county a court intake service, which shall have among its responsibilities the screening of juvenile delinquency complaints and juvenile-family crisis referrals. The intake service shall operate in compliance with standards established by the Supreme Court, but in no instance shall the standards for personnel employed as counselors hired after the effective date of this act be less than a master's degree from an accredited institution in a mental health or social or behavioral science discipline including degrees in social work, counseling, counseling psychology, mental health, counseling or education. Equivalent experience is acceptable when it consists of a minimum of an associate's degree with a concentration in one of the behavioral sciences and a minimum of five years' experience working with troubled youth and their families or a bachelor's degree in one of the behavioral sciences and two years' experience working with the troubled youth and their families. Intake personnel should also receive training in drug and alcohol abuse.

e. Guidelines for the education and training of judges authorized to sit on the family court shall be established by the Administrative Office of the Courts and shall include familiarization with youth services available in the county in which the judge sits.

5. This act shall take effect immediately except for section 4 which shall take effect December 31, 1983. Sections 1, 2 and 3 shall expire on December 31, 1983.

Approved November 10, 1983.

CHAPTER 380

AN ACT concerning juvenile and domestic relations court judges and family court judges in certain counties, amending P. L. 1982, c. 78 and supplementing chapter 4 of Title 2A of the New Jersey Statutes.

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

1. (New section) The Governor, with the advice and consent of the Senate, shall appoint in each county of the sixth class an attorney-at-law to be the judge of the juvenile and domestic relations court of the county. He shall devote his entire time to his judicial duties, shall not engage in the practice of law and shall be paid a salary as provided by law.

2. Section 4 of P. L. 1982, c. 78 (C. 2A:4A–3) is amended to read as follows:

C. 2A:4A-3 51 family court judges.

4. a. The family court shall consist of 51 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. The family court shall consist of the following number of judges from the listed counties who at the time of their appointment and any reappointment were residents of that county:

Atlantic	1
Bergen	6
Burlington	1
Camden	4
Cape May	1
Cumberland	1
Essex	6
Gloucester	2
Hudson	4
Mercer	1
Middlesex	4
Monmouth	6
Morris	4
Passaic	4
Somerset	1
Sussex	1
Union	4

c. In counties other than those in which the appointment of judges is provided by subsection b., the Supreme Court shall designate a Superior Court judge sitting in that county as the judge of the family court.

d. There shall be established in each county a court intake service, which shall have among its responsibilities the screening of juvenile delinquency complaints and juvenile-family crisis referrals. The intake service shall operate in compliance with standards established by the Supreme Court, but in no instance shall the standards for personnel employed as counselors hired after the effective date of this act be less than a master's degree from an accredited institution in a mental health or social or behavioral science discipline including degrees in social work, counseling, counseling psychology, mental health, counseling or education. Equivalent experience is acceptable when it consists of a minimum of an associate's degree with a concentration in one of the behavioral sciences and a minimum of five years' experience working with troubled youth and their families or a bachelor's degree in one of the behavioral sciences and two years' experience working with the troubled youth and their families. Intake personnel should also receive training in drug and alcohol abuse.

e. Guidelines for the education and training of judges authorized to sit on the family court shall be established by the Administrative Office of the Courts and shall include familiarization with youth services available in the county in which the judge sits.

3. This act shall take effect immediately except for section 2 which shall take effect December 31, 1983. Section 1 shall expire on December 31, 1983.

Approved November 10, 1983.

CHAPTER 381

AN ACT concerning issuance of bonds by fire districts and amending N. J. S. 40A:14–86.

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

1. N. J. S. 40A:14–86 is amended to read as follows:

Fire district bonds.

40A:14–86. The legal voters, at any election held for the purpose of raising money by issuance of bonds, shall vote by ballot on the question. The election shall be conducted in the same manner as other fire district elections.

If a majority of the legal voters voting on the question favor the issuance of such bonds the board of fire commissioners shall be authorized to issue them.

Said bonds shall be serial bonds issued in the corporate name of the fire district, in the authorized amount, not exceeding in the aggregate $60,000.00 or 2% of the assessed valuation of the taxable property of the district, whichever amount is larger. They shall be in the amounts and payable at the time directed, with interest at any rate of interest that the fire commissioners may approve and which shall be payable semi-annually. The bonds shall not be issued for longer than a 30-year period. They shall be signed by the manual or facsimile signature of the chairman of the board of fire commissioners and attested by the manual or facsimile signature of the clerk, and may be attested by a registrar or authenticating agent. The bonds shall be coupon bonds or registered bonds and shall be issued at such price or prices, not less than par, as the board of fire commissioners shall determine. The bonds shall be sold at public or private sale for the best obtainable price.

2. This act shall take effect immediately.

Approved November 10, 1983.

CHAPTER 382

AN ACT establishing a bureau of fire safety and a fire safety commission in and transferring the Office of State Fire Marshal to the Division of Housing and Urban Renewal in the Department of Community Affairs, and providing an appropriation therefor.

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

C. 52:27D-25a Definitions.

1. As used in this act:

a. "Bureau" means the bureau of fire safety established by section 2 of this act.

b. "Commissioner" means the Commissioner of the Department of Community Affairs.

c. "Department" means the Department of Community Affairs.

d. "Commission" means the fire safety commission established by section 5 of this act.

C. 52:27D-25b Bureau of fire safety.

2. There is established in the Division of Housing and Urban Renewal in the Department of Community Affairs a bureau of fire safety. Within three months of the effective date of this act, after reviewing the functions and duties required of the bureau by this act and transferred to the bureau by this act, the commissioner shall prepare an organizational plan of the bureau.

C. 52:27D-25c Supervisor.

3. The bureau shall be under the immediate oversight of a supervisor who shall administer and enforce the provisions of this act, subject to the supervision and control of the commissioner, and who shall perform other duties as directed by the commissioner or as provided by law. The supervisor shall be appointed by the commissioner subject to the provisions of Title 11 of the Revised Statutes. The fire safety commission shall advise the commissioner on the qualifications of the supervisor.

C. 52:27D-25d Powers, duties.

4. In addition to any other powers and duties invested in it by law or by the commissioner, the bureau shall:

a. Provide staff support for the work of the fire safety commission and its advisory councils;

b. Administer and enforce the "Uniform Fire Safety Act," established by P. L. 1983, c. 383 (C. 52:27D–192 et seq.);

c. Implement training and education programs for the fire service and the public;

d. Administer a fire incident reporting system; and

e. Conduct research and master planning for fire safety.

C. 52:27D-25e Fire safety commission; advisory councils.

5. a. To assist and advise the commissioner in the administration of this act, there is created in the Department of Community Affairs a fire safety commission consisting of 19 members. The commission shall consist of: two members of the Senate, appointed by the President of the Senate, who shall not be both of the same

political party; two members of the General Assembly, appointed by the Speaker of the General Assembly, who shall not be both of the same political party; seven citizens of the State, appointed jointly by the President of the Senate and the Speaker of the General Assembly, no more than four of whom shall be of the same political party, including a representative of a volunteer fire organization, a representative of a construction labor organization, a representative of the fire insurance industry, a representative of the construction industry, a representative of the International Association of Fire Chiefs, a municipal construction official, and a representative of the New Jersey State Fire Prevention and Protection Association; and eight citizens of the State appointed by the Governor, no more than four of whom shall be of the same political party, and who shall include a representative of the New Jersey State Firemen's Mutual Benevolent Association, a representative of the New Jersey League of Municipalities, two representatives of the volunteer fire service, one of whom shall be a representative of the New Jersey State Volunteer Firemen's Association, a representative of the New Jersey State Fire Chiefs' Association, a representative of the New Jersey Paid Fire Chiefs' Association, a representative of the Fire Fighters' Association of New Jersey, and a municipal fire protection subcode official. The members of the Senate and General Assembly appointed to the commission shall serve for terms which shall be for the legislative session for which they were elected. Of the seven members first appointed jointly by the President of the Senate and the Speaker of the General Assembly, three shall be appointed for terms of five years, three shall be appointed for terms of four years, and one shall be appointed for a term of three years. Of the eight members first appointed by the Governor, three shall be appointed for terms of five years, three shall be appointed for a term of four years, and two shall be appointed for terms of three years. Thereafter, members of the fire safety commission, except as provided above for members of the Legislature, shall be appointed for terms of five years. Vacancies on the commission shall be filled in the same manner as the original appointments but for the unexpired terms. Members may be removed by the appointing authority for cause.

b. Members of the fire safety commission shall serve without compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties, within the limits of any funds appropriated or otherwise made available for that purpose.

c. To advise and assist the fire safety commission in the performance of its responsibilities under this act, there are created four advisory councils, one in each of the following subject areas: the "Uniform Fire Safety Act"; training and education which shall be comprised of at least 60% of the representatives of the volunteer fire service; statistics and information; and master planning and research. Additional advisory councils shall be created by the fire safety commission as it deems appropriate. Each advisory council shall consist of one member of the fire safety commission, who shall be chairman, and as many citizens who are knowledgeable and experienced in matters related to the particular subject as the fire safety commission shall appoint. Members of the advisory councils shall serve without compensation and at the pleasure of the fire safety commission.

C. 52:27D-25f Personnel transferred.

6. Pursuant to the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.), personnel assigned to the Office of the State Fire Marshal in the Division of State Police in the Department of Law and Public Safety, together with all of its functions, powers and duties, are transferred to the bureau of fire safety established by section 2 of this act in the Division of Housing and Urban Renewal in the Department of Community Affairs. The Department of Community Affairs shall reorganize the functions, duties and titles of the personnel transferred.

C. 52:27D-25g Possible division.

7. Within two years following the effective date of this act, the fire safety commission shall consider whether or not the bureau of fire safety, established by section 2 of this act, should be made a division in the department, and shall report its recommendation to the Governor and the Legislature.

8. There is appropriated to the Division of Housing and Urban Renewal in the Department of Community Affairs $300,000.00 for the implementation of the provisions of this act.

9. This act shall take effect immediately.

Approved November 12, 1983.

CHAPTER 383

AN ACT establishing a uniform, minimum fire safety code.

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

C. 52:27D-192 Short title.

1. This act shall be known and may be cited as the "Uniform Fire Safety Act."

C. 52:27D-193 Remedial legislation.

2. This act is remedial legislation necessary to protect life and property within this State from the danger of destruction by fire and explosion and shall be liberally construed to effectuate these purposes.

C. 52:27D-194 Findings, declarations.

3. It is found and declared that:

a. Although fire safety codes have been adopted by many of New Jersey's municipalities, many others have not adopted these codes and some of the codes which do exist have defects that limit their usefulness.

b. Although some departments of State government have responsibility for fire safety inspection in certain types of buildings, other types of buildings go unregulated; no department is empowered to establish overall minimum standards; and there is therefore no State fire safety code governing all existing buildings.

c. Few municipalities have adopted fire safety codes which require the upgrading of the fire safety provisions of existing buildings; however, so long as these buildings continue to be in use, some of them need to be upgraded in order to protect occupants of the buildings, fire fighters and the general public.

d. Although many municipalities consistently and conscientiously seek to ensure compliance with fire safety codes, others do not, and all are limited in their efforts by serious financial constraints.

e. Existing enforcement processes are often cumbersome, and penalties are often insufficient to deter violations.

f. The pattern of development in the State is such that many buildings posing significant fire safety problems are located in municipalities not equipped to deal with these problems.

g. Recent multiple-death fires in this State and elsewhere indicate the need for strict fire safety codes as minimum standards for

the maintenance and upgrading of existing properties, modified as may be necessary for the special requirements of this State, and for county or State enforcement of these codes in high-rise and high-hazard structures when municipalities are unable to enforce them adequately.

C. 52:27D-195 Purpose.

4. It is the purpose of this act to ensure that:

a. All areas of this State are protected by a uniform, minimum fire safety code which will protect the lives and property of the State's citizens.

b. Uniform, thorough and adequately funded fire safety inspections protect the public whenever buildings which pose a serious life safety hazard are found.

c. Penalties for violators are both swift and commensurate with the gravity of the offense.

C. 52:27D-196 Definitions.

5. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Community Affairs or his delegate.

b. "Department" means the Department of Community Affairs.

c. "Fire safety commission" means the fire safety commission created by section 5 of P. L. 1983, c. 382 (C. 52:27D–25e).

d. "High-rise structure" means a building or structure having floors used for human occupancy located either more than six stories or more than 75 feet above the lowest level accessible to a fire department vehicle.

e. "Life hazard use" means a building or structure, or part thereof, classified in any of the following use groups in the 1981 edition of the Building Officials and Code Administrators International (BOCA) Basic Building Code: A-1, A-2, A-3, A-5, and I, a covered mall subject to section 630.0 of the 1981 edition of the BOCA Basic Building Code, and any other use which the commissioner defines by regulation as a life hazard.

f. "Dwelling unit" means a room, suite, or apartment which is occupied or intended to be occupied for dwelling purposes by one or more persons living independently of persons in similar dwelling units.

g. "Enforcing agency" means the department, a municipal or county department or agency, or a fire district which has been authorized by municipal ordinance to enforce this act.

h. "Protective equipment" means any equipment, device, system or apparatus permitted or required by the commissioner to be constructed or installed in or upon a building, structure or premises for the purpose of protecting the occupants or intended occupants thereof, fire fighters or the public generally from fire or other products of combustion.

i. "Owner" means a person who owns, purports to own, manages, rents, leases or exercises control over a building, structure or premises.

C. 52:27D-197 Powers.

6. The commissioner shall have all the powers necessary or convenient to effectuate the purposes of this act, including without limitation, the following powers:

a. To enter and inspect, without prior notice, a building, structure or premises, other than an owner-occupied building used exclusively for dwelling purposes and containing fewer than three dwelling units, and make such investigation as is reasonably necessary to carry out the provisions of this act;

b. To enforce and administer the provisions of this act, and to prosecute or cause to be prosecuted violators of the provisions of this act in administrative hearings and in civil proceedings in State and local courts;

c. To assess penalties and to compromise and settle a claim for a penalty for a violation of the provisions of this act in an amount as may appear appropriate and equitable;

d. To hold and exercise all the rights and remedies available to a judgment creditor; and

e. To collect from units of local government and their agencies information reasonable and necessary to carry out the intent of this act.

C. 52:27D-198 Regulations including uniform code.

7. a. The commissioner shall promulgate, in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), and after consulting with the fire safety commission, regulations to insure the maintenance and operation of buildings and equipment in such a manner as will provide a reasonable degree of safety from fire and explosion.

Regulations promulgated pursuant to this section shall include a uniform fire safety code primarily based on the standards established by the Life Safety Code (National Fire Protection Association 101) and any other fire codes of the National Fire

Protection Association and the Building Officials and Code Administrators International (BOCA) Basic Fire Prevention Code, both of which may be adopted by reference. The regulations may include modifications and amendments the commissioner finds necessary.

b. The code promulgated pursuant to this section shall include the requirements for fire detection and suppression systems, elevator systems, emergency egresses and protective equipment reasonably necessary to the fire safety of the occupants or intended occupants of new or existing buildings subject to this act, including but not limited to electrical fire hazards, maintenance of fire protection systems and equipment, fire evacuation plans and fire drills, and all components of building egress. In addition, the regulations issued and promulgated pursuant to this section which are applicable to new or existing buildings shall include, but not be limited to fire suppression systems, built-in fire fighting equipment, fire resistance ratings, smoke control systems, fire detection systems, and fire alarm systems including fire service connections.

c. When promulgating regulations, the commissioner shall take into account the varying degrees of fire safety provided by the different types of construction of existing buildings and the varying degrees of hazard associated with the different types and intensity of uses in existing buildings. When preparing regulations which require the installation of fire safety equipment and devices, the commissioner shall consult with the fire safety commission and shall take into account, to the greatest extent prudent, the economic consequences of the regulations and shall define different use groups and levels of hazard within more general use groups, making corresponding distinctions in fire safety requirements for these different uses and levels of hazard. The commissioner shall also take into account the desirability of maintaining the integrity of historical structures to the extent that it is possible to do so without endangering human life and safety. The regulations established pursuant to this subsection shall apply to secured vacant buildings only to the extent necessary to eliminate hazards affecting adjoining properties.

d. Except as otherwise provided in this act, including rules and regulations promulgated hereunder, all installations of equipment and other alterations to existing buildings shall be made in accordance with the technical standards and administrative procedures established by the commissioner pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.) and shall be subject to plan review and inspection by the local

construction and subcode officials having jurisdiction over the building, who shall enforce the regulations established pursuant to this act applicable to the installation or other alteration along with the regulations established pursuant to the "State Uniform Construction Code Act."

e. The commissioner shall, by regulation, establish standards, procedures and fees for the certification of persons engaged in the business of installing fire suppression systems, for the warranting of those systems, and for the establishment, funding and operation of a warranty security program. A fire suppression system installed in a building subject to this act shall be warranted in accordance with those standards and procedures, shall be required to be covered by the warranty security program, and shall be installed by a person certified in accordance with those standards and procedures.

C. 52:27D-199 Retroactive regulations.

8. A building, which is subject to this act but the use of which shall have commenced in good faith on or before the effective date of any retroactive regulations, shall comply with the provisions of this act on or before the first anniversary of the effective date of the regulations and, in the case of any building subject to local rent control, any improvement required to be made pursuant to this act, or any other law, ordinance, or regulation concerning fire safety shall, for the purposes of the rent control ordinance, be deemed to be a capital improvement, the cost of which may be passed on to the tenants. In a case of imminent hazard to life, a building shall comply within the period of time designated by the enforcing agency.

C. 52:27D-200 Variances.

9. a. Upon the application of the owner of a building, structure or premises, the enforcing agency may grant variances from the requirements of a regulation issued pursuant to this act. No variance shall be granted in a particular case unless the enforcing agency shall find: (1) that strict compliance with the regulation would result in undue hardship to the owner; and (2) that the variance, if granted, will not unreasonably jeopardize the safety of intended occupants, fire fighters and the public generally.

b. An application for a variance pursuant to this section shall be filed in writing with the enforcing agency and shall set forth specifically: (1) a statement of the requirements of the regulation from which a variance is sought; (2) a statement of the manner by

which strict compliance with the regulation would result in undue hardship; (3) a statement of the nature and extent of the undue hardship; and (4) a statement of feasible alternatives to the requirements of the regulation which would adequately protect the safety of the occupants or intended occupants, fire fighters, and the public generally.

c. Within 30 days of receiving the application for a variance, the enforcing agency shall grant or deny the application in writing, stating the reason for granting or denying the application. If the application is not granted within 30 days, the applicant shall consider it to have been denied and shall have the same appeal rights as in the case of a written denial.

The enforcing agency shall maintain records of all applications for variances and the action taken on them, and shall make the records reasonably available for public inspection. An enforcing agency other than the department shall provide copies of the records to the commissioner.

C. 52:27D-201 Certificate of registration.

10. a. Within 90 days of the effective date of this act, and thereafter as required by subsection c. of this section, the owner of a life hazard use or high-rise structure shall file with the commissioner, upon forms provided by the commissioner, an application for a certificate of registration. Each application shall include information prescribed by the commissioner to enforce the provisions of this act. Upon receipt of the application, the commissioner shall forthwith issue to the owner of the life hazard use or high-rise structure a certificate of registration, which certificate of registration shall be posted by the owner of the structure in a conspicuous location therein. The certificate of registration shall be in such form as may be prescribed by the commissioner.

b. Within 90 days of the effective date of this act, and thereafter as required by subsection c. of this section, the owner of each life hazard use or high-rise structure shall appoint an agent for the purpose of receiving service of process and orders or notices issued by the commissioner pursuant to this act. Each agent shall be either a resident of this State or a corporation licensed to do business in this State.

c. If the ownership of a life hazard use or high-rise structure is transferred, whether by sale, assignment, gift, intestate succession, testate devolution, reorganization, receivership, foreclosure or execution process, the new owner shall file with the commissioner,

within 30 days of the transfer, an application for a certificate of registration pursuant to subsection a. of this section and appoint an agent for the service of process pursuant to subsection b. of this section.

d. If an owner of a life hazard use or high-rise structure has not fulfilled the requirements of this section, the commissioner shall notify the owner in writing that he is in violation of this section and shall order that registration be accomplished within 30 days. The notice and order shall include an accurate restatement of the subsection of this section with which the owner has not complied. If the owner has not complied with the order of the commissioner within 30 days of the date on which it was mailed, the commissioner shall order him to pay not less than $200.00 and not more than $1,000.00 for each registration. The commissioner may issue a certificate to the clerk of the Superior Court that the owner is indebted for the payment of the penalty and the clerk shall immediately enter upon his record of docketed judgments the name of the owner and of the department, a designation of the statute under which the penalty is imposed, the amount of the penalty certified and the date the certification was made. The making of the entry shall have the same effect as the entry of the docketed judgment in the office of the clerk but without prejudice to the owner's right of appeal.

e. On or before July 1 next following the effective date of this act, and annually thereafter, the owner of each life hazard use and of each high-rise structure in the State shall pay to the department an annual fee in an amount which the commissioner shall establish by regulation and which shall allow the department to recover the cost to it and to local enforcing agencies of administering this act.

Annual fees received from owners of life hazard uses and high-rise structures inspected by a local enforcing agency shall be divided between the local enforcing agency and the department in accordance with a percentage formula which the commissioner shall establish by regulation and which shall allow the department to recover the cost to it of administering this act in municipalities having local enforcement.

With the approval of the department, local enforcement agencies may collect the annual fee and remit to the department only that percentage of the annual fee which the commissioner shall have established by regulation as constituting the department's share of the fee.

f. All moneys which the commissioner shall receive in the form of fees and for penalties for failure to register shall be appropriated to the department to pay the cost of enforcing this act.

g. The owner of a life hazard use or high-rise structure shall pay the annual fee within 30 days of the day on which it is demanded by the department or the local enforcing agency. If he fails to do so, the department may issue a certificate to the clerk of the Superior Court that the owner is indebted to the department for the payment of the annual fee and the clerk shall immediately enter upon his record of docketed judgments and the name of the owner and of the department, a designation of the statute under which the fee is assessed, the amount of the fee certified and the date the certification was made. The making of the entry shall have the same effect as the entry of a docketed judgment in the office of the clerk, but without prejudice to the owner's right of appeal.

C. 52:27D-202 Municipal ordinances.

11. a. Each municipality in this State is authorized to adopt an ordinance providing for local enforcement of this act. The ordinance shall designate the municipal fire department or the county fire marshal or one or more fire districts as the local enforcement agency.

b. Nothing in this act shall preclude the right of any municipality to adopt an ordinance dealing with fire safety whether or not it is more restrictive than this act and the regulations promulgated thereunder. No county or municipal official shall issue an order regarding fire safety with respect to a building, structure or premises, except in accordance with this act or with a duly promulgated ordinance.

C. 52:27D-203 Enforcement.

12. a. Each enforcing agency in this State shall enforce this act in all buildings, structures and premises within its jurisdiction, except owner-occupied buildings used exclusively for dwelling purposes and containing fewer than three dwelling units, subject to the control and supervision of the commissioner and in accordance with regulations promulgated by the commissioner. The commissioner shall consult with and advise all local enforcement agencies enforcing the provisions of this act, and each local enforcement agency shall provide the commissioner with reports, data and information required by the commissioner. To cover the cost to the municipality of conducting inspections under this act, the municipality may, by ordinance, establish fees, which shall be paid

into the treasury of the municipality to which the local enforcing agency is responsible, and which shall be appropriated by the municipality to the local enforcing agency to pay the cost of enforcing this act.

b. A local enforcing agency consisting of or employing at least one paid fire inspector who is certified pursuant to subsection c. of this section may elect to inspect high-rise structures and life hazard uses within its jurisdiction, in lieu of inspection by the commissioner. That election shall be made by resolution of the governing body having jurisdiction over the local enforcing agency. If an appropriate resolution has not been received by the commissioner on or before the effective date of this act, the department shall perform all inspections under this subsection until such time as the governing body shall adopt and send to the commissioner an appropriate resolution. A local enforcing agency that elects to inspect high-rise structures and life hazard uses may issue the certificates of inspection required to be issued pursuant to section 14 of this act and may inspect buildings and premises other than high-rise structures and life hazard uses in order to secure compliance with this act.

c. The commissioner shall certify fire inspectors under this act in accordance with such standards as he shall establish by regulation; provided that a fire inspector certificate shall be issued by the commissioner to any person who: on the effective date of this act is, and for at least one year prior to the effective date of this act has been, serving as a fire inspector in the fire service; or shall have, within two years of the effective date of this act, successfully completed an educational program such as the basic fire prevention code course offered by the Building Officials and Code Administrators International or a recognized equivalent, a fire prevention course offered by an institution of higher education or recognized fire school which has been approved by the commissioner.

C. 52:27D-204 Concurrent jurisdiction.

13. a. The department shall have concurrent jurisdiction with local enforcing agencies to enforce this act in all buildings, structures and premises in the State, other than owner-occupied buildings used exclusively for dwelling purposes and containing fewer than three dwelling units.

b. If the commissioner determines that a local enforcing agency which had previously elected to inspect high-rise structures and life hazard uses has failed to properly enforce this act, he shall

notify the local enforcing agency of his determination and thereafter all inspection and enforcement with respect to high-rise structures and life hazard uses within the jurisdiction of the local enforcing agency shall be done by the department and all fees and penalties received as a result of the inspection and enforcement shall be paid to the department.

C. 52:27D-205 Inspection cycles.

14. a. The enforcing agency shall inspect each high-rise structure and each life hazard use in the State at least once every year for the purpose of determining the extent to which they comply with the provisions of this act.

b. The commissioner, by regulation, may establish shorter inspection cycles for those classes of structures and uses whose nature makes more frequent inspection necessary for the protection of the public.

c. Thirty days following the inspection of a high-rise structure or life hazard use, the owner of the high-rise structure or life hazard use shall file with the department, upon forms to be provided by the enforcing agency, an application for a certificate of inspection containing information prescribed by regulation by the commissioner.

C. 52:27D-206 Administrative hearing.

15. a. A person aggrieved by a ruling, action, order, or notice of the commissioner pursuant to this act shall be entitled to an administrative hearing. The application for the hearing shall be filed with the commissioner by the 15th day after receipt by the person of notice of the ruling, action, order or notice.

All hearings shall be conducted by the Office of Administrative Law pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) and P. L. 1978, c. 67 (C. 52:14F–1 et seq.), and the final decision shall be issued by the commissioner or his designee.

b. A person aggrieved by any ruling, action, order or notice of a local enforcement agency pursuant to this act shall be entitled to an administrative hearing before the construction board of appeals created pursuant to section 9 of P. L. 1975, c. 215 (C. 52:27D–127), having jurisdiction in the municipality in which the building, structure or premises is located. The application for the hearing shall be filed with the construction board of appeals by the 15th day after the receipt by the person of notice of the ruling, action, order or notice complained of.

C. 52:27D-207 Violations.

16. a. If an enforcing agency discovers a violation of the provisions of this act upon an inspection of a building, structure or premises, then the enforcing agency shall issue and cause to be served on the owner of the building, structure or premises a written order requiring the owner to terminate, or cause to be terminated, the violation. The order shall state the nature of the violation and a reasonable specified period of time within which the violation shall be terminated. The order shall also require the owner to take or cause to be taken any affirmative action necessary to correct the violation.

b. The enforcing agency may petition the Superior Court for mandatory injunctive relief enforcing an order issued pursuant to this act. The Superior Court may proceed in a summary manner or otherwise, and shall have power to grant temporary relief or a restraining order as it may deem just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, any order issued pursuant to this act.

C. 52:27D-208 Order to vacate, close.

17. a. If upon an inspection of a building, structure or premises the enforcing agency discovers a violation of this act that constitutes an imminent hazard to the health, safety or welfare of the occupants or intended occupants, fire fighters, or the public generally, the enforcing agency may issue and cause to be served on the owner of the building, structure or premises a written order directing that the building, structure or premises be vacated, closed, or removed forthwith or that the violation be corrected within the period specified in the order. The order shall state the nature of the violation and the date and hour by which the building, structure or premises shall be vacated, closed or removed or the violation shall be abated.

b. The enforcing agency shall reinspect the building, structure or premises within 48 hours of receiving written notice from the owner of a building, structure or premises vacated or closed, or ordered to be vacated or closed, stating that the violation has been terminated. If, upon reinspection, the enforcing agency determines that the violation has been terminated, it shall rescind the order requiring the vacation of the building, structure or premises and occupancy may be resumed immediately; provided that if the reinspection is not made by the local enforcing agency within

48 hours of the receipt of the notice, the owner may apply to the department for a reinspection.

c. If the owner of a building, structure or premises denies that a violation justifying an order pursuant to this section to vacate, close, remove, or abate within a specified time exists, the owner may apply to the commissioner or construction board of appeals, as the case may be, for a reconsideration hearing. The hearing shall be conducted, and a final decision issued, within 48 hours of the receipt of the request. Failure to issue a decision shall constitute denial of the owner's appeal, provided that, in the case of an appeal to the construction board of appeals, if the hearing is not held within 48 hours of the receipt of the request, the owner may apply to the department for an administrative hearing and the decision shall be rendered by the commissioner within 48 hours of the receipt of the application for the hearing.

C. 52:27D-209 Clear danger to life.

18. a. If the enforcing agency finds a violation of the provisions of this act in a life hazard use to be willful or grossly negligent, or to be in violation of a previously issued order, and to constitute a clear danger to human life, in addition to ordering the building, structure or premises vacated and closed until the violation is abated, the enforcing agency may order the building, structure or premises to remain vacated and closed for a further period not to exceed 60 days and until such time as a certificate of continued occupancy, issued pursuant to regulations authorized by section 6 of the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–124) shall be obtained by the owner.

b. If the owner of a building, structure or premises denies that a violation exists justifying an order to remain closed for the period of time indicated in the order, the owner may apply to the commissioner, or construction board of appeals, as the case may be, for a reconsideration hearing. The hearing shall be conducted, and a final decision issued, within 48 hours of receipt of the request. Failure to issue a decision shall constitute denial of the appeal.

C. 52:27D-210 Additional violations; penalties.

19. a. No person shall:

(1) Obstruct, hinder, delay or interfere by force or otherwise with the commissioner or any local enforcing agency in the exercise of any power or the discharge of any function or duty under the provisions of this act;

(2) Prepare, utter or render any false statement, report, document, plan or specification permitted or required under the provisions of this act;

(3) Render ineffective or inoperative, or fail to properly maintain, any protective equipment or system installed, or intended to be installed, in a building or structure;

(4) Refuse or fail to comply with a lawful ruling, action, order or notice of the commissioner or a local enforcing agency; or

(5) Violate, or cause to be violated, any of the provisions of this act.

b. A person who violates or causes to be violated a provision of subsection a. of this section shall be liable to a penalty of not more than $5,000.00 for each violation. If a violation of subsection a. of this section is of a continuing nature, each day during which the violation remains unabated after the date fixed in an order or notice for the correction or termination of the continuing violation shall constitute an additional and separate violation, except while an appeal from the order is pending. If an owner has been given notice of the existence of a violation of the act and fails to abate the violation, he shall be liable to an additional penalty in the amount of the actual cost to the municipality or fire district of suppressing any fire, directly or indirectly, resulting from the violation.

c. The commissioner or a local enforcing agency may levy and collect penalties in the amounts set forth in this section, but not in excess of the maximum amounts that the commissioner shall establish by regulation for different types of violations. If the administrative penalty order has not been satisfied by the 30th day after its issuance, the penalty may be sued for, and recovered by and in the name of the commissioner or the enforcing agency, as the case may be, in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) in the Superior Court, county district court or municipal court. All moneys recovered in the form of penalties by a municipality shall be paid into the treasury of the municipality and shall be appropriated for the enforcement of the act. A person who fails to pay immediately a money judgment rendered against him pursuant to this subsection may be sentenced to imprisonment by the court for a period not exceeding six months, unless the judgment is sooner paid.

d. A person shall be deemed to have violated or caused to have violated a provision of subsection a. of this section if an officer, agent or employee under his control and with his knowledge has

violated or caused to have violated any of the provisions of subsection a. of this section.

e. Upon request of the owner or purchaser of a building or structure, the enforcing agency having jurisdiction over the building or structure shall issue a certificate either enumerating the violations indicated by its records to be unabated and the penalties or fees indicated to be unpaid, or stating that its records indicate that no violations remain unabated and no penalties or fees remain unpaid.

f. A person who purchases a property without having obtained a certificate stating that there are no unabated violations of record and no unpaid fees or penalties shall be deemed to have notice of all violations of record and shall be liable for the payment of all unpaid fees or penalties.

C. 52:27D-211 Service of process.

20. a. Notices, rules, decisions and orders required or permitted to be issued and served pursuant to this act shall be served as follows:

(1) On the owner:

(a) By certified mail to the person designated as owner or agent on the certificate of registration, in the municipal tax records, or in the records of the Secretary of State; however, if the certified mailing is returned, the original letter shall be remailed to the last known address of the person by ordinary mail.

(b) By serving the document on the Secretary of State, who shall be deemed the owner's agent for service of process; except that reasonable efforts have first been made to serve the owner or his agent by certified mail and that a copy of the document is posted in a conspicuous location on the premises. "Conspicuous location" shall include the walls of the front vestibule or any common foyer or hallway immediately inside the main front entrance.

(c) By personal delivery of the document to the owner.

(d) By leaving the document at the office or dwelling unit of the owner with a person 14 years of age or older.

(2) On any other person:

(a) By certified mail to the person at his last known address; however, if the certified mailing is returned, the original letter shall be remailed to the last known address of the person by ordinary mail.

(b) By personal delivery of the document to the person.

(c) By leaving the document at the office or dwelling unit of the person with a person 14 years of age or older.

b. The date of personal service or the third day after mailing shall be considered the date of service.

C. 52:27D-212 Public records.

21. The record of an action or proceeding under this act or any statement, report or record of any kind whatsoever obtained or received by the commissioner in connection with the administration or enforcement of the provisions of this act shall be public records and reasonably available for public inspection.

C. 52:27D-213 State buildings.

22. a. This act shall not be construed as authorizing the adoption of a regulation or the enactment of an ordinance requiring that a building conforming in all respects to the requirements of the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.) be made to conform to more restrictive standards.

b. Buildings, structures and premises owned or operated by the State, its agencies, departments, or instrumentalities or an interstate agency shall be inspected exclusively by the Department of Community Affairs, and shall conform to this act in the same manner as all other buildings, structures and premises of similar construction and use classification; but no fees or penalties shall be charged to or assessed against the State, its agency, department or instrumentality, or an interstate agency.

c. Buildings, structures and premises subject to inspection for fire safety by an agency of the State shall be inspected by the agency in accordance with the standards established pursuant to this act. Any State fire safety standard for buildings, structures or premises established by or pursuant to any statute other than this act shall continue in effect until such time as that standard is superseded by appropriate regulations promulgated under this act. An agency of the State that enforced fire standards prior to the effective date of this act shall be entitled to petition the commissioner to establish a regulation establishing the standards it considers to be necessary and appropriate for buildings, structures and premises subject to its inspection.

C. 40A:4-45.21 Exceptions to limitations.

23. On and after January 1, 1983, for the purposes of sections 2 and 3 of P. L. 1976, c. 68 (C. 40A :4–45.2 and C. 40A :4–45.3), amounts derived by a municipality from new construction, housing, health

or fire safety inspection fees, which are set by statute or by administrative rule of a State agency, or which are subject to control by a State agency, and amounts derived from increases in any such fees previously imposed, shall be appropriated as an exception to the limitations imposed on increases in final appropriations under section 3 of that act, and revenues derived therefrom in the previous year shall be included in the current budget year as part of the municipality's final appropriations for the previous year upon which the permissible 5% increase is computed under section 2 of that act.

24. This act shall take effect 180 days following enactment except that section 23 shall apply to the current local budget year and thereafter.

Approved November 12, 1983.

CHAPTER 384

AN ACT to amend "An act to provide State aid to certain municipalities for the purposes of enabling such municipalities to maintain and upgrade municipal services and to offset local property taxes," approved March 30, 1978 (P. L. 1978, c. 14).

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

1. Section 1 of P. L. 1978, c. 14 (C. 52:27D–178) is amended to read as follows:

C. 52:27D-178 Definitions.

1. For the purposes of this act, unless the context clearly indicates otherwise:

"Base year" means the second year preceding the annual apportionment of State aid pursuant to this act.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Net valuation taxable" means the total value of property on which the general tax rate is computed as expressed in column 6 of the Table of Aggregates pursuant to R. S. 54:4–52 for the base year.

"Equalization ratio" means the ratio of assessed value to true value of real property as published in the Certification of Table of Equalized Valuations by the Director of the Division of Taxation for the base year pursuant to P. L. 1954, c. 86, s. 1 (C. 54:1–35.1).

"Equalized valuation" means net valuation taxable divided by the equalization ratio.

"Municipal equalized valuation per capita" means a municipality's equalized valuation divided by the population of the municipality.

"State equalized valuation per capita" means the sum of the equalized valuations of all the municipalities of the State divided by the population of the State.

"General tax rate" means the tax rate for local taxing purposes as defined in R. S. 54:4–52 and as expressed in column 7 of the Table of Aggregates for the base year.

"Equalized tax rate" means the general tax rate multiplied by the equalization ratio.

"State equalized tax rate" means the sum of the total levies on which the tax rates for all the municipalities of the State are computed divided by the sum of the equalized valuations of all the municipalities of the State for the base year.

"Population" means the official population count of the State of New Jersey for the base year as reported by the New Jersey Department of Labor, Office of Demographic and Economic Analysis.

"Ratio H" means the proportion that residential and apartment assessed valuation bears to the total assessed valuation of the real property of a municipality, as calculated by the Division of Taxation in the Treasury Department.

"Publicly financed housing" means any dwelling unit constructed and operated under any of the following Federal and State housing programs:

(a) Any dwelling unit constructed under grants or mortgage financing of the New Jersey Housing Finance Agency.

(b) Any dwelling unit constructed under the following sections of the National Housing Act (Public Law 73-479) as amended and supplemented: section 221(d)(3) as added to by the Housing Act of 1961 (P. L. 87-70) and as subsequently amended; section 236 as added to by the Housing and Urban Development Act of 1968 (P. L. 90-448) and as subsequently amended; section 202, Housing

Act of 1959 (P. L. 86-372) and as subsequently amended; section 221-11, as added by the Demonstration Cities and Metropolitan Development Act of 1966 (P. L. 89-754) and as subsequently amended.

(c) Any dwelling unit constructed or operated under the United States Housing Act of 1937 (Public Law 75-412) and as subsequently added to and amended.

"ADC children" means the number of children between the ages of five and 17 years in the municipality enrolled in the Aid to Dependent Children Program, as made available by the Division of Public Welfare in the Department of Human Services for the base year in the publication "State of New Jersey, ADC Data Needed to Implement Public Law 89-10, the Elementary and Secondary Education Act of 1965," provided however that the director shall use the best available data comparable to the data provided for the allocation of funds in 1975 pursuant to P. L. 1975, c. 68.

"Qualifying municipality" means a municipality in which:

Population exceeds 15,000 or exceeds 10,000 per square mile, and

The number of ADC children exceeds 250, except when the municipality's population exceeds 20,000 with a density exceeding 7,000 per square mile and the municipality's equalized valuation per capita is less than the State equalized valuation per capita by $4,500.00 or more, and

There exists publicly financed housing, and

The municipality's equalized tax rate exceeds the State equalized tax rate, or the municipality's equalized valuation per capita is less than the State equalized valuation per capita by $2,000.00 or more and its population exceeds 25,000, and

The municipality's equalized valuation per capita is less than the State equalized valuation per capita or the municipality's equalized tax rate exceeds the State equalized tax rate by $0.75 or more.

"Distribution factor" means for each qualifying municipality the following:

$$DF = 0.6 \left(\frac{W}{\Sigma W} \right) + 0.4 \left(\frac{T}{\Sigma T} \right)$$

where, DF equals the Distribution Factor

W equals ADC children in the municipality
T equals P (V_s–V_m) (R_m–R_s) Z
For the purposes of computing the distribution factor, when T has a negative value, it shall be assigned a value of zero.
P equals Population
V_s equals State Equalized Valuation Per Capita
V_m equals Municipal Equalized Valuation Per Capita
R_m equals Municipal Equalized Tax Rate
R_s equals State Equalized Tax Rate
Z equals Ratio H

2. This act shall take effect immediately.

Approved November 16, 1983.

CHAPTER 385

AN ACT concerning the cremation of dead human bodies and supplementing P. L. 1950, c. 256 (C. 26:7–11 et seq.).

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

C. 26:7-18.1 24-hour wait for cremation.

1. No person shall cremate a dead human body unless at least 24 hours have elapsed from the time of death as recorded on the death certificate to the time of cremation.

C. 26:7-18.2 Disposal of cremains.

2. A person may dispose of the cremains of a dead human body which have not been claimed by a relative or friend of the deceased within one year from the date of cremation upon certification, to the commissioner's satisfaction, that a diligent effort has been made to identify, locate and notify a relative or friend of the deceased within that one year period. A diligent effort shall include a certified letter, return receipt requested, mailed to the person who authorized the cremation.

As used in this section, "cremains" means that substance which remains after the cremation of a dead human body.

C. 26:7-18.3 Rules, regulations.

3. The Commissioner of the Department of Health may promulgate the rules and regulations necessary to effectuate 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 180 days following enactment.

Approved November 16, 1983.

CHAPTER 386

AN ACT concerning development regulations regarding manufactured homes and supplementing P. L. 1975, c. 291 (C. 40:55D–1 et seq.).

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

C. 40:55D-100 Short title.

1. This act shall be known and may be cited as "The Affordable Housing Act of 1983."

C. 40:55D-101 Findings, declarations.

2. The Legislature finds and declares that:

a. The housing needs of many New Jersey citizens remain unmet each year, exemplified by the fact that, in recent years, only one-half of the estimated annual need for new housing units has been actually constructed.

b. The costs of conventional housing construction, mortgages, land and utilities have increased tremendously in recent years making it increasingly difficult for certain segments of the population, notably the elderly, families with young children, unmarried individuals, and young couples, to afford suitable conventional housing.

c. Due to the conventional housing shortage in New Jersey, the Legislature has a responsibility to encourage alternate means of housing for New Jersey citizens.

d. The design, durability and appearance of manufactured housing has improved significantly over the last decade so that certain styles of manufactured homes are difficult, if not impossible, to distinguish from conventional homes, and yet only 400 of these manufactured homes were sold Statewide during 1982.

e. Despite these significant improvements, there has not been a corresponding rapid escalation in the costs of manufactured homes,

with the result that these homes remain affordable for the general population.

f. It is, therefore, in the public interest to promote the use of manufactured homes as affordable housing in New Jersey.

C. 40:55D-102 Definitions.

3. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Community Affairs;

b. "Grade" means a reference plane consisting of the average finished ground level adjacent to a structure, building, or facility at all visible exterior walls;

c. "Manufactured home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the secretary pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub. L. 93-383 (42 U.S.C. § 5401 et seq.) and the standards promulgated for a manufactured or mobile home by the commissioner pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.);

d. "Mobile home park" means a parcel of land, or two or more parcels of land, containing no fewer than 10 sites equipped for the installation of manufactured homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured home for the installation thereof, and where the owner or owners provide services, which are provided by the municipality in which the park is located for property owners outside the park, which services may include but shall not be limited to:

(1) The construction and maintenance of streets;

(2) Lighting of streets and other common areas;

(3) Garbage removal;

(4) Snow removal; and

(5) Provisions for the drainage of surface water from home sites and common areas.

A parcel, or any contiguous parcels, of land which contain, on the effective date of this act, no fewer than three sites equipped for the installation of manufactured homes, and which otherwise conform to the provisions of this subsection, shall qualify as a mobile home park for the purposes of this act;

e. "Nonpermanent foundation" means any foundation consisting of nonmortared blocks, wheels, concrete slab, runners, or any combination thereof, or any other system approved by the commissioner for the installation and anchorage of a manufactured home on other than a permanent foundation;

f. "Off site construction of a manufactured home" or section thereof means the construction of that home or section at a location other than the location at which the home is to be installed;

g. "On site joining of sections of a manufactured home" means the joining of those sections at the location at which the home is to be installed;

h. "Permanent foundation" means a system of support installed either partially or entirely below grade, which is:

(1) Capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;

(2) Placed at an adequate depth below grade to prevent frost damage; and

(3) Constructed of material approved by the commissioner;

i. "Runners" means a system of support consisting of poured concrete strips running the length of the chassis of a manufactured home under the lengthwise walls of that home;

j. "Secretary" means the Secretary of the United States Department of Housing and Urban Development; and

k. "Trailer" means a recreational vehicle, travel trailer, camper or other transportable, temporary dwelling unit, with or without its own motor power, designed and constructed for travel and recreational purposes to be installed on a nonpermanent foundation if installation is required.

C. 40:55D-103 Home owner's land.

4. A municipal agency may allow manufactured homes on land the title to which is owned by the manufactured home owner.

C. 40:55D-104 Restrictive regulations limited.

5. A municipal agency shall not exclude or restrict, through its development regulations, the use, location, placement, or joining of sections of manufactured homes which are not less than 22 feet wide, are on land the title to which is held by the manufactured

home owner, and are located on permanent foundations, unless those regulations shall be equally applicable to all buildings and structures of similar use.

C. 40:55D-105 Review of regulations.

6. When reviewing and approving development regulations pertaining to residential development, a municipal agency is to be encouraged to review those regulations to determine whether or not mobile home parks are a practicable means of providing affordable housing in the municipality.

C. 40:55D-106 Inapplicable to trailers.

7. Trailers shall not be subject to the provisions of this act.

8. This act shall take effect on January 1, 1984, but shall remain inoperative until Assembly Bill No. 3600 of 1983, now pending before the Legislature, is enacted.

Approved November 16, 1983.

CHAPTER 387

AN ACT concerning the issuance of certificates of ownership for certain manufactured homes, amending R. S. 39:10–2 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. 39:10–2 is amended to read as follows:

Definitions.

39:10–2. As used in this chapter unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"New motor vehicle" means only a newly manufactured motor vehicle, except a nonconventional type motor vehicle, and includes all such vehicles propelled otherwise than by muscular power, and motorcycles, motorized bicycles, trailers and tractors, and manufactured homes not subject to real property taxation pursuant to P. L. 1983, c. 400 (C. 54:4–1.2 et seq.), excepting such vehicles as run only upon rails or tracks and manufactured homes subject to real property taxation.

"Used motor vehicle" means every motor vehicle and motorized bicycle, except a nonconventional type motor vehicle, 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, and includes every motor vehicle and motorized bicycle other than a "new motor vehicle," a "nonconventional type motor vehicle" or a manufactured home subject to real property taxation.

"Any motor vehicle," "every motor vehicle," or similar term, means both new and used motor vehicles, except a "nonconventional type motor vehicle."

"Nonconventional type motor vehicle" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch-digging apparatus, well-boring apparatus, road and general purpose construction and maintenance machinery, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, power shovels, drag lines, self-propelled cranes, earth-moving equipment, trailers and semitrailers which weigh less than 2,500 pounds, except that no mobile or manufactured home or travel trailer shall be classified as a nonconventional type motor vehicle, motorized wheelchairs, motorized lawn mowers, bogies, farm equipment having a factory shipping weight of less than 1,500 pounds, whether or not motorized, including farm tractors within said weight limitation, industrial tractors, scooters, go-carts, gas buggies and golf carts. The Director of the Division of Motor Vehicles shall have power to make, amend and repeal regulations, not inconsistent with the provisions of this paragraph, prescribing what further vehicles or types of vehicles, not specified in this paragraph, shall be included in the category of nonconventional type motor vehicles.

"Motor vehicles which constitute inventory held for sale" means new motor vehicles and used motor vehicles held for the purpose of sale by dealers and used motor vehicles held for the purpose of sale by used motor vehicle dealers, and excludes motor vehicles held for the purpose of lease or rental by a person engaged in the motor vehicle leasing or rental business.

"Manufacturer's or importer's certificate of origin" means the original written instrument or document required to be executed

and delivered by the manufacturer to his agent or a dealer, or a person purchasing direct from the manufacturer, certifying the origin of the vehicle.

"Certificate of ownership" means the document issued in conformance with this chapter, certifying ownership of a motor vehicle, other than manufacturer's or importer's certificate of origin.

"Assignment" means the execution of a prescribed form transferring ownership of a motor vehicle from the person named therein to the purchaser.

"Contract" means conditional sale agreement, bailment, lease, chattel mortgage, trust receipt or any other form of security or possession agreement executed prior to January 1, 1963, wherein and whereby possession of a motor vehicle is delivered to the buyer and title therein is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or happening of any contingency, or upon the payment of a sum substantially equivalent to the value of the motor vehicle, by which contract it is agreed that the buyer is bound to become, or has the option of becoming, the owner of the motor vehicle upon full compliance with the terms of the contract.

"Abstract" means the duplicate copy of the original certificate of ownership recording any encumbrance or upon which the existence of a security interest is noted.

"Title papers" means any instrument or document that is evidence of ownership of a vehicle.

"Director" means the Director of the Division of Motor Vehicles, his deputy or duly authorized agent.

"Manufacturer" means the person who originally manufactured the motor vehicle.

"Dealer" means the agent, distributor or authorized dealer of the manufacturer of the new motor vehicle, and who has an established place of business.

"Used motor vehicle dealer" means a person engaged in the business of selling, buying or dealing in used motor vehicles, and who has an established place of business.

"Person" includes natural persons, firms or copartnerships, corporations, associations, or other artificial bodies, receivers, trustees, common law or statutory assignees, executors, admin-

istrators, sheriffs, constables, marshals, or other persons in representative or official capacity, and members, officers, agents, employees, or other representatives of those hereinbefore enumerated.

"Buyer" includes purchaser, debtor, lessee, bailee, transferee, and any person buying, attempting to buy, or receiving a motor vehicle subject to a security interest, lease, bailment or transfer agreement, and their legal successors in interest.

"Seller" means manufacturer, dealer, lessor, bailor, transferor with or without a security interest, and any other person selling, attempting to sell, or delivering a motor vehicle, and their legal successors in interest.

The terms "sell" or "sale" or "purchase" and any form thereof include absolute or voluntary sales and purchases, agreements to sell and purchase, bailments, leases, security agreements whereby any motor vehicles are sold and purchased, or agreed to be sold and purchased, involuntary, statutory and judicial sales, inheritance, devise, or bequest, gift or any other form or manner of sale or agreement of sale thereof, or the giving or transferring possession of a motor vehicle to a person for a permanent use; continued possession for 60 days or more is to be construed as permanent use.

"Manufacturer's number" means the original manufacturer's vehicle identification number die stamped upon the body, or frame, or either or both of them, of a motor vehicle or the original manufacturer's number die stamped upon the engine or motor of a motor vehicle.

"Purchaser" means a person who takes possession of a motor vehicle by transfer of ownership, either for use or resale, except a dealer when he takes possession through a certificate of origin.

"Debtor" means the person who owes payment or other performance of the obligation secured by a security interest in a motor vehicle.

"Security interest" means an interest in a motor vehicle which secures payment or other performance of an obligation.

"Security agreement" means an agreement which creates or provides for a security interest in a motor vehicle.

"Secured party" means a lender, seller or other person in whose favor there is a security interest.

C. 39:10-11.1 Notice of relocation.

2. (New section) A person who has a certificate of ownership issued by the director for a mobile or manufactured home located in a mobile home park that shall be relocated on land which the owner of the home has an interest in or the title to, shall, at least 10 days prior to that relocation, file with the director a notice of relocation in a form and with evidence as the director shall prescribe. If the director shall accept the notice as complete, the director shall cancel the certificate of ownership on the date of relocation.

3. This act shall take effect on January 1, 1984, but shall remain inoperative until such time as Assembly Bill No. 3600 of 1983, now pending before the Legislature, is enacted.

Approved November 16, 1983.

CHAPTER 388

AN ACT concerning manufactured and mobile homes and amending P. L. 1975, c. 217.

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

1. Section 3 of P. L. 1975, c. 217 (C. 52:27D–121) is amended to read as follows:

C. 52:27D-121 Definitions.

3. Definitions. As used in this act unless the context clearly indicates otherwise:

"Building" means, exclusive of a public school facility, a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of occupancy" means the certificate provided for in section 15 of this act indicating that the construction authorized by the construction permit has been completed in accordance with the

construction permit, the State Uniform Construction Code and any ordinance implementing said code.

"Commissioner" means the Commissioner of Community Affairs.

"Code" means the State Uniform Construction Code.

"Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

"Construction board of appeals" means the board provided for in section 9 of this act.

"Department" means the Department of Community Affairs.

"Enforcing agency" means the municipal construction official and subcode officials provided for in section 8 of this act and assistants thereto.

"Equipment" means plumbing, heating, electrical, ventilating, air conditioning, refrigerating and fire prevention equipment, and elevators, dumbwaiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Manufactured home" or "mobile home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub. L. 93–383 (42 U.S.C. § 5401 et seq.) and the standards promulgated by the commissioner pursuant to P. L. 1975, c. 217 (C. 52:27D–119 et seq.).

"Municipality" means any city, borough, town, township or village.

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

"Premanufactured system" means an assembly of materials or products that is intended to comprise all or part of a building or structure, exclusive of a public school facility, and that is assembled off site by a repetitive process under circumstances intended to insure uniformity of quality and material content.

"Public school facility" means any building or any part thereof where the plans and specifications are submitted to, and approved by, the State Board of Education pursuant to N. J. S. 18A:18–2.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

"Stop construction order" means the order provided for in section 14 of this act.

"State Uniform Construction Code" means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

"Structure" means, exclusive of a public school facility, a combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above, or below the surface of a parcel of land; provided, the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

2. This act shall take effect immediately, but shall remain inoperative until Assembly Bill Nos. 3355, 3601, and 3602 of 1983, now pending before the Legislature, are enacted into law.

Approved November 16, 1983.

CHAPTER 389

AN ACT establishing an age of eligibility for the spouse of a senior citizen tenant and amending the waiver of rights under the "Senior Citizens and Disabled Protected Tenancy Act" and amending P. L. 1981, c. 226.

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

1. Section 3 of P. L. 1981, c. 226 (C. 2A:18–61.24) is amended to read as follows:

C. 2A:18-61.24 Definitions.

3. As used in this amendatory and supplementary act:

a. "Senior citizen tenant" means a person who is at least 62 years of age on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, or the surviving spouse of such a person if the person should die after the owner files the conversion recording and the surviving spouse is at least 50 years of age at the time of the filing; provided that the building or structure has been the principal residence of the senior citizen tenant or the spouse for the 2 years immediately preceding the conversion recording or the death, as the case may be;

b. "Disabled tenant" means a person who is, on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, totally and permanently unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness; provided that the building or structure has been the principal residence of the disabled tenant for the 2 years immediately preceding the conversion recording. For the purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less;

c. "Tenant's annual household income" means the total income from all sources during the last full calendar year for all members of the household who reside in the dwelling unit at the time the

tenant applies for protected tenant status, whether or not such income is subject to taxation by any taxing authority;

d. "Application for registration of conversion" means an application for registration filed with the Department of Community Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P. L. 1977, c. 419 (C. 45:22A–21 et seq.);

e. "Registration of conversion" means an approval of an application for registration by the Department of Community Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P. L. 1977, c. 419 (C. 45:22A–21 et seq.);

f. "Convert" means to convert one or more buildings or structures or a mobile home park containing in the aggregate not less than 5 dwelling units or mobile home sites or pads from residential rental use to condominium, cooperative, planned residential development or separable fee simple ownership of the dwelling units or of the mobile home sites or pads;

g. "Conversion recording" means the recording with the appropriate county officer of a master deed for condominium or a deed to a cooperative corporation for a cooperative or the first deed of sale to a purchaser of an individual unit for a planned residential development or separable fee simple ownership of the dwelling units;

h. "Protected tenancy period" means, except as otherwise provided in section 11 of this amendatory and supplementary act, the 40 years following the conversion recording for the building or structure in which is located the dwelling unit of the senior citizen tenant or disabled tenant.

2. Section 17 of P. L. 1981, c. 226 (C. 2A:18–61.36) is amended to read as follows:

C. 2A:18-61.36 Waiver unenforceable.

17. Any agreement whereby the tenant waives any rights under P. L. 1981, c. 226 (C. 2A:18–61.22 et seq.) on or after the effective date of this 1983 amendatory act shall be deemed to be against public policy and unenforceable.

3. This act shall take effect immediately.

Approved December 2, 1983.

CHAPTER 390

AN ACT concerning State payments and amending P. L. 1981, c. 183.

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

1. Section 3 of P. L. 1981, c. 183 (C. 54:18A–1a) is amended to read as follows:

C. 54:18A-1a State payments to local units.

3. a. To ensure that no county or municipality will experience a loss of revenue as a result of the repeal of the franchise tax on domestic insurance companies, the State Treasurer, upon warrant of the State Comptroller, shall, on or before August 1, 1982 and on or before August 1 annually thereafter, pay to the collector of the municipality and to the county treasurer of a county in which a domestic insurance company's principal office was situated on January 1, 1981, an amount determined by increasing the total amount of franchise taxes received by the municipality or county in the prior calendar year by the percentage rate of change of all taxes paid by all insurance companies pursuant to P. L. 1945, c. 132 (C. 54:18A–1 et seq.) for the current and the immediately preceding tax years.

The payments shall continue to be made so long as the principal office of the domestic insurance company remains at the location established on January 1, 1981. No liability for payment under this section shall arise by virtue of the relocation of the principal office of a domestic insurance company to another municipality, whether or not within the same county.

b. To ensure that no municipality will experience an abrupt loss of revenue as a result of a domestic insurance company relocating its principal office from the municipality wherein it was established on January 1, 1981, the State Treasurer, upon warrant of the State Comptroller, shall, on or before August 1 of each year, pay to the collector of the municipality from which the principal office was removed, an amount as hereinafter provided:

(1) For the first year after relocation, an amount equal to 80% of the amount the municipality received in the year in which the relocation occurred;

(2) For the second year after relocation, an amount equal

to 60% of the amount the municipality received in the year in which the relocation occurred;

(3) For the third year after relocation, an amount equal to 40% of the amount the municipality received in the year in which the relocation occurred;

(4) For the fourth year after relocation, an amount equal to 30% of the amount the municipality received in the year in which the relocation occurred; and

(5) For the fifth year after relocation, an amount equal to 15% of the amount the municipality received in the year in which the relocation occurred.

No municipality shall be entitled to any payment under this subsection for any year following the fifth year after relocation.

c. To ensure that no county will experience an abrupt loss of revenue as a result of a domestic insurance company relocating its principal office from the county wherein it was established on January 1, 1981, the State Treasurer, upon warrant of the State Comptroller, shall, on or before August 1 of each year, pay to the treasurer of the county from which the principal office was removed, an amount as hereinafter provided:

(1) For the first year after relocation, an amount equal to 80% of the amount the county received in the year in which the relocation occurred;

(2) For the second year after relocation, an amount equal to 60% of the amount the county received in the year in which the relocation occurred;

(3) For the third year after relocation, an amount equal to 40% of the amount the county received in the year in which the relocation occurred;

(4) For the fourth year after relocation, an amount equal to 30% of the amount the county received in the year in which the relocation occurred; and

(5) For the fifth year after relocation, an amount equal to 15% of the amount the county received in the year in which the relocation occurred.

No county shall be entitled to any payment under this subsection for any year following the fifth year after relocation.

2. This act shall take effect immediately.

Approved December 14, 1983.

CHAPTER 391

A SUPPLEMENT to "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944. c. 255, C. 43:16A–1 et seq.) as said title was amended by P. L. 1976, c. 139.

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

C. 43:16A-11.7 Definition of veteran.

1. For purposes of this act "veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided;

(11) Korean conflict after June 23, 1950, and prior to July 27, 1953, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subparagraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided;

(12) Vietnam conflict after December 31, 1960, and prior to the date of termination as proclaimed by the Governor, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which

90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511 (d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days' service as herein provided.

C. 43:16A-11.8 Purchase of military service credit.

2. Notwithstanding the provisions of section 4 of P. L. 1944, c. 255 (C. 43:16A–4), any member who meets the definition of "veteran" as provided in this act may, upon filing an application with the board of trustees of the retirement system, purchase credit for all or a portion of the time spent in active military service prior to his enrollment in the retirement system, but not exceeding five years. No application shall be accepted for the purchase of credit for such service, however, if at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon his military service.

A member who applies to purchase credit for his previous military service under the provisions of this act shall be liable for payment to the retirement system of the entire amount of the contributions required to pay the cost of the purchase of such service. Neither the State nor the employer of a member who applies to purchase credit under the provisions of this supplementary act shall be liable for any payment to the retirement system on behalf of the member for the purchase of such credit. The member may purchase credit for such military service by making his payment therefor to the retirement system in a lump sum or in regular monthly installments pursuant to such formulas, rules and regulations as shall be approved by the board of the retirement system. Notwithstanding any other provision of this act, if, upon retirement, the member's payment for purchase of military service credit is insufficient to provide for the additional retirement benefit attributable to such service, the difference may be assessed to the member, or a pro rata benefit may be granted based on the member's payment for such purchase prior to the date of retirement, at the election of the member.

If a member elects to purchase such military service and retires prior to completing payment therefor, he shall receive pro rata

credit for such service purchased prior to the date of retirement, but if he elects at the time of retirement, he may make an additional lump sum payment at that time as will be necessary to provide full credit.

3. This act shall take effect immediately.

Approved December 14, 1983.

CHAPTER 392

AN ACT concerning solid waste and hazardous waste, amending P. L. 1981, c. 279 and supplementing Title 13 of the Revised Statutes.

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

C. 13:1E-126 Findings, declarations.

1. (New section) The Legislature hereby finds and declares to be the public policy of this State:

That the collection, transportation, treatment, storage, and disposal of solid waste are critical components of the economic structure of this State and, when properly controlled and regulated, make substantial contributions to the general welfare, health and prosperity of the State and its inhabitants by minimizing the serious health and environmental threats inherent in the management of these wastes;

That the regulatory provisions of this act are designed to extend strict State regulation to those persons involved in the operations of these licensed activities so as to foster and justify the public confidence and trust in the credibility and integrity of the conduct of these activities;

That the solid and hazardous waste industries in New Jersey can attain, maintain, and retain integrity, public confidence, and trust, and promote the general public interest, only under a system of control and regulation that precludes the participation therein of persons with known criminal records, habits, or associations, and excludes or removes from any position of authority or responsibility any person known to be so deficient in reliability, expertise,

or competence with specific reference to the solid or hazardous waste industries that his participation would create or enhance the dangers of unsound, unfair, or illegal practices, methods, and activities in the conduct of the business of these industries;

That, notwithstanding the fact that the major percentage of operators involved in these industries are respectable and responsible and that there exists in New Jersey a substantial waste industry capable of meeting the licensing standards, the solid and hazardous waste industries remain vulnerable to corrupting influences; and

Therefore, that it is vital to the interests of the State to prevent entry, direct or indirect, into the operations of the solid or hazardous waste industries of persons who have pursued economic gains in an occupational manner or context violative of the criminal code or civil public policies of the State, and it is to the end of excluding such persons that the regulatory and investigatory powers and duties provided in this supplementary act shall be exercised to the fullest extent consistent with law.

C. 13:1E-127 Definitions.

2. (New section) As used in this act:

a. "Applicant" means any person seeking a license.

b. "Application" means the forms and accompanying documents filed in connection with the applicant's request for a license.

c. "Business concern" means any corporation, association, firm, partnership, trust or other form of commercial organization.

d. "Department" means the Department of Environmental Protection.

e. "Disclosure statement" means a statement submitted to the department by an applicant, which statement shall include:

(1) The full name, business address and social security number of the applicant, or, if the applicant is a business concern, of any officers, directors, partners, or key employees thereof and all persons or business concerns holding any equity in or debt liability of that business concern, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than 5% of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

(2) The full name, business address and social security number of all officers, directors, or partners of any business concern dis-

closed in the statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than 5% of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

(3) The full name and business address of any company which collects, transports, treats, stores or disposes of solid waste or hazardous waste in which the applicant holds an equity interest;

(4) A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste possessed by the applicant, or, if the applicant is a business concern, by the key employees, officers, directors, or partners thereof;

(5) A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by any State or federal authority, in the 10 years immediately preceding the filing of the application, which are pending or have resulted in a finding or a settlement of a violation of any law or rule and regulation relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by the applicant, or if the applicant is a business concern, by any key employee, officer, director, or partner thereof;

(6) A listing and explanation of any judgment of liability or conviction which was rendered, pursuant to any State or federal statute or local ordinance, against the applicant, or, if the applicant is a business concern, against any key employee, officer, director, or partner thereof, except for any violation of Title 39 of the Revised Statutes;

(7) A listing of all labor unions and trade and business associations in which the applicant was a member or with which the applicant had a collective bargaining agreement during the 10 years preceding the date of the filing of the application;

(8) A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant in connection with his collection, transportation, treatment, storage or disposal of solid waste or hazardous waste;

(9) Any other information the Attorney General or the department may require that relates to the competency, reliability or good character of the applicant.

f. "Key employee" means any person employed by the applicant or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the business concern but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage or disposal of solid or hazardous waste.

g. "License" means the initial approval and first renewal, subsequent to the effective date of this act, of any registration statement or engineering design pursuant to P. L. 1970, c. 39 (C. 13:1E–1 et seq.), P. L. 1981, c. 279 (C. 13:1E–49 et seq.), for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste in this State, except that "license" shall not include any registration statement or engineering design approved for:

(1) Any State department, division, agency, commission or authority, or county, municipality or agency thereof;

(2) Any person solely for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste generated by that person;

(3) Any person for the operation of a hazardous waste facility, if at least 75% of the total design capacity of that facility is utilized to treat, store or dispose of hazardous waste generated by that person; or

(4) Any person for the operation of a hazardous waste facility which is considered as such solely as the result of the recycling or refining of hazardous wastes which are or contain gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper; or

(5) Any person solely for the collection, transportation, treatment, storage or disposal of granular activated carbon used in the adsorption of hazardous waste.

h. "Licensee" means any person who has received a license.

C. 13:1E-128 Disclosure statement.

3. (New section) In addition to any other procedure, condition or information required pursuant to P. L. 1970, c. 39 (C. 13:1E–1 et seq.), P. L. 1981, c. 279 (C. 13:1E–49 et seq.) or any other law:

a. Every licensee who is not otherwise required to file a disclosure statement within two years of the effective date of this act shall file a disclosure statement with the department and the Attorney General within that period.

b. (1) Every applicant shall file a disclosure statement with the department and the Attorney General;

(2) Any person required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance with procedures therefor established by the Attorney General;

(3) The Attorney General shall, within 120 days of the receipt of the disclosure statement from an applicant for an initial license, prepare and transmit to the department an investigative report on the applicant, based in part upon the disclosure statement, except that this deadline may be extended for a reasonable period of time, for good cause, by the department and the Attorney General. In preparing this report, the Attorney General may request and receive criminal history information from the Federal Bureau of Investigation; and

(4) The departmental review of the application shall include a review of the disclosure statement and investigative report.

c. All applicants and licensees shall have the continuing duty to provide any assistance or information requested by the department or the Attorney General, and to cooperate in any inquiry or investigation conducted by the Attorney General and any inquiry, investigation, or hearing conducted by the department. If, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any applicant or licensee refuses to comply, the license of that person may be denied or revoked by the department.

d. The Attorney General may charge and collect, in accordance with a fee schedule adopted as a rule and regulation pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), such fees from applicants and licensees as may be necessary to cover the costs of enforcing this act. The fee shall be calculated on the basis of $100.00 per each individual required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability.

e. If any of the information required to be included in the disclosure statement changes, or if any additional information should be added after the filing of the statement, the applicant or licensee shall provide that information to the department and Attorney General, in writing, within 30 days of the change or addition.

C. 13:1E-129 Investigative interrogatory.

4. (New section) a. Whenever the Attorney General determines that there exists a reasonable suspicion that any person may have information or be in possession, custody, or control of any documentary materials relevant to an investigation of an applicant or a licensee conducted pursuant to this act, he may issue in writing, and cause to be served upon that person an investigative interrogatory requiring that person to answer questions under oath and produce material for examination.

b. Each interrogatory shall:

(1) Identify the licensee or applicant who is the subject of the investigation;

(2) Advise the person that he has the right to discuss the interrogatory with legal counsel prior to returning it to the Attorney General or prior to making material available, as provided in subsection f. of this section, and that he has the right to file in Superior Court a petition to modify or set aside the interrogatory, as provided in subsection j. of this section;

(3) Describe the class or classes of documentary material to be produced thereunder with sufficient particularity as to permit the material to be reasonably identified;

(4) Prescribe a return date, which date shall provide a reasonable period of time within which answers may be made and material so demanded may be assembled and made available for inspection and copying or reproduction, as provided in subsection f. of this section.

c. No interrogatory shall:

(1) Contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued in aid of a grand jury investigation; or

(2) Require the production of any documentary evidence which would be otherwise privileged from disclosure if demanded by a subpena duces tecum issued in aid of a grand jury investigation.

d. Service of any interrogatory filed under this section may be made upon any person by:

(1) Delivering a duly executed copy thereof to the person or any partner, executive officer, managing agent, employee or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of the person; or

(2) Delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

(3) Depositing a copy in the United States mail, by registered or certified mail duly addressed to the person at his principal office or place of business.

e. A verified return by the individual serving any interrogatory, setting forth the manner of service, shall be prima facie proof of service. In the case of service by registered or certified mail, the return shall be accompanied by the return post office receipt of delivery of the interrogatory.

f. Any person upon whom any interrogatory issued under this section has been duly served which requires the production of material shall make the material available for inspection and copying or reproduction to the Attorney General at the principal place of business of that person in the State of New Jersey or at any other place as the Attorney General and the person thereafter may agree and prescribe in writing, on the return date specified in the interrogatory or on a later date as the Attorney General may prescribe in writing. Upon written agreement between the person and the Attorney General, copies may be substituted for all or any part of the original material. The Attorney General may cause the preparation of any copies of documentary material as may be required for official use by the Attorney General.

No material produced pursuant to this section shall be available for examination, without the consent of the person who produced the material, by an individual other than the Attorney General or any person retained by the Attorney General in connection with the enforcement of this act. Under reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in his possession shall be available for examination by the person who produced the material or any of his duly authorized representatives.

In any investigation conducted pursuant to this act, the Attorney General may present before the department, court or grand jury any documentary material in his possession pursuant to this section, subject to any protective order deemed proper by the Superior Court.

g. Upon completion of:

(1) The review and investigation for which any documentary material was produced under this section, and

(2) Any case or proceeding arising from the investigation, the Attorney General shall return to the person who produced the material all the material, other than copies thereof made by the

Attorney General pursuant to this section, which has not passed into the control of the department or any court or grand jury through the introduction thereof into the record of the case or proceeding.

h. When any documentary material has been produced by any person under this section for use in an investigation, and no case or proceeding arising therefrom has been instituted within two years after completion of the examination and analysis of all evidence assembled in the course of the investigation, the person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material, other than copies thereof made pursuant to this section so produced by him.

i. Whenever any person fails to comply with any investigative interrogatory duly served upon him under this section, or whenever satisfactory copying or reproduction of any material cannot be done and he refuses to surrender the material, the Attorney General may file in the Superior Court a petition for an order of the court for the enforcement of this section.

j. At any time before the return date specified in the interrogatory, the person served with the interrogatory may file in the Superior Court a petition for an order modifying or setting aside the interrogatory. The time allowed for compliance with the interrogatory shall not run during the pendency of this petition. The petition shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the interrogatory to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. In this proceeding, the Attorney General shall establish the existence of an investigation pursuant to this act and the nature and subject matter of the investigation.

C. 13:1E-130 Subpena power.

5. (New section) a. Whenever the Attorney General determines that there exists a reasonable suspicion that any person may have information or knowledge relevant to an investigation conducted pursuant to this act, he may issue in writing and cause to be served upon that person a subpena to appear and be examined under oath before the Attorney General.

b. The subpena shall:

(1) Identify the licensee or applicant who is the subject of the investigation;

(2) Advise that person that he may have an attorney present when he appears and testifies or otherwise responds to the sub-

pena, that he has the right, at any time before the return date of the subpena, to file in Superior Court a petition to modify or set aside the subpena, as provided in subsection f. of this section;

(3) Prescribe a date and time at which that person must appear to testify, under oath, provided that this date shall not be less than seven days from the date of service of the subpena.

c. Except as otherwise provided in this section, no information derived pursuant to the subpena shall be disclosed by the Attorney General or the department without the consent of the person testifying.

In any investigation conducted pursuant to this act, the Attorney General may present before the department, court or grand jury any information disclosed pursuant to the subpena, subject to any protective order deemed proper by the Superior Court.

d. Service of a subpena pursuant to this section shall be by any of those methods specified in the New Jersey Court Rules for service of summons and complaint in a civil action.

e. Whenever any person fails to comply with any subpena duly served upon him under this section, or whenever satisfactory copying or reproduction of any material cannot be done and he refuses to surrender the material, the Attorney General may file in the Superior Court a petition for an order of the court for the enforcement of the subpena.

f. At any time before the return date specified in the subpena, the person who has been served with the subpena may file in the Superior Court a petition for an order modifying or setting aside the subpena. The time allowed for compliance with the subpena shall not run during the pendency of this petition. The petition shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the subpena to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. In this proceeding, the Attorney General shall establish the existence of an investigation pursuant to this act and the nature and subject matter of the investigation.

C. 13:1E-131 Unauthorized disclosure.

6. (New section) Any public officer or employee who shall disclose to any person, other than the Attorney General or a person retained by the Attorney General as herein provided, the name of any person who receives an investigative interrogatory or a subpena or any information obtained pursuant thereto, except in

proceedings involving an alleged violation of this act and except as so directed by the Attorney General, shall be guilty of a crime of the fourth degree.

C. 13:1E-132 Immunity.

7. (New section) a. If any person in attendance pursuant to a subpena or interrogatory issued pursuant to this act refuses to answer personally a question or produce evidence of any kind, or make the required answers on the ground that he may be incriminated thereby, and if the Attorney General, in a writing directed to that person, orders that he answer the question or produce the evidence, the person shall comply with the order. After complying therewith and if, but for this section, he would have been privileged to withhold the answer given or the evidence produced, that answer, testimony or evidence or any evidence directly or indirectly derived therefrom, may not be used against him in any prosecution for a crime or offense concerning which he gave answer or produced evidence; provided that the answer, testimony or evidence is responsive to the question propounded. That person may, however, be prosecuted or subject to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing evidence or failing to produce evidence or failing to do so in accordance with the order.

b. If any person fails to obey the command of the subpena after being ordered to do so by a court of competent jurisdiction, he shall be guilty of a crime of the fourth degree. In the alternative, if a person shall fail to obey the command of a subpena after being ordered to do so by a court of competent jurisdiction, the Attorney General may apply to that court to adjudge the person in contempt and to commit him to jail until such time as he purges himself of contempt by responsively answering, testifying or producing evidence as ordered.

C. 13:1E-133 Disqualification criteria.

8. (New section) The provisions of any law to the contrary notwithstanding, no license shall be approved by the department:

a. Unless the department finds that the applicant, in any prior performance record in the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste or hazardous waste facility, given the potential for harm to human health and the environment which could result from the irresponsible operation thereof, or if no prior record exists, that

the applicant is likely to exhibit that reliability, expertise and competence;

b. If any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, has been convicted of any of the following crimes under the laws of New Jersey or the equivalent thereof under the laws of any other jurisdiction:

(1) Murder;
(2) Kidnapping;
(3) Gambling;
(4) Robbery;
(5) Bribery;
(6) Extortion;
(7) Criminal usury;
(8) Arson;
(9) Burglary;
(10) Theft and related crimes;
(11) Forgery and fraudulent practices;
(12) Fraud in the offering, sale or purchase of securities;
(13) Alteration of motor vehicle identification numbers;
(14) Unlawful manufacture, purchase, use or transfer of firearms;
(15) Unlawful possession or use of destructive devices or explosives;
(16) Violation of section 19 of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21–19), except possession of 84 grams or less of marijuana;
(17) Racketeering, P. L. 1981, c. 167 (C. 2C:41–1 et seq.);
(18) Violation of criminal provisions of the "New Jersey Antitrust Act," P. L. 1970, c. 73 (C. 56:9–1 et seq.);
(19) Any purposeful or reckless violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations;
(20) Violation of N. J. S. 2C:17–2;
(21) Any offense specified in chapter 28 of N. J. S. 2C; or
(22) Violation of the "Solid Waste Utility Control Act," P. L. 1970, c. 40 and P. L. 1981, c. 211 (C. 48:13A–1 et seq.).

Notwithstanding the provisions of this subsection, no applicant shall be denied a license on the basis of a conviction of any individual required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the

licensee other than an equity interest or debt liability by the investigation thereof for any of the offenses enumerated in this subsection as disqualification criteria, provided that the person has affirmatively demonstrated by clear and convincing evidence his rehabilitation. In determining whether an applicant has affirmatively demonstrated rehabilitation, the department shall request a recommendation thereon from the Attorney General, and shall consider the following factors:

(1) The nature and responsibilities of the position which a 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 applicant when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense;

(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 or have had the applicant under their supervision.

c. If the Attorney General determines that there is a reasonable suspicion to believe that a person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, does not possess a reputation for good character, honesty and integrity, and that person or the applicant fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

d. With respect to the approval of an initial license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation for any of the offenses enumerated in subsection b. of this section, provided, however, that at the request of the applicant or the person charged, the department shall defer decision upon such application during the pendency of such charge.

e. If any person required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the appli-

cant or the licensee other than an equity interest or debt liability by the investigation thereof has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this act would be inimical to the policies of this act. For purposes of this section, "occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

f. Any applicant who is denied an initial license pursuant to this section shall, upon a written request transmitted to the department within 30 days of that denial, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

C. 13:1E-134 Causes for revocation.

9. (New section) Any license may be revoked by the department pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) for any of the following causes:

a. Any cause which would require disqualification, pursuant to subsection a., b., c., or e. of section 8 of this act, from receiving a license upon original application;

b. Fraud, deceit or misrepresentation in securing the license, or in the conduct of the licensed activity;

c. Offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of this act, or of any other law relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste, or of any rule or regulation adopted pursuant thereto;

d. Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any licensee;

e. Preventing, without authorization of the department, any licensee from disposing of solid waste or hazardous waste at a licensed treatment, storage or disposal facility.

C. 13:1E-135 Severance of affiliation.

10. (New section) Notwithstanding the disqualification of the applicant or licensee pursuant to this act, the department may issue or renew a license if the applicant or licensee severs the interest of or affiliation with the person who would otherwise cause that disqualification or may issue or renew a license on a temporary basis for a period not to exceed six months if, upon the recommendation

of the Attorney General, the department determines that the issuance or renewal of the license is necessitated by the public interest.

11. Section 3 of P. L. 1981, c. 279 (C. 13:1E–51) is amended to read as follows:

C. 13:1E-51 Definitions.

3. As used in this act:

a. "Applicant" means the applicant for a registration statement and engineering design for a major hazardous waste facility;

b. "Application" means the application for a registration statement and engineering design for a major hazardous waste facility;

c. "Commission" means the Hazardous Waste Facilities Siting Commission established by section 4 of this act;

d. "Commissioner" means the Commissioner of Environmental Protection;

e. "Council" means the Hazardous Waste Advisory Council established by section 6 of this act;

f. "Criteria" means the criteria for the siting of new major hazardous waste facilities adopted by the department pursuant to section 9 of this act;

g. "Department" means the Department of Environmental Protection;

h. (Deleted by amendment, P. L. 1983, c. 392.)

i. "Engineering design" means the specifications and parameters approved by the department for the construction and operation of a major hazardous waste facility;

j. "Environmental and health impact statement" means a statement of likely environmental and public health impacts resulting from the construction and operation of a major hazardous waste facility, and includes an inventory of existing environmental conditions at the site, a project description, an assessment of the impact of the project on the environment and on public health, a listing of unavoidable environmental and public health impacts, and steps to be taken to minimize environmental and public health impacts during construction and operation;

k. "Hazardous waste" means any waste or combination of wastes which poses a present or potential threat to human health, living organisms or the environment including, but not limited to, waste material that is toxic, carcinogenic, corrosive, irritating, sensitizing, biologically infectious, explosive or flammable, and any waste so designated by the United States Environmental Protection Agency. Hazardous waste does not include radioactive waste;

l. "Hazardous waste facility" means any area, plant or other facility for the treatment, storage or disposal of hazardous waste, including loading and transportation facilities or equipment used in connection with the processing of hazardous wastes; "major hazardous waste facility" means any commercial hazardous waste facility which has a total capacity to treat, store or dispose of more than 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the department, except that any facility which would otherwise be considered a major hazardous waste facility pursuant to this subsection solely as the result of the recycling or rerefining of any hazardous wastes which are or contain gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium or copper shall not be considered a major hazardous waste facility for the purposes of this act; "existing major hazardous waste facility" means any major hazardous waste facility which was legally in operation or upon which construction had legally commenced prior to the effective date of this act; "new major hazardous waste facility" means any major hazardous waste facility other than an existing major hazardous waste facility; "commercial hazardous waste facility" means any hazardous waste facility which accepts hazardous waste from more than one generator for storage, treatment or disposal at a site other than the site where the hazardous waste was generated;

m. "Hazardous waste industry" means any industry which operates a hazardous waste facility or which proposes to construct or operate a hazardous waste facility;

n. "Owner or operator" means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land whereon a major hazardous waste facility is or has been located, and any person or corporation which owns a majority interest in any other corporation which is the owner or operator of any major hazardous waste facility;

o. "Plan" means the Major Hazardous Waste Facilities Plan adopted by the commission pursuant to section 10 of this act;

p. "Registration statement" or "registration" means the operating license, approved by the department, for a major hazardous waste facility; "registrant" means the person to whom such approval was granted.

12. Section 12 of P. L. 1981, c. 279 (C. 13:1E-60) is amended to read as follows:

C. 13:1E-60 New major hazardous waste facilities.

12. a. No person shall commence construction of any major hazardous waste facility on or after the effective date of this act unless that person shall have obtained the approval of the department for the registration statement and engineering design for such facility prior to construction thereof.

b. The department shall review all applications for registration statements and engineering designs for new major hazardous waste facilities in consultation with the council. The review shall include the evaluation of an environmental and health impact statement, which statement shall be prepared by the commission at the applicant's expense.

In addition to all other standards and conditions pertaining to an application for registration and engineering design approval, no such approval shall be granted by the department for a new major hazardous waste facility unless the department finds that:

(1) (Deleted by amendment, P. L. 1983, c. 392.)

(2) The environmental and health impact statement shows that the location and design of the proposed facility will pose no significant threat to human health or to the environment if properly managed in accordance with all relevant Federal and State laws and all rules and regulations adopted pursuant thereto; and

(3) The proposed facility would be operated by the proposed operator on a site designated by the commission for that particular type of major hazardous waste facility.

c. The provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), or any other law to the contrary notwithstanding, the review of all applications for registration and engineering design approval for new major hazardous waste facilities shall be conducted in the following manner:

(1) Not less than 90 days prior to filing an application for registration and engineering design approval, the applicant shall submit to the department and the governing body of the affected municipality a letter of intent to apply for registration and engineering design approval, and a brief description of the nature of the proposed facility;

(2) (Deleted by amendment, P. L. 1983, c. 392.)

(3) The department shall transmit, by certified mail, a completed copy of any application submitted pursuant to this subsection to the governing body, board of health, planning board and environmental commission of the affected municipality;

(4) Within 6 months of the receipt of such notice, the affected municipality shall conduct and transmit to the department a review of the proposed facility and operator, including a site plan review conducted in the manner provided by the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D–1 et seq.). The cost of the municipal review shall be borne by the applicant, except that such cost shall not exceed $15,000.00 per application. In preparing this review, the affected municipality may request and receive any reasonable and relevant information from the applicant or the department;

(5) Within eight months of the receipt of a completed application, the department shall reject the application or grant tentative approval thereof, which tentative approval shall establish design and operating conditions for the proposed major hazardous waste facility, requirements for the monitoring thereof, and any other conditions required under State rules and regulations;

(6) All tentative approvals of applications granted pursuant to this subsection shall be transmitted to the applicant and to the affected municipality and shall be accompanied by a fact sheet setting forth the principal facts and the significant factual, legal, methodological, and policy questions considered in granting the tentative approval. The fact sheet shall include a description of the type of facility or activity which is the subject of the tentative approval; the types and quantities of wastes which are proposed to be treated, stored, or disposed of at the proposed facility; a brief summary of the basis for the conditions of the tentative approval; the environmental and health impact statement prepared for the proposed facility and a summary as to how the statement demonstrates that the proposed facility, subject to such conditions as may have been imposed, would not create a significant adverse impact upon the public health or the environment, and, in the event that the granting of the tentative approval is contrary to the findings of the municipal review of the application, the department's reasons for the rejection of those findings;

(7) Within 45 days of the granting of a tentative approval of an application, an adjudicatory hearing on the proposed facility and operator shall be conducted by an administrative law judge. The affected municipality shall be a party in interest to such hearing, and shall have the right to present testimony and cross-examine witnesses. Intervention in this hearing by any other person shall be as provided in the "Administrative Procedure Act";

(8) Within 30 days of the close of such hearing, the administrative law judge shall transmit his recommendations for action on the application to the department. The judge shall not recommend approval of an application unless he finds clear and convincing evidence that the disclosure statement and application for a registration statement establish that the owner and operator of the proposed facility possess sufficient financial resources to construct, operate, and guarantee maintenance and closure of the facility, and that the facility will not constitute a substantial detriment to the public health, safety and welfare of the affected municipality; and

(9) Within 60 days of the receipt thereof, the department shall affirm, conditionally affirm or reject the recommendations of the administrative law judge and grant final approval to or deny the application. Such approval or denial of an application by the department shall be considered to be final agency action thereon for the purposes of the "Administrative Procedure Act," and shall be subject only to judicial review as provided in the Rules of Court.

If the department fails to act upon the recommendations of the administrative law judge as required by this subsection, the failure shall constitute departmental affirmance of the recommendations.

d. The department may charge and collect, in accordance with a fee schedule adopted as a rule and regulation pursuant to the "Administrative Procedure Act," such reasonable fees as may be necessary to cover the costs of reviewing applications pursuant to this section.

e. The department may, upon request of an owner or operator and after public hearing, exempt a major hazardous waste facility below a certain size or of a particular type from being considered a major hazardous waste facility for the purposes of this section, provided that such exemption is consistent with the eligibility standards contained in rules and regulations adopted by the commission.

f. In the event that any application reviewed by the department pursuant to this section is for a registration statement and engineering design approval for a proposed major hazardous waste facility on a site located in more than one municipality, the notices required herein shall be transmitted to each affected municipality or agency thereof, the municipal review of the proposed facility and operator shall be conducted jointly by all of the affected municipalities, and all of the affected municipalities shall be con-

sidered a single party for the purposes of the adjudicatory hearing held pursuant to this section.

13. This act shall take effect 180 days following enactment.

Approved December 14, 1983.

CHAPTER 393

A SUPPLEMENT to "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944, c. 255; C. 43:16A–1 et seq.), as said title was amended by section 1 of P. L. 1976, c. 139.

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

1. A member who, but for an interruption in creditable service due to reassignment by his employer to a department or agency where the member was no longer serving as a policeman or fireman as defined in section 1 of P. L. 1944, c. 255 (C. 43:16A–1), would have had more than 30 years' creditable service on June 30, 1979, shall be deemed to have had more than 30 years' creditable service on June 30, 1979 for the purposes of section 16 of P. L. 1964, c. 241 (C. 43:16A–11.1).

2. A member who, by virtue of section 1 of this act, had more than 30 years' creditable service on June 30, 1979, may purchase prior service credit for the period of interruption in creditable service by paying to the Police and Firemen's Retirement System of New Jersey the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of purchase, to his salary at that time. Application for a prior service credit under this act shall be made to the Police and Firemen's Retirement System of New Jersey within 90 days of the effective date of this act and payment therefor may be in a lump sum or in installments as the board of trustees may determine by rule or regulation. Neither the State nor the employer of a member who applies to purchase credit under the provisions of this supplementary act shall be liable for any payment to the retirement system on behalf of the member for the purchase of such credit. If,

upon retirement, the member's payment for purchase of credit for service during a period of a reassignment as defined in section 1 of this act is insufficient to provide for the additional retirement benefit attributable to such service, the difference may be assessed to the member, or a pro rata credit may be granted based on service purchased prior to the date of retirement, at the election of the member.

3. This act shall take effect immediately.

Approved December 14, 1983.

CHAPTER 394

AN ACT concerning commissions payable to certain fiduciaries, amending N. J. S. 3B:18–14, N. J. S. 3B:18–15, N. J. S. 3B:18–33 and N. J. S. 3B:18–1.

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

1. N. J. S. 3B:18–14 is amended to read as follows:

Corpus commissions; one fiduciary.

3B:18–14. Corpus commissions; one fiduciary. On the settlement of the account of one fiduciary, 5% on all corpus received by the fiduciary where corpus receipts do not exceed $200,000.00, and where corpus receipts exceed $200,000.00, 5% on the first $200,000.00, 3½% on the excess over $200,000.00 up to $1,000,000.00, and 2% on the excess over $1,000,000.00 or such other percentage as the court may determine on the intermediate or final settlement of the fiduciary's accounts, according to actual services rendered.

2. N. J. S. 3B:18–15 is amended to read as follows:

Corpus commissions; two or more fiduciaries.

3B:18–15. Corpus commissions; two or more fiduciaries. If there are two or more fiduciaries, their commissions on corpus shall be the same as provided in the case of one fiduciary, and, in addition thereto, the court may allow corpus commissions in excess of the commissions to which one fiduciary would be entitled under N. J. S. 3B:18–14, at a rate not exceeding 1% of all corpus for each additional fiduciary. No one fiduciary shall be entitled to any

greater commission than that which would be allowed if there were but one fiduciary involved.

3. N. J. S. 3B:18–33 is amended to read as follows:

When rates of corpus commissions on termination of trust or guardianship effective.

3B:18–33. When rates of corpus commissions on termination of trust or guardianship effective. With respect to the computation of corpus commissions pursuant to N. J. S. 3B:18–28 as to all corpus held by a fiduciary on February 29, 1980, the commissions which may be taken shall be the greater of (i) the commission permitted by law effective prior to February 29, 1980, or (ii) the commission computed pursuant to N. J. S. 3B:18–28; provided that the "annual commissions authorized" to be taken for yearly periods ending prior to February 29, 1980, shall be at the rate authorized by the applicable law in effect during that yearly period.

4. N. J. S. 3B:18–1 is amended to read as follows:

Allowances of corpus commissions generally.

3B:18–1. Allowances of corpus commissions generally. Allowance of commissions on corpus in excess of $200,000.00 made in accordance with the provisions of this chapter to fiduciaries, and fiduciaries appointed under chapter 26 of this title for the property of an absentee, shall be made with reference to their actual pain, trouble and risk in settling the estate, rather than in respect to the quantum of the estate.

5. This act shall take effect immediately.

Approved December 14, 1983.

CHAPTER 395

AN ACT to amend the "Agent Orange Act," approved February 21, 1980 (P. L. 1979, c. 443).

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

1. Section 3 of P. L. 1979, c. 443 is amended to read as follows:

3. There is established an Agent Orange Commission which shall be composed of nine members to be appointed by the Governor of whom at least six shall be Vietnam era veterans. The members of

the commission shall serve without compensation but shall be entitled to reimbursement by the commission for expenses necessarily incurred in the performance of their duties. The commission shall employ an executive director and such clerical support as is necessary to effectuate the purposes of this act.

2. This act shall take effect immediately.

Approved December 14, 1983.

CHAPTER 396

AN ACT concerning education, supplementing chapter 54 of Title 18A of the New Jersey Statutes and amending P. L. 1977, c. 30.

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

C. 18A:54-16.8 Appointed board.

1. (New section) In all counties of the third class with a population greater than 110,000 but less than 125,000 as of the latest federal decennial census the board of education of the county vocational-technical school shall consist of five members to be appointed by the appointing authority of the county.

C. 18A:54-16.9 Terms.

2. (New section) The board members elected pursuant to section 1 of P. L. 1977, c. 30 (C. 18A:54–16.1), for the school year preceding the year in which this act takes effect shall remain in office until their successors are appointed and qualified which shall occur no later than December 31, 1983. In making the first appointments to a board one person shall be appointed to serve for one year, one person for two years, one for three years and one for four years.

C. 18A:54-16.10 Applicable statutes.

3. (New section) The budget approval process, the determination of the amount to be raised by taxes for county vocational school purposes, and the approval of capital projects in these counties shall be conducted in the manner prescribed for county vocational schools under N. J. S. 18A:54–28, N. J. S. 18A:54–29, and N. J. S. 18A:54–31.

4. Section 1 of P. L. 1977, c. 30 (C. 18A:54–16.1) is amended to read as follows:

C. 18A:54-16.1 Elected board.

1. Notwithstanding the provisions of chapter 54 of Title 18A of the New Jersey Statutes, the board of education of county vocational schools in all counties of the third class with a population greater than 70,000 but less than 105,000 according to the latest federal decennial census shall consist of nine members to be elected at large by the legal voters of the county. Such members shall serve for a term of three years; provided, however, that in the first election three members shall be elected to serve for one year, three for two years and three for three years. Such elections shall be conducted in the manner prescribed for school elections pursuant to chapter 14 of Title 18A of the New Jersey Statutes.

5. This act shall take effect immediately.

Approved December 21, 1983.

CHAPTER 397

AN ACT concerning representation at certain civil service hearings and amending R. S. 11:15–5 and R. S. 11:22–39.

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

1. R. S. 11:15–5 is amended to read as follows:

Representation of civil service employee.

11:15–5. The investigation, inquiry or hearing authorized by R. S. 11:15–4 shall be for the purpose of fairly determining whether the employee involved, by reason of his act as charged and his record of service, merits continuance therein or should be removed therefrom or otherwise disciplined for the good of the service. The commission shall, in such investigation, inquiry or hearing, seek diligently all the information and evidence bearing on the merits of the case. Such investigation, inquiry or hearing shall be open to the public and the employee sought to be removed shall have opportunity to be heard personally or through an attorney-at-law or authorized representative of the labor organization of which the employee is a member in his own defense.

2. R. S. 11:22–39 is amended to read as follows:

Commission hearing.

11:22–39. If the application mentioned in R. S. 11:22–38 is made within the time prescribed, the commission shall fix a time and place for a hearing of the case, of which time and place written notice shall be served upon the appointing authority and the officer, clerk or employee, at least five days prior to the hearing. The respective parties may, at the hearing, be represented by an attorney-at-law or authorized representatative of the labor organization of which the employee is a member. The commission shall hear witnesses and receive all competent evidence produced and may compel by subpena the attendance of witnesses and the production of evidence. The commission shall determine the case upon the evidence presented. If the commission shall, on such hearing, disapprove of the order of removal, discharge, fine or reduction, such order so disapproved shall be of no effect.

3. This act shall take effect upon the passage of and enactment of P. L. , c. (C.) (now pending before the Legislature as Senate Bill No. 2019 of 1982 and Assembly Bill No. 1720 of 1982).

Approved December 22, 1983.

CHAPTER 398

AN ACT concerning the term of certain contracts for the leasing or servicing of fire fighting equipment, and amending P. L. 1971, c. 198.

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

1. Section 15 of P. L. 1971, c. 198 (C. 40A:11–15) is amended to read as follows:

C. 40A:11-15 Duration of certain contracts.

15. Duration of certain contracts. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, two years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 20 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment; P. L. 1977, c. 53.)

(3) The collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, five years;

(4) The recycling of solid waste, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P. L. 1970, c. 39 (C. 13:1E–1 et seq.), and with the approval of the Division of Local Government Services and the Department of Environmental Protection;

(5) Data processing service, for any term of not more than three years;

(6) Insurance, for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services to county colleges and county assisted institutions of higher education for any term not exceeding three years;

(11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act" (P. L. 1975, c. 217; C. 52:27D–119 et seq.) for any term of not more than three years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Energy establishing a methodology for computing energy cost savings;

(13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;

(14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed seven years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs.

All multi-year leases and contracts entered into pursuant to this section 15, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, or contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds

as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

2. This act shall take effect immediately.

Approved December 22, 1983.

CHAPTER 399

AN ACT concerning the regulation and licensing of mobile home parks.

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

C. 46:8C-8 Regulation of mobile home parks.

1. In addition to the powers set forth in R. S. 40:52–1, the governing body of a municipality may, by ordinance, provide for the regulation and licensing of mobile home parks.

C. 46:8C-9 First sale.

2. The mobile home park owner or operator may sell the first mobile home to be located on each site to be leased within the mobile home park.

3. This act shall take effect on January 1, 1984, but shall remain inoperative until Assembly Bill No. 3600 of 1983, now pending before the Legislature, is enacted into law.

Approved December 22, 1983.

CHAPTER 400

AN ACT concerning the taxation of manufactured homes supplementing Title 54 of the Revised Statutes, amending P. L. 1980, c. 105 and repealing sections 1 and 2 of P. L. 1981, c. 385.

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

C. 54:4-1.2 Short title.

1. (New section) This act shall be known and may be cited as the "Manufactured Home Taxation Act."

C. 54:4-1.3 Findings, determinations.

2. (New section) The Legislature finds and determines that:

a. It is in the public interest that the Legislature address the difficult questions raised in litigation over the tax status of manufactured homes;

b. Manufactured homes located in mobile home parks receive fewer public services than manufactured homes or other single family dwelling units located on privately owned lots, and thus the former homes occasion a lower level of public expenditures than the latter homes;

c. With respect to purchaser financing, manufactured homes located in mobile home parks are not treated in the same manner as manufactured homes located on private lots owned by the homeowner or other residential property, and thus are not typically financed through mortgage arrangements, but are typically financed through installment credit;

d. Because of the differences in siting between manufactured homes in mobile home parks and manufactured homes otherwise located, it is difficult to equate the two for property title purposes, and thus for the purposes of property tax enforcement;

e. The Legislature has provided that certain property owned by public utilities which would otherwise constitute real property for the purposes of taxation is not real property for such purposes, and has provided an alternate means of ensuring that the owner of such property is responsible for reasonable payment for public services which that owner receives;

f. The factors which distinguish manufactured homes in mobile home parks from other dwelling units warrant a distinction between the former and the latter which is analogous to the distinction drawn in the case of public utility property;

g. It is necessary to draw that distinction in a fair and equitable manner, which will not penalize the owners of the manufactured homes located in mobile home parks, nor absolve them of their responsibility to pay for the public services they receive;

h. It is further necessary to ensure parity, where taxation is concerned, between manufactured homes situated outside mobile home parks and other similar dwelling units;

i. The land and improvements thereto which together constitute a mobile home park, including those improvements added as part

of the private provision of otherwise public services, are subject to taxation as real property, and the revenues derived from the assessment and levy of these real property taxes contribute to the defrayal of the costs of public services provided the owner of the park and lessees of sites in that park; and

j. It is appropriate and necessary to provide a method by which a municipality may receive reasonable payment for services provided the owners of manufactured homes in mobile home parks, the cost of which services is not defrayed by real property tax revenues.

C. 54:4-1.4 Definitions.

3. (New section) As used in this act:

a. "Commissioner" means the Commissioner of the Department of Community Affairs;

b. "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured home or other unit of housing owned by the corporation or association, or to purchase a unit of housing constructed or erected by the corporation or association;

c. "Grade" means a reference plane consisting of the average finished ground level adjacent to a structure, building, or facility at all visible exterior walls;

d. "Manufactured home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the secretary pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub. L. 93-383 (42 U.S.C. § 5401 et seq.) and the standards promulgated for a manufactured or mobile home by the commissioner pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.);

"Manufactured home" also means and includes any unit of housing manufactured before the effective date of the standards promulgated by the secretary or, as appropriate, by the commissioner, but which otherwise meets the criteria set forth in this subsection;

e. "Mobile home park" means a parcel of land, or two or more contiguous parcels of land, containing no fewer than 10 sites equipped for the installation of manufactured homes, where these sites are under common ownership and control, other than as a cooperative, for the purpose of leasing each site to the owner of a manufactured home for the installation thereof, and where the owner or owners provide services, which are provided by the municipality in which the park is located for property owners outside the park, which services may include but shall not be limited to:

(1) The construction and maintenance of streets;
(2) Lighting of streets and other common areas;
(3) Garbage removal;
(4) Snow removal; and
(5) Provisions for the drainage of surface water from home sites and common areas.

A parcel, or any contiguous parcels, of land which contain, on the effective date of this act, no fewer than three sites equipped for the installation of manufactured homes, and which otherwise conform to the provisions of this subsection, shall qualify as a mobile home park for the purposes of this act;

f. "Municipal service fee" means a fee imposed on manufactured homes installed in a mobile home park for the purpose of reasonable payment for services rendered the owners of the manufactured homes by the municipality or any other local taxing authority established pursuant to an ordinance of the municipal governing body, and for the reimbursement of the municipality for payments made thereby to the school district in which the mobile home park is located for educational costs occasioned by pupils residing in that park;

g. "Nonpermanent foundation" means any foundation consisting of nonmortared blocks, wheels, a concrete slab, runners, or any combination thereof, or any other system approved by the commissioner for the installation and anchorage of a manufactured home on other than a permanent foundation;

h. "Off site construction of a manufactured home or section thereof" means the construction of that home or section at a location other than the location at which the home is to be installed;

i. "On site joining of sections of a manufactured home" means the joining of those sections at the location at which the home is to be installed;

j. "Permanent foundation" means a system of support installed either partially or entirely below grade, which is:

(1) Capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;

(2) Placed at an adequate depth below grade to prevent frost damage; and

(3) Constructed of any material approved by the commissioner;

k. "Runners" means a system of support consisting of poured concrete strips running the length of the chassis of a manufactured home under the lengthwise walls of that home;

l. "Secretary" means the Secretary of the United States Department of Housing and Urban Development; and

m. "Trailer" means a recreational vehicle, travel trailer, camper or other transportable, temporary dwelling unit, with or without its own motor power, designed and constructed for travel and recreational purposes to be installed on a nonpermanent foundation if installation is required.

C. 54:4-1.5 Subject to taxation as real property.

4. (New section) a. Except as otherwise provided for in subsection b. of this section and in P. L. 1982, c. 220 (C. 54:4–23a), a manufactured home shall be subject to taxation as real property under chapter 4 of Title 54 of the Revised Statutes when that home:

(1) Is affixed to the land on which it is sited by a permanent foundation; or

(2) Is affixed to that land by a nonpermanent foundation and connected to utility systems in such manner as to render the home habitable as a dwelling unit on a permanent basis.

b. A manufactured home which is installed in a mobile home park shall not be subject to taxation as real property.

C. 54:4-1.6 Municipal service fee.

5. (New section) a. A municipality, by ordinance, shall provide for the imposition of an annual municipal service fee on manufactured homes installed in a mobile park within its corporate boundaries. In setting this fee, the municipal governing body shall take into account the extent to which the taxes assessed and levied pursuant to Title 54 of the Revised Statutes against the land and improvements thereto which together constitute the mobile home park in which the homes are installed defray the costs of services provided, or paid for, by the municipality, or provided by any other appropriate taxing authority, for lessees of sites in the park. The ordinance imposing the municipal service fee shall provide for the proration of that fee, as necessary, in order to account for vacancies in the mobile home park.

b. The municipal service fee shall be collected from each owner of a manufactured home on a monthly basis by the owner of the mobile home park in which the home is installed. The park owner shall issue a receipt to the homeowner upon each collection.

The park owner shall transmit the fees collected, in a manner set forth in the ordinance imposing the fee, to the tax collector of the taxing district constituting the municipality in which the fee is imposed, and shall transmit therewith a copy of each receipt issued pursuant to this subsection.

The governing body of the municipality may, by ordinance, fix a rate of interest to be charged a homeowner by the municipality for failure to pay the municipal service fee when due and payable, and to be charged a park owner for failure to transmit fees actually collected when so required. This rate shall be fixed within the limits established for interest charged for delinquent property taxes pursuant to R. S. 54:4–67.

c. An ordinance adopted pursuant to subsection a. of this section shall set forth the manner in which the municipal service fee shall be allocated among the owners of manufactured homes within the mobile home park. To the extent that the respective portion of the municipal service fee allocated to the owner of a manufactured home constitutes a new fee or an increase of any similar fee imposed before the effective date of this act, this new fee or increase, as appropriate, shall in turn constitute a rent surcharge, collectible in addition to any surcharge or increase permitted by any rent control or rent levelling ordinance adopted by the municipality.

d. Notwithstanding any provision to the contrary of subsection c. of this section, the respective portion of a municipal service fee allocated to the owner of a manufactured home shall be deemed rent for eviction purposes.

C. 54:4-1.7 Tax on first sale.

6. (New section) The sales tax imposed by the "Sales and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B–1 et seq.) shall be applied only against the manufacturer's invoice price of a manufactured home upon the first sale of that home.

7. Section 18 of P. L. 1980, c. 105 (C. 54:32B–8.6) is amended to read as follows:

C. 54:32B-8.6 Not motor vehicle.

18. Receipts from casual sales except as to sales of motor vehicles, whether for use on the highways or otherwise, and except as to

sales of boats or vessels registered or subject to registration under the "New Jersey Boat Act of 1962," P. L. 1962, c. 73 (C. 12:7–34.36 et seq.), and all amendments and supplements thereto, are exempt from the tax imposed under the "Sales and Use Tax Act." A manufactured home, as defined in subsection d. of section 3 of P. L. 1983, c. 400 (C. 54:4–1.4), shall not be deemed a motor vehicle for the purposes of this section.

C. 54:4-1.8 Inapplicable to trailers.

8. (New section) Trailers shall not be subject to the provisions of this act.

C. 54:4-1.9 Treated as real property.

9. (New section) A manufactured home subject to real property taxation pursuant to this act shall be treated as real property for the purposes of imposing the transfer inheritance and estate tax pursuant to R. S. 54:34–1 et seq.

Repealer.

10. (New section) Sections 1 and 2 of P. L. 1981, c. 358 are repealed.

11. This act shall take effect immediately.

Approved December 22, 1983.

CHAPTER 401

AN ACT providing for the adoption of regulations concerning the transportation of hazardous materials, providing penalties for violations thereof, supplementing Title 39 of the Revised Statutes, and making an appropriation.

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

C. 39:5B-25 Definitions.

1. As used in this act:

a. "Department" means the Department of Transportation;

b. "Hazardous material" means a substance or material determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and so desig-

nated pursuant to the provisions of the "Hazardous Materials Transportation Act," Pub. L. 93–633 (49 U.S.C. § 1801 et seq.).

C. 39:5B-26 Rules, regulations.

2. The department, in consultation with the Department of Environmental Protection, the Department of Labor, the Department of Commerce and Economic Development, the Divisions of Motor Vehicles and State Police of the Department of Law and Public Safety, and other appropriate State departments and agencies shall adopt, within 12 months of the effective date of this act and pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), rules and regulations concerning the transportation of hazardous materials, which shall, to the maximum extent practicable, conform to the requirements established by 49 CFR Parts 100–199, adopted by the United States Department of Transportation pursuant to the provisions of the "Hazardous Materials Transportation Act," Pub. L. 93–633 (49 U.S.C. § 1801 et seq.).

C. 39:5B-27 Office for enforcement.

3. There is created in the Division of State Police of the Department of Law and Public Safety, an Office of Hazardous Materials Transportation Compliance and Enforcement. It shall be the responsibility of this office to coordinate the implementation and enforcement of the provisions of this act and the rules and regulations adopted pursuant thereto.

C. 39:5B-28 Report.

4. The department, in consultation with the Department of Environmental Protection, the Department of Labor, the Department of Commerce and Economic Development, the Divisions of Motor Vehicles and State Police of the Department of Law and Public Safety, and other appropriate State departments and agencies shall, within one year of the effective date of this act, prepare and submit to the Governor and the Legislature a report detailing the incidence and means of the transportation of hazardous materials in this State, evaluating the protection afforded New Jersey citizens therefrom by all relevant federal and State statutes and regulations, and recommending executive or legislative actions necessary to insure the safe and proper transportation of hazardous materials.

C. 39:5B-29 Violations; penalties.

5. a. Any person who violates the provisions of this act or any rule or regulation adopted pursuant thereto shall be subject to a

penalty of not less than $1,000.00 nor more than $5,000.00 for the first offense nor less than $3,000.00 nor more than $10,000.00 for the second or any subsequent offense. A penalty imposed pursuant to this act shall be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. In addition to the jurisdiction conferred by "the penalty enforcement law," the Superior Court shall have jurisdiction of proceedings for the enforcement of the penalties provided in this act.

b. Penalties imposed pursuant to this act shall in no way reduce or otherwise limit the liability of any person, pursuant to the laws of this State, for cleanup costs or other damages arising from a discharge of hazardous materials.

6. There is appropriated from the General Fund to the Department of Law and Public Safety the sum of $50,000.00 to establish the Office of Hazardous Materials Transportation Compliance and Enforcement, which shall be paid back to the General Fund to the extent that funds become available from other sources.

7. This act shall take effect immediately.

Approved December 23, 1983.

CHAPTER 402

AN ACT to validate certain proceedings of school 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 school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notices relating to the election were not published as required by N. J. S. 18A:14–25 and section 7 of P. L. 1953, c. 211 (C. 19:57–7); and provided fur-

ther, that no action, suit or other proceeding of any nature to contest the validity of such election has heretofore been instituted prior to the effective date of this act and within the time fixed therefor by or pursuant to law or rule of court, or, when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved December 23, 1983.

CHAPTER 403

AN ACT abolishing certain positions in the Division of Motor Vehicles, transferring personnel in those positions, amending, supplementing and repealing various parts of the law.

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

C. 39:2-9.1 Positions abolished.

1. (New section) The positions in the Division of Motor Vehicles designated chief inspector, deputy chief inspector, inspector and special inspector are abolished.

C. 39:2-9.2 Reemployment rights.

2. (New section) A person employed in a position designated as chief inspector, deputy chief inspector, inspector, special inspector or equivalent Civil Service classifications shall have the following reemployment rights:

a. The person may be appointed, at his request and at the discretion of the Superintendent of the Division of State Police, as a member of the State Police; or

b. The person shall be reemployed by the State of New Jersey, as provided by the laws governing Civil Service.

C. 39:2-9.3 State police appointments.

3. (New section) a. An appointment to the State Police under this act shall be in accordance with R. S. 53:1–8, except that upon satisfactory conclusion of the two-year appointment period specified in R. S. 53:1–8, the person appointed shall serve continuously as a member of the State Police during good behavior, notwithstanding the requirements of R. S. 53:1–8.1.

b. A person appointed to the State Police under this act shall be ranked, approximately equivalent to his current salary range and step therein, by the superintendent, as adjusted by the State Treasurer, the President of the Civil Service Commission and the Director of the Division of Budget and Accounting.

c. For the purposes of internal management only, the seniority of a person appointed to the State Police under this act shall be determined by the superintendent.

d. No person appointed to the State Police under this act shall retain any entitlement upon retirement from the State Police to receive a lump sum payment as supplemental compensation for each full day of earned and unused accumulated sick leave, as authorized by section 1 of P. L. 1973, c. 130 (C. 11:14–9).

C. 39:2-9.4 Qualifications.

4. (New section) Notwithstanding the provisions of R. S. 53:1–9, the Superintendent of the Division of State Police may establish the qualifications of a person appointed to the State Police under this act.

5. Section 1 of P. L. 1973, c. 130 (C. 11:14–9) is amended to read as follows:

C. 11:14-9 Unused sick leave.

1. Except as provided in subsection d. of section 3 of P. L. 1983, c. 403 (C. 39:2–9.3), each employee in the classified service of the State and each State employee not in the classified service, who has been granted sick leave under terms and conditions similar to classified employees, shall be entitled upon retirement from a State-administered retirement system to receive a lump sum payment as supplemental compensation for each full day of earned and unused accumulated sick leave which is credited to him on the effective date of his retirement in the manner prescribed by section 4 of P. L. 1947, c. 201 (C. 11:14–5).

6. R. S. 39:3–4 is amended to read as follows:

Motor vehicle registration.

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 his lawful agent, on forms prepared and supplied by the director, containing the name, address 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 manufacturer's number or the motor number, or both, and any other statement that may be required by the director. If the vehicle is insured by motor vehicle liability insurance, as required by law, the application shall contain the name of the insurer of said vehicle and the policy number.

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 subtitle. The form and contents of the registration certificate to be issued shall be prescribed by the director. The director shall maintain a record of all registration certificates issued, and of the contents thereof.

Every registration shall expire and the 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 and for good cause shown, 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 16 months after the date of issuance of such certificates, and the fees for such registrations shall be fixed by the director in amounts proportionately less or greater than the fees established in this Title.

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

Application forms for all renewals of registrations for passenger automobiles shall be mailed by the director from the central office of the division 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 motor vehicle shall permit the same to be parked or to stand on a public highway.

Any police officer is authorized to remove any such unregistered vehicle from the public highway to a storage space or garage, the expense involved in such removal and storing of said motor vehicle to be borne by the owner of such vehicle.

Any person violating the provisions of this section shall be subject to a fine not exceeding $100.00, except that for the misstatement of any fact in the application required to be made by the director, the person making such statement shall be subject to the penalties provided in R. S. 39:3–37.

Nothing in this section shall be construed to alter or extend the expiration date of any registration certificate issued prior to March 1, 1956.

7. R. S. 39:3–10 is amended to read as follows:

Licensing of drivers.

39:3–10. No person shall drive a motor vehicle on a public highway in this State unless licensed to do so in accordance with this article. No person under 17 years of age shall be licensed to drive motor vehicles, nor shall a person be licensed until he has passed a satisfactory examination as to his ability as an operator. The examination shall include a test of the applicant's vision, his ability to understand traffic control devices, his knowledge of safe driving practices and of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle, his knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant and of the laws and ordinary usages of the road and a demonstration of his ability to operate a vehicle of the class designated.

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

Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the director any current driver's license issued to him by another state

upon his receipt of a driver's license for this State. The director shall refuse to issue a driver's license if the applicant fails to comply with this provision.

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

a. Motorcycles;

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

c. Articulated vehicles means a combination of a commercial motor vehicle registered at a gross weight in excess of 18,000 pounds and one or more motor-drawn vehicles joined together by means of a coupling device;

d. All motor vehicles not included in classifications a., b. and c. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license."

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

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

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

The director may issue a renewal of a basic driver's license which does not bear a photograph, and which shall expire on the last day of the twenty-fourth calendar month following the calendar month in which such license was issued, to any person 60 years of age or older who makes application for such a license.

The director may, at his discretion and for good cause shown, issue licenses which shall expire on a date fixed by him. The fee for such licenses shall be fixed by the director in amounts proportionately less or greater than the fee herein established.

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

Motorcycle license or endorsement	$8.00
Omnibus or school bus endorsement	$16.00
Articulated vehicle endorsement	$8.00
Basic driver's license	$16.00

The required fee for a basic driver's license for the 24-month period shall be $8.00.

The required fee for a license for the 36-month period shall be as follows:

Motorcycle license or endorsement	$6.00
Omnibus or school bus endorsement	$12.00
Articulated vehicle endorsement	$6.00
Basic driver's license	$12.00

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

The driver's license shall have the legal name of the licensee endorsed thereon in his own handwriting. For purposes of this section, legal name shall mean the name recorded on a birth certificate unless otherwise changed by marriage, divorce or order of court. The director may require that only the legal name be recorded on the driver's license. A licensee whose name is changed due to marriage, divorce, or by judgment of the court, shall notify the director of the change in name within two weeks after the change is made. A person who violates this provision shall be subject to a penalty of not more than $10.00.

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

All applications for renewals of licenses shall be made on forms prescribed by the director and in accordance with procedures established by him.

The director in his discretion may refuse to grant a license to drive motor vehicles to a person who is, in his estimation, not a proper person to be granted such a license, but no defect of the

applicant shall debar him from receiving a license unless it can be shown by tests approved by the Director of the Division of Motor Vehicles that the defect incapacitates him from safely operating a motor vehicle.

A person violating this section shall be subject to a fine not exceeding $500.00 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, he shall be subject to a fine of not less than $200.00 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 motor vehicle to the person for a period of not less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the Division of Motor Vehicles.

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

8. Section 1 of P. L. 1942, c. 324 (C. 39:3–11.1) is amended to read as follows:

C. 39:3-11.1 Agricultural pursuits.

1. Any person, under seventeen years of age and not under sixteen years of age, may be licensed to drive motor vehicles in agricultural pursuits as herein limited; provided such person has passed an examination satisfactory to the director as to his ability as an operator. The director, upon payment of the lawful fee and after he or a person authorized by him has examined the applicant and is satisfied of the applicant's ability as an operator, may, in his discretion, license the applicant to drive any motor vehicle which is registered under the provisions of R. S. 39:3–24 and R. S. 39:3–25. Such registration shall expire on March thirty-first of each year terminating the period for which such license is issued. The annual license fee for such license shall be one dollar ($1.00), and is for the limited use herein provided, and is not to be used in the operation of any other vehicle and shall have the name of the licensee endorsed thereon in his own handwriting.

9. R. S. 39:3–17 is amended to read as follows:

Reciprocity.

39:3–17. The touring privileges allowed by R. S. 39:3–15 are also extended to any nonresident chauffeur or driver who has complied with the law of his resident state, or country, with respect to the licensing of drivers or chauffeurs. No such nonresident shall operate a motor vehicle registered under the laws of this State unless he is seventeen years of age or over. No nonresident shall be permitted to avail himself of the right of driving a New Jersey registered vehicle under his reciprocity privilege unless he is a holder of a driver's license from the state, or country, in which he resides. A nonresident shall, at all times while operating a motor vehicle in this State under this reciprocity provision, have in his possession the registration certificate of the car which he shall be then operating and his driver's license, and shall exhibit them to a police officer or judge who, in the performance of the duties of his office, shall request the same. Any person violating the provisions of this section shall be subject to a fine not exceeding five hundred dollars, or to imprisonment in the county jail for not more than sixty days.

10. R. S. 39:3–29 is amended to read as follows:

Possession of documents.

39:3–29. The driver's license, the registration certificate of a motor vehicle and an insurance identification card shall be in the possession of the driver or operator at all times when he is in charge of a motor vehicle on the highways of this State.

The driver or operator shall exhibit his driver's license and an insurance identification card, and the holder of a registration certificate or the operator or driver of a motor vehicle for which a registration certificate has been issued, whether or not the holder, driver or operator is a resident of this State, shall also exhibit the registration certificate, when requested so to do by a police officer or judge, while in the performance of the duties of his office, and shall write his name in the presence of the officer, so that the officer may thereby determine the identity of the licensee and at the same time determine the correctness of the registration certificate, as it relates to the registration number and number plates of the motor vehicle for which it was issued; and the correctness of the evidence of a policy of insurance, as it relates to the coverage of the motor vehicle for which it was issued.

Any person violating this section shall be subject to a fine not exceeding $100.00.

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

11. Section 1 of P. L. 1964, c. 172 (C. 39:3–38.1) is amended to read as follows:

C. 39:3-38.1 False documents.

1. Any person who:

a. Keeps in his possession or conceals any falsely made, forged, altered or counterfeited certificate of registration or driver's license, knowing the same to be falsely made, altered, forged or counterfeited with the intent to use the same unlawfully; or

b. Exhibits to a police officer or judge in accordance with R. S. 39:3–29 any falsely made, altered, forged or counterfeited motor vehicle certificate of registration or driver's license, knowing the same to be falsely made, altered, forged or counterfeited; or

c. Exhibits to any person, for purposes of identification, any falsely made, altered, forged or counterfeited motor vehicle certificate of registration or driver's license, knowing the same to be falsely made, altered, forged or counterfeited, and representing the same as a certificate or license lawfully issued to him by the Director of the Division of Motor Vehicles, is guilty of a disorderly persons offense.

12. Section 5 of P. L. 1950, c. 142 (C. 39:3–84.3) is amended to read as follows:

C. 39:3-84.3 Measurement, weighing to determine compliance.

5. a. Any State Police officer is authorized to require the driver, operator, owner, lessee or bailee of any vehicle or combination of vehicles found on any public road, street or highway or on any public or quasi-public property in this State to stop and submit the vehicle or combination of vehicles, including load or contents, to measurement or weighing to determine whether the size or weight of the vehicle or combination of vehicles, including load or contents, is in excess of that permitted in this Title, by means of measuring or weighing devices or scales approved and certified by the State Superintendent of Weights and Measures or his agent. Copies of documents displaying the seal or certification of the State Superintendent of Weights and Measures shall be prima facie evidence

of the reliability and accuracy of the measuring or weighing devices or scales utilized in the enforcement of this Title. The driver, operator, owner, lessee or bailee of a vehicle or combination of vehicles, including load or contents, that is to be measured or weighed may be required to drive or otherwise move the vehicle or combination of vehicles to a location, as directed by the officer or inspector, where the vehicle or combination of vehicles, including load or contents, can be measured or weighed, as described in this section.

b. Whenever the officer, upon measuring or weighing a vehicle or combination of vehicles, including load or contents, determines that the size or weight is in excess of the limits permitted in this Title, the officer or inspector shall require the driver, operator, owner, lessee or bailee to stop the vehicle or combination of vehicles in a suitable place and remain in that place until a portion of the load or contents of the vehicle or combination of vehicles is removed by the driver, operator, owner, lessee, bailee or duly appointed agent thereof, as may be necessary to conform or reduce the size or weight of the vehicle or combination of vehicles, including load or contents, to those limits as permitted under this act, or permitted by the certificate of registration for the vehicle or combination of vehicles, whichever may be lower. All materials so unloaded or removed shall be cared for by the driver, owner, operator, lessee or bailee of the vehicle or combination of vehicles, or duly appointed agent thereof, at the risk, responsibility and liability of the driver, owner, operator, lessee, bailee or duly appointed agent thereof.

c. No vehicle or combination of vehicles shall be deemed to be in violation of the weight limitation provision of this act, when, upon examination by the officer, the dispatch papers for the vehicle or combination of vehicles, including load or contents, show it is proceeding from its last preceding freight pickup point within the State of New Jersey by a reasonably expeditious route to the nearest available scales or to the first available scales in the general direction towards which the vehicle or combination of vehicles has been dispatched, or is returning from such scales after weighing-in to the last preceding pickup point.

d. When the officer determines that a vehicle or combination of vehicles, including load or contents, is in violation of the weight limitations of this Title as provided at R. S. 39:3–84 b. (1); R. S. 39:3–84 b. (2); R. S. 39:3–84 b. (3); or R. S. 39:3–84 b. (5) relative to maximum gross axle weights, but is within the permissible maxi-

mum gross vehicle weight of this Title as provided at R. S. 39:3–84 b. (4) or R. S. 39:3–84 b. (5), whichever is applicable, the driver, operator, owner, lessee, bailee or duly appointed agent thereof shall be permitted, before proceeding, to redistribute the weight of the vehicle or combination of vehicles or the load or contents of the vehicle or combination of vehicles so that no axle or combination of consecutive axles are in excess of the limits set by this act, in which event there is no violation.

e. When the officer determines that a vehicle or combination of vehicles, including load or contents, is in violation of the height, width or length limits of this Title as provided at R. S. 39:3–84a., the driver, operator, owner, lessee or bailee of the vehicle or combination of vehicles or duly appointed agent thereof shall be permitted, before proceeding, to adjust, reduce or conform the vehicle or combination of vehicles, including load or contents, so that the vehicle or combination of vehicles, including load or contents, are not in excess of the height, width, or length limits set by this act, in which event there is no violation.

f. The provisions of this subsection shall not apply to a vehicle or combination of vehicles, including load or contents, found or operated on any highway in this State which is part of or designated as part of the National Interstate System, as provided at 23 U. S. C. § 103(e). No arrest shall be made or summons issued for a violation of the weight limitations provided in this act at R. S. 39:3–84b. where the excess weight is not more than 5% of the weight permitted, provided the gross weight of the vehicle or combination of vehicles, including load or contents, does not exceed the maximum gross weight of 80,000 pounds as set forth at R. S. 39:3–84b. (4).

g. Any person who presents to the officer, or has in his possession, or who prepares false dispatch papers, that is to say, dispatch papers which do not correspond to the cargo carried, shall be subject to a fine not to exceed $100.00.

h. Any driver of a vehicle or combination of vehicles who fails or refuses to stop and submit the vehicle or combination of vehicles, including load or contents, to measurement or weighing, as provided in this Title, or otherwise fails to comply with the provisions of this section, shall be subject to a fine not exceeding $200.00.

i. The owner, lessee, bailee or any one of the aforesaid of any vehicle or combination of vehicles found or operated on any public road, street or highway or any public or quasi-public property in this State in violation of the height, width or length limits as set

forth in subsection a. of R. S. 39:3–84 shall be fined not less than $150.00 nor more than $500.00.

j. The owner, lessee, bailee or any one of the aforesaid of any vehicle or combination of vehicles found or operated on any public road, street or highway or on any public or quasi-public property in this State, with a gross weight of the vehicle or combination of vehicles, including load or contents, in excess of the weight limitations as provided at subsection b. of R. S. 39:3–84 or section 3 of P. L. 1950, c. 142 (C. 39:3–84.1) shall be fined an amount equal to $0.02 per pound for each pound of the total excess weight; provided the total excess weight is 10,000 pounds or less, or shall be fined an amount equal to $0.03 per pound for each pound of the total excess weight; provided the total excess weight is more than 10,000 pounds, but in no event shall the fine be less than $50.00.

k. Whenever a vehicle or combination of vehicles, including load or contents, is found to be in violation of any two or more of the weight limitations as provided at subsection b. of R. S. 39:3–84 or section 3 of P. L. 1950, c. 142 (C. 39:3–84.1), the fine levied shall be only for the violation involving the greater or greatest excess weight.

13. Section 9 of P. L. 1973, c. 307 (C. 39:3C–9) is amended to read as follows:

C. 39:3C-9 Snowmobile registration.

9. Every person operating a snowmobile registered or transferred in accordance with any of the provisions of this act shall, upon demand of any peace officer, law enforcement officer, duly authorized official of the Department of Environmental Protection, or a police officer, produce for inspection the certificate of registration for such snowmobile and shall furnish to such officer any information necessary for the identification of such snowmobile and its owner. The failure to produce the certificate of registration when operating a snowmobile on public lands and waters or when crossing a public highway shall be presumptive evidence in any court of competent jurisdiction of operating a snowmobile which is not registered as required by this act.

14. R. S. 39:4–4 is amended to read as follows:

Employees.

39:4–4. The director may, subject to law, employ such clerical and technical assistants as he deems necessary for carrying into effect the provisions of this article, who shall respectively receive

the compensation fixed by the director, unless such compensation is fixed by statute or otherwise determinable by authority of law.

15. R. S. 39:4–57 is amended to read as follows:

Directions to drivers.

39:4–57. Drivers of vehicles, street cars or horses shall at all times comply with any direction, by voice or hand, of a member of a police department, a peace officer, or the director, when enforcing a provision of this chapter.

16. R. S. 39:4–103 is amended to read as follows:

Exemptions from speed regulations.

39:4–103. Motor vehicles belonging to the military establishment, while in use for official purposes in time of riot, insurrection or invasion; all police officers, while the officers are engaged in the apprehension of violators of the law, or of persons charged with, or suspected of, a violation, are exempt from the provisions of this chapter relating to speed.

17. Section 4 of P. L. 1950, c. 16 (C. 39:4–211) is amended to read as follows:

C. 39:4-211 State grounds.

4. The State Police, the State Capitol Police, the city police of the city of Trenton, and other police officers of this State, including those specially appointed or designated to police the grounds of any such State institution, shall have the power and authority to enforce the provisions of this act and said regulations upon the public highways located on the said grounds of the State of New Jersey within their respective jurisdictions.

18. R. S. 39:5–1 is amended to read as follows:

Enforcement.

39:5–1. The enforcement of this subtitle shall be vested in the director and the police or peace officers of, or inspectors duly appointed for that purpose by, any municipality or county or by the State.

19. R. S. 39:5–3 is amended to read as follows:

Violations.

39:5–3. When a person has violated a provision of this subtitle, the judge may, within 30 days after the commission of the offense, issue process directed to a constable, police officer or the director for the appearance or arrest of the person so charged. A complaint

may be made to a judge for a violation of section 39:3–12, 39:3–34, 39:3–37, 39:4–129 or 39:10–24 of this Title, at any time within one year after the commission of the offense and for a violation of R. S. 39:3–40, at any time within 90 days after the commission of the offense.

All proceedings shall be brought before a judge having jurisdiction in the municipality in which it is alleged that the violation occurred, but when a violation occurs on a street through which the boundary line of two or more municipalities runs or crosses, then the proceeding may be brought before the judge having jurisdiction in any one of the municipalities divided by said boundary line, and in the event there shall be no judge or should no judge having such jurisdiction be available for the acceptance of bail and disposition of the case, or should the judges having such jurisdiction be disqualified because of personal interest in the proceedings, or for any other legal cause, said proceeding shall be brought before a judge having jurisdiction in the nearest municipality to the one in which it is alleged such a violation occurred.

20. R. S. 39:5–5 is amended to read as follows:

Proceedings in name of State.

39:5–5. All proceedings for the violation of this subtitle shall be brought in the name of the State, with the director, police officer, peace officer, constable or any other person who institutes the proceedings as prosecutor. A judge may, at his discretion, refuse to issue a warrant on the complaint of a person other than the director or a police officer, until a sufficient bond to secure costs has been executed and delivered to the judge.

21. R. S. 39:5–20 is amended to read as follows:

Prosecutor.

39:5–20. On an appeal by the defendant in any proceeding instituted under this subtitle, the county prosecutor of the county wherein the alleged violation was committed shall represent the complainant; but where a complaint is made by a member of the State Police charging a violation of either section 39:3–40, 39:4–50 or 39:4–96 of this Title, the Attorney General, and not the prosecutor, shall represent the complainant, and where there is a violation of a municipal ordinance relating to traffic regulations and the proceeding was instituted by a municipal officer, the municipal attorney shall represent the complainant. The county prosecutor, charged with the enforcement of this subtitle, may request the

Attorney General to attend personally, or by such assistant or assistants as he shall designate, to aid in the prosecution of the appeal.

22. R. S. 39:5–25 is amended to read as follows:

Arrest.

39:5–25. Any constable, police officer, peace officer, or the director may, without a warrant, arrest any person violating in his presence any provision of chapter three of this Title, or any person, other than a motorman or person having control of a street car or auto bus, running upon a route approved by the Board of Public Utilities, violating in his presence any provision of chapter four of this Title. The exemption from arrest of a motorman or person having control of a street car or auto bus, as conferred herein, shall not operate to prevent his arrest, however, for a violation of R. S. 39:4–50. The arresting officer shall bring any person so arrested before any judge of the municipal court of the municipality wherein the offense was committed, or before the director at any place designated as his office. If the arrest is for a violation of R. S. 39:4–50, the arresting officer may, if no judge, clerk or deputy clerk is available, detain the person arrested, either in any police station, lockup or other place maintained by any municipality for the detention of offenders or in the common jail of the county, for such reasonable time as will permit the arresting officer to obtain a warrant for the offender's further detention, which temporary detention shall not exceed twenty-four hours from the time of the arrest. If the arrest is for a violation of any other provision of this subtitle, the person arrested shall be detained in the police station or municipal court until the arresting officer makes a complaint and a warrant issues.

Any constable, police officer, or the director may, instead of arresting an offender as herein provided, serve upon him a summons.

23. R. S. 39:5–35 is amended to read as follows:

Surrender of license, registration.

39:5–35. Any person, whose driver's license or registration certificate has been suspended or revoked, who fails to return it or them to the director, together with any registration plates issued under such certificate, within five days of the date of suspension or revocation of such license or certificate, or both, or who fails to surrender it or them upon demand of an authorized representative of the Division of Motor Vehicles, member of the State Police or

other police officer who has been directed to secure possession thereof, shall be fined not more than $25.00.

24. R. S. 39:5–39 is amended to read as follows:

Physician's fee.

39:5–39. The judge, either in an original proceeding or on appeal for a violation of R. S. 39:4–50, may tax in the cost a sum not exceeding $20.00, which shall be paid to any physician testifying in the proceeding. This amount, when included in the taxed costs authorized by this chapter, shall be paid as costs are now paid. If the defendant is found not guilty of the charges laid against him for a violation of R. S. 39:4–50, the costs shall be paid by the prosecutor, except in those instances in which the director, a member of the Division of State Police or a police officer has been the prosecutor.

25. Section 33 of P. L. 1952, c. 173 (C. 39:6–55) is amended to read as follows:

C. 39:6-55 Penalties.

33. (a) Any person who shall forge or, without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof, knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than $1,000.00 or imprisoned for not more than one year, or both.

(b) Any person willfully failing to return license or registration as required in section 22 of this act shall be fined not more than $500.00 or imprisoned not to exceed 30 days, or both.

(c) Any person who shall violate any provision of this act for which no penalty is otherwise provided shall be fined not more than $500.00 or imprisoned not more than 90 days, or both.

The provisions of this act shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.), and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of this act:

a. The several municipal courts shall have jurisdiction of any such proceeding, in addition to the courts prescribed in "the penalty enforcement law";

b. The complaint in any such proceeding may be made on information and belief by the director, or the police or peace officer of any municipality, any county or the State;

c. A warrant may issue in lieu of summons;

d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;

e. The hearing in any such proceeding shall be without a jury;

f. Any such proceeding may be brought in the name of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety or in the name of the State of New Jersey;

g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the Director of the Division of Motor Vehicles and shall be paid by him into the State treasury;

h. The director or judge before whom any hearing under this act is had may revoke the license of any person to drive a motor vehicle or the registration certificate of any motor vehicle owned by any person, when such person shall have been guilty of such willful violation of any of the provisions of this act as shall in the discretion of the director or judge justify such revocation.

26. R. S. 39:8–1 is amended to read as follows:

Motor vehicle inspection.

39:8–1. The director shall require every motor vehicle registered in this State which is used over the highways of this State, except vehicles and traction equipment registered pursuant to R. S. 39:3–24 and historic motor vehicles registered as such, to have such motor vehicles inspected by designated examiners or at official inspection stations to be designated by the director. The director shall have the discretion to determine what motor vehicle equipment shall be subject to inspection under the provisions of this chapter.

27. R. S. 39:8–6 is amended to read as follows:

Display of certificate.

39:8–6. During the period designated by the director, any police officer who shall exhibit his badge or other sign of authority may stop any motor vehicle and require the owner or operator to display an official certificate of approval for the motor vehicle being operated.

28. R. S. 39:8–9 is amended to read as follows:

Inspection violations.

39:8–9. The enforcement of this chapter shall be vested in the director and the police or peace officers of any municipality, any county or the State.

Any person who refuses to have his motor vehicle examined, or, after having had it examined, refuses to place a certificate of approval, if issued, upon his windshield, or who fraudulently obtains a certificate of approval, or who refuses to place his motor vehicle in proper condition after having had the same examined, or who, in any manner, fails to conform to the provisions of this chapter shall be guilty of violating the provisions of this chapter, and shall, for a first offense, be subject to a fine of not more than $100.00, and, for a second offense, to a fine of not more than $200.00 or by imprisonment for not less than 30 days, or both such fine and imprisonment.

The provisions of this chapter shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.), and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of this chapter:

a. The several municipal courts shall have jurisdiction of such proceeding, in addition to the courts prescribed in "the penalty enforcement law";

b. The complaint in any such proceeding may be made on information and belief by the director, or any police or peace officer of any municipality, any county or the State;

c. A warrant may issue in lieu of summons;

d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;

e. The hearing in any such proceeding shall be without a jury;

f. Any such proceeding may be brought in the name of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety or in the name of the State of New Jersey;

g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the Director of the Division of Motor Vehicles and shall be paid by him into the State treasury;

h. The director or judge before whom any hearing under this chapter is had may revoke the registration certificate of any motor vehicle owned by any person, when such person shall have been

guilty of such willful violation of any of the provisions of this chapter as shall in the discretion of the director or judge justify such revocation.

29. R. S. 39:9–4 is amended to read as follows:

Summary proceeding.

39:9–4. Any person violating any provision of this chapter shall, upon summary conviction by a court of competent jurisdiction, be sentenced to pay a fine of $25.00 for the first offense and, in default of payment thereof, shall undergo imprisonment for not more than five days; and for each subsequent violation shall be sentenced to pay a fine of $50.00 and, in default of such payment, shall undergo imprisonment for not more than 10 days.

The provisions of this chapter shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.), and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of this chapter:

a. The several municipal courts shall have jurisdiction of such proceeding, in addition to the courts prescribed in "the penalty enforcement law";

b. The complaint in any such proceeding may be made on information and belief by the director or any police or peace officer of any municipality, any county or the State;

c. A warrant may issue in lieu of summons;

d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;

e. The hearing in any such proceeding shall be without a jury;

f. Any such proceeding may be brought in the name of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety or in the name of the State of New Jersey;

g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the Director of the Division of Motor Vehicles and shall be paid by him into the State treasury;

h. The director or judge before whom any hearing under this chapter is had may revoke the license of any person to drive a motor vehicle or the registration certificate of any motor vehicle owned by any person, when such person shall have been guilty of such willful violation of any of the provisions of this chapter as

shall in the discretion of the director or judge justify such revocation.

30. R. S. 39:10–6 is amended to read as follows:

Ownership, registration certificates.

39:10–6. Every person shall have for each motor vehicle in his possession in this State: (a) certificate of ownership therefor in conformity with this chapter, and (b) the registration certificate for the motor vehicle, if it is registered by the director and a registration certificate has been issued therefor. He shall produce either the certificate of ownership or registration certificate, upon demand for production of certificate of ownership by the director. If he fails to do so, the director may seize and take possession of the motor vehicle and hold and dispose of it in accordance with R. S. 39:10–21.

If a motor vehicle is registered in or bears the registration plates of another state or country and is being used or operated in this State, the person in possession of it or using or operating it in this State must be entitled to ownership or possession in accordance with the laws of the state or country where it is registered or the registration plates of which it bears, and shall produce to the director documents showing title to, or right of possession in, the motor vehicle in that person or in the person who has authorized him to use and operate it, or registration certificate or other evidence of registration, besides plates, issued by the state or country or department thereof to that person, or to the person who has authorized him to use and operate the motor vehicle, evidencing the registration of the motor vehicle in that state or country.

When a motor vehicle is in the possession of a garage keeper, motor vehicle dealer, both new and used, or motor vehicle service station in this State, the production of a writing signed by the person delivering possession of the motor vehicle to the garage keeper, dealer or service station, stating that the person is the owner or entitled to the possession of the motor vehicle and has title papers or the registration certificate therefor, shall be deemed a compliance with this section insofar as the garage keeper, dealer and service station are concerned.

31. R. S. 39:10–16 is amended to read as follows:

Correction of defects; out-of-State purchases.

39:10–16. If the title papers or certificate of ownership are defective or improper, or if the motor vehicle was purchased and

its sale consummated in another state or country, in accordance with the laws of such state or country regulating the sale of motor vehicles, and not made for the purpose of evading the provisions of this chapter, the bona fide owner of the motor vehicle may apply to the director to correct the defects, or permit the title papers to be received.

The director shall, upon such proof as he requires showing that it is just and equitable that the defects be corrected or that the title papers or certificate of ownership be received, with or without hearing, determine the truth and merits of the application and whether the holder appears to be the bona fide owner of the motor vehicle, and may issue his certificate correcting the defects or permitting the title papers or certificate of ownership to be so recorded and filed. The person submitting the papers shall pay to the director a fee of $10.00 for the issuing and filing of the certificate.

Before issuing the certificate the director may, in his discretion, require the person to advertise in a newspaper having a general circulation in the county where he resides, for the space of two weeks, at least once a week, making three insertions in all, a notice briefly stating that the person has applied to the director to correct defects in the motor vehicle title papers or to receive the title papers out of time, or, as the case may be, giving a description of the motor vehicle as provided in R. S. 39:10–8, and that if anyone desires to be heard in opposition thereto, he may do so by appearing before the director on a date and at a place named, or communicating with him prior thereto. He shall also serve like notice on local police, State Police and any other person or agency, as prescribed by the director, personally or by registered mail. Proofs of the publication and service shall be submitted to the director. The director or his agent may have the notice advertised or served at the cost and expense of that person.

32. R. S. 39:10–21 is amended to read as follows:

Dealer's documents.

39:10–21. All dealers for both new and used motor vehicles in this State shall have a certificate of origin, certificate of ownership, or writing provided in R. S. 39:10–6 for all motor vehicles in their possession. The director, either personally or by his agent, may demand production of, and examine, the certificate of origin, certificate of ownership, or writing provided in R. S. 39:10–6 for any

motor vehicle in a dealer's possession, and examine and inspect any motor vehicle in his possession.

If the demand is not complied with, or there is no certificate of origin, certificate of ownership or writing provided in R. S. 39:10–6 for a motor vehicle in the possession of a dealer, or if it is not in conformity with this chapter, the director or his agent may seize and take possession of the motor vehicle, and hold it until the certificate of origin, certificate of ownership or writing provided in R. S. 39:10–6 is produced or is corrected, if defective, or ownership of the motor vehicle is established according to law. After the expiration of 90 days from the date the motor vehicle came into his possession, the director may sell it at public sale, upon at least 10 days' written notice of sale to the dealer, served personally or by registered mail, addressed to the dealer at his last known place of business, and notice of the sale being published for a space of two weeks, once a week, making three insertions in all, in one or more newspapers published and circulating in the county where the dealer has his established place of business and also by posting the notice in five public places in the county. The newspapers and places of posting shall be designated by the director. Upon the sale of the motor vehicle, all valid liens and claims for interest therein, if any, shall be transferred from the vehicle to the proceeds of sale, which, subject thereto, shall become the sole property of the State, to be used as other moneys received by the director.

33. R. S. 39:10–22 is amended to read as follows:

Forms; seizure of documents.

39:10–22. The director may prepare and prescribe any or all forms necessary for the proper administration of this chapter. The director or his agent may seize and take possession of any certificate of ownership or other title papers to which the director may be entitled, for which a person is under duty to return to the director, from any person or place in this State, with all the rights, privileges and immunities conferred by law on an officer executing a writ of replevin.

34. R. S. 39:11–11 is amended to read as follows:

Fine, imprisonment.

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

The provisions of said sections shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.), and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of said sections:

a. The several municipal courts shall have jurisdiction of any such proceeding, in addition to the courts prescribed in "the penalty enforcement law";

b. The complaint in any such proceeding may be made on information and belief by the director, or any police or peace officer of any municipality, any county or the State;

c. A warrant may issue in lieu of summons;

d. Any police or peace officer shall be empowered to serve and execute process in any such proceeding;

e. The hearing in any such proceeding shall be without a jury;

f. Any such proceeding may be brought in the name of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety or in the name of the State of New Jersey;

g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the Director of the Division of Motor Vehicles and shall be paid by him into the State treasury;

h. The director or judge before whom any hearing under said sections is had may revoke the license of any person to maintain a motor vehicle junk yard when such person shall have been guilty of such willful violation of any of the said provisions as shall in the discretion of the director or judge justify such revocation.

35. Section 13 of P. L. 1951, c. 216 (C. 39:12–13) is amended to read as follows:

C. 39:12-13 "Penalty enforcement law" applicable.

13. The provisions of this act shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.), and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of this act:

a. The several municipal courts shall have jurisdiction of such proceeding, in addition to the courts prescribed in said act;

b. The complaint in such proceeding may be made on information and belief by any member of the State Police, who hereby is designated for said purpose;

c. A warrant may issue in lieu of summons in such proceeding;

d. Any member of the State Police shall be empowered to serve and execute process in such proceeding;

e. The hearing in such proceeding shall be without a jury;

f. Such proceeding may be brought in the name of the Director of the Division of Motor Vehicles in the Department of Law and Public Safety or in the name of the State of New Jersey;

g. Any sums received in payment of any fines imposed in such proceeding shall be paid to the Director of the Division of Motor Vehicles and shall be paid by him into the State treasury.

36. R. S. 53:1–8.1 is amended to read as follows:

State Police membership.

53:1–8.1. Except as provided in section 3 of P. L. 1983, c. 403 (C. 39:2–9.3), any member of the Division of State Police who has or shall hereafter serve continuously as such member for a period of five years shall thereafter continue in such membership during good behavior.

The term "member" as used in this section shall be taken to mean and include all officers and men of the State Police except the superintendent, whose term is fixed by law.

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

C. 53:5A-5 Retirement system.

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 certifies 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).

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

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

C. 53:5A-6 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; Assisant 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. 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 reenrolled 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 one-half the normal contribution to the retirement system, over a maximum period of 10 years. In order to give 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 one-half 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, 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, 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.

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

C. 53:5A-8 Retirement allowance.

8. a. Any member of the retirement system who was a member of the former "State Police Retirement and Benevolent Fund" on June 30, 1965, may retire on a service retirement allowance upon the attainment of age 50 years and the completion of at least 20 years of creditable service as a State policeman. 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, plus 1% of his final compensation multiplied by his number of years of creditable service which exceed 25 years of such service.

Except for the Superintendent of State Police, any member of the retirement system who was a member of the former "State Police Retirement and Benevolent Fund" on June 30, 1965, who has completed at least 25 years of creditable service and who has reached the age of 55 years, shall be retired forthwith on the first day of the next calendar month; provided, however, any member who has not completed 25 years of creditable service shall not be required to retire on account of age until he has met the service requirement.

b. 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), who was not a member of the former "State Police Retirement and Benevolent Fund" on June 30, 1965, who has attained the age of 55 years, shall be retired forthwith on the first day of the next calendar month; provided, however, such member, at his option, may continue in the employment of the Division of State Police until he has completed 25 years of creditable service, whereupon he shall be retired forthwith on the first day of the next calendar month. Any such member, including the superintendent, having attained at least the age of 55 years and retiring for service hereunder 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 2% of his final compensation multiplied by his number of years of creditable service up to 25, plus 1% of his final compensation multiplied by his number of years of creditable service over 25.

c. 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.

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

C. 53:5A-9 Disability retirement.

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), 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 1½% 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. 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.

41. 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, noncom-

missioned 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), 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 60% of his final compensation, plus 1% of his final compensation multiplied by the number of years of creditable service over 25, but not over 35. 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. 39:2-9.5 Transfers from other systems.

42. (New section) The Boards of Trustees of the Police and Firemen's Retirement System and the Public Employees' Retirement System shall cause to be made any transfer of pension contributions and reserves to the State Police Retirement System of New Jersey necessary to implement the provisions of this act.

C. 39:2-9.6 Retention of rights.

43. (New section) Except as otherwise provided in this act, nothing in this act shall be construed to deprive a person of tenure rights or of a right or protection under the laws concerning Civil Service, pension or retirement.

C. 39:2-9.7 Agency transfer act applicable.

44. (New section) All of the provisions of this act, except as otherwise provided herein, shall be carried out in accordance with the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D–1 et seq.).

Repealer.

45. The following are repealed:

R. S. 39:2–6 to R. S. 39:2–9, inclusive;
P. L. 1962, c. 111 (C. 39:2–6.1);
P. L. 1950, c. 201 (C. 39:2–7.1).

46. This act shall take effect immediately.

Approved December 23, 1983.

CHAPTER 404

AN ACT concerning juveniles and amending P. L. 1982, c. 77.

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

1. Section 4 of P. L. 1982, c. 77 (C. 2A:4A–23) is amended to read as follows:

C. 2A:4A-23 Definition of delinquency.

4. Definition of delinquency. As used in this act, "delinquency" means the commission of an act by a juvenile which if committed by an adult would constitute:

a. A crime;

b. A disorderly persons offense or petty disorderly persons offense; or

c. A violation of any other penal statute, ordinance or regulation.

But, the commission of (1) an act which constitutes a violation of chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of or over the age of 17 years; (2) an act relating to the ownership or operation of a motorized bicycle which constitutes a violation of chapter 3 or 4 of Title 39 of the Revised Statutes by a juvenile of any age; or (3) an act which constitutes a violation of article 3 or 6 of chapter 4 of Title 39 of the Revised Statutes pertaining to pedestrians and bicycles, by a juvenile of any age shall not constitute delinquency as defined in this act.

2. This act shall take effect immediately.

Approved December 30, 1983.

CHAPTER 405

AN ACT to abolish the juvenile and domestic relations courts or family court and county district courts, authorizing establishment of a family part in the Superior Court, transferring the judges of the former courts to the Superior Court, amending N. J. S. 2A:2–1 and repealing P. L. 1982, c. 78.

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

C. 2A:4-3a Abolished courts.

1. (New section) The juvenile and domestic relations courts or family court and county district courts are abolished, except as specified by sections 6 and 7 of this act.

C. 2A:4-3b Judges transferred.

2. (New section) All judges authorized to sit on the juvenile and domestic relations courts or family court and the county district courts as of the effective date of this act shall be transferred to and become judges of the Superior Court. All the functions, powers, and duties conferred by statute or otherwise upon the judges of these courts shall be transferred to and may be exercised by judges of the Superior Court.

C. 2A:4-3c Transfer to Superior Court.

3. (New section) The jurisdiction, functions, powers and duties of the county district courts and juvenile and domestic relations courts or family court and the causes pending therein, and their files, shall be transferred to the Superior Court except as specified by sections 6 and 7 of this act.

C. 2A:4-3d Statutory references.

4. (New section) Whenever any reference is made in any statute to the juvenile and domestic relations court or family court or county district court, or a judge thereof, it shall be given effect as though the reference were to the Superior Court or a judge thereof, except that whenever any statute confers authority upon a juvenile and domestic relations court, or family court, or county district court, or a judge thereof, to make any appointment or to fill any public position, office, or other public place, it shall be given effect as though the reference were to the assignment judge of the Superior Court assigned to that county. The assignment judge may delegate such authority as provided by court rule.

C. 2A:2-20 Family part jurisdiction.

5. (New section) a. Jurisdiction of the family part of the Superior Court shall include but not be limited to all cases formerly heard by the juvenile and domestic relations courts. In those cases within the jurisdiction of the family part where it is charged that a juvenile has committed an act of delinquency or in all matters relating to juvenile-family in crisis cases, as defined by section 3 of P. L. 1982, c. 77 (C. 2A:4A–22).

b. There shall be established in each county a court intake service, which shall have among its responsibilities the screening of juvenile delinquency complaints and juvenile-family crisis referrals. The intake service shall operate in compliance with standards established by the Supreme Court, but in no instance shall the standards for personnel employed as counselors hired after the effective date of this act be less than a master's degree from an accredited institution in a mental health or social or behavioral science discipline including degrees in social work, counseling, counseling psychology, mental health counseling or education. Equivalent experience is acceptable when it consists of a minimum of an associate's degree with a concentration in one of the behavioral sciences and a minimum of five years' experience working with troubled youth and their families or a bachelor's degree in one of the behavioral sciences and two years' experience working with the troubled youth and their families. Intake personnel should also receive training in drug and alcohol abuse.

C. 2A:4-3e Statutes to remain in effect.

6. (New section) The following statutes for the juvenile and domestic relations courts shall remain in effect until otherwise provided by law: N. J. S. 2A:4–10 as to appointment and salaries of clerks and other necessary employees authorized by the governing body of the county; N. J. S. 2A:4–11 as to probation officers of the court; and N. J. S. 2A:4–41 as to expenses, provided that references to the statutes in this section shall be given effect in accordance with section 4 of this act. All actions formerly cognizable in the juvenile and domestic relations courts shall be deemed to be Superior Court actions, however, there shall be no filing fee imposed in these actions.

C. 2A:6-1a County district court statutes.

7. (New section) The following statutes for the county district courts shall remain in effect until otherwise provided by law: N. J. S. 2A:6–23 as to appointment of clerical assistants for the clerk of the court; N. J. S. 2A:6–25 as to appointment of sergeants-

at-arms; N. J. S. 2A:6–15 as to ministerial officers of courts; N. J. S. 2A:6–16 as to clerks and deputy clerks; N. J. S. 2A:6–26 as to salary or compensation of clerks, deputy clerks, clerical assistants, and personnel other than judges; N. J. S. 2A:6–29 as to fees to sergeants-at-arms; N. J. S. 2A:6–31 as to suitable quarters, furnishings, and equipment for the court; N. J. S. 2A:6–37 as to concurrent criminal jurisdiction with the municipal courts; N. J. S. 2A:6–39 as to fines and penalties for violations of municipal ordinances; N. J. S. 2A:18–5 as to service of process; N. J. S. 22A:2–37 as to fees collected by the clerk of the court; N. J. S. 2A:18–65 as to fees in small claims matters; and N. J. S. 22A:2–38 as to fees paid to constables or sergeants-at-arms; N. J. S. 22A:2–42 as to attorney's or counsel's fees, except that references to the foregoing statutes in this section shall be given effect in accordance with section 4 of this act, and references in these statutes to "county district court" shall be given effect as though reference were to "actions for amounts in dispute of less than $5,000.00 exclusive of costs, or actions for summary dispossess." Nothing in this act shall change the execution and effect of judgments, and payment therefor, where the amount in controversy is less than $5,000.00 exclusive of costs, or where the action is a summary proceeding for recovery of premises. All fees collected pursuant to N. J. S. 22A:2–37 and N. J. S. 2A:18–65 shall be payable to the county in which the action is filed.

8. N. J. S. 2A:2–1 is amended to read as follows:

Superior Court judges.

2A:2–1. a. The Superior Court shall consist of not less than 322 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	6
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	26
Gloucester	8
Hudson	14

Hunterdon	2
Mercer	8
Middlesex	16
Monmouth	12
Morris	11
Ocean	8
Passaic	14
Salem	2
Somerset	5
Sussex	3
Union	14
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

C. 2A:2-1.1 Nominations.

9. (New section) Each nomination to the Superior Court after the effective date of this act shall specifically indicate the name of the former judge whose vacancy the nomination is filling and if the judgeship must be filled by a resident of a specific county.

C. 2A:2-1.2 List to Legislature.

10. (New section) Not more than 10 days after the enactment of this act, the Administrative Office of the Courts shall provide the Legislature with a list of the names of those Superior Court judges fulfilling the county residency and assignment requirements set forth in N. J. S. 2A:2–1b. Thereafter, the Administrative Office of the Courts shall notify the Legislature as vacancies occur.

C. 2A:2-1.3 County responsibility for salary.

11. (New section) a. Each county shall be responsible for 50% of the cost of the salary of the judges of the juvenile and domestic relations courts or family court and county district courts transferred pursuant to this act until December 31, 1984.

b. In any county where the required number of judges set forth in N. J. S. 2A:2–1b. is increased after December 31, 1983 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 100% of the cost of any such position in the first year following the date of increase; 75% in the second year; 50% in the third year; 25% in

the fourth year; and in the fifth year, the State shall be responsible for the entire cost.

Repealer.

12. P. L. 1982, c. 78 (C. 2A:4–3.1 et al.) is repealed.

13. This act shall take effect December 31, 1983.

Approved December 30, 1983.

CHAPTER 406

AN ACT to amend the "Casino Control Act," approved June 2, 1977 (P. L. 1977, c. 110).

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

1. Section 59 of P. L. 1977, c. 110 (C. 5:12–59) is amended to read as follows:

C. 5:12-59 Employment restrictions on commissioners, commission employees and division employees.

59. Employment Restrictions on Commissioners, Commission Employees and Division Employees. a. The "New Jersey Conflicts of Interest Law" (P. L. 1971, c. 182; C. 52:13D–12 et seq.) shall apply to members of the commission and to all employees of the commission and the division, except as herein specifically provided.

b. The commission shall, no later than January 1, 1981, promulgate a Code of Ethics that is modeled upon the Code of Judicial Conduct of the American Bar Association, as amended and adopted by the Supreme Court of New Jersey. This Code of Ethics shall include, but not be limited to, provisions that address the propriety of relationships and dealings between the commission and its staff, and licensees and applicants for licensure under this act.

c. The division shall promulgate a Code of Ethics governing its specific needs.

d. The Codes of Ethics promulgated by the commission and the division shall not be in conflict with the laws of this State, except, however, that said Codes of Ethics may be more restrictive than any law of this State.

e. The Codes of Ethics promulgated by the commission and the division shall be submitted to the Executive Commission on Ethical

Standards for approval. The Codes of Ethics shall include, but not be limited to provisions that:

(1) No commission member or employee or division employee or agent shall be permitted to gamble in any establishment licensed by the commission except in the course of his duties.

(2) No commission member or employee or division employee or agent shall solicit or accept employment from any person licensed by or registered with the commission or from any applicant for a period of four years after termination of service with the commission or division, unless subject to section 60 of this act.

(3) No commission member or employee or any division employee or agent shall act in his official capacity in any matter wherein he or his spouse, child, parent or sibling has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(4) No commission employee or any division employee or agent shall act in his official capacity in a matter concerning an applicant for licensure or a licensee who is the employer of a spouse, child, parent or sibling of said commission or division employee or agent when the fact of the employment of such spouse, child, parent or sibling might reasonably be expected to impair the objectivity and independence of judgment of said commission employee or division employee or agent.

(5) No spouse, child, parent or sibling of a commission member shall be employed in any capacity by an applicant for a casino license or a casino licensee nor by any holding, intermediary or subsidiary company thereof.

(6) No commission member shall meet with any person, except for any other member of the commission or employee of the commission, or discuss with any issues involving any pending or proposed application or any matter whatsoever which may reasonably be expected to come before the commission, or any member thereof, for determination unless the meeting or discussion takes place on the business premises of the commission, provided, however, that commission members may meet to consider matters requiring the physical inspection of equipment or premises at the location of the equipment or premises. All meetings or discussions subject to this paragraph shall be noted in a log maintained for this purpose and available for inspection pursuant to the provisions of P. L. 1963, c. 73 (C. 47:1A–1 et seq.).

f. No commission member or employee or division employee or agent shall have any interest, direct or indirect, in any applicant or in any person licensed by or registered with the commission during his term of office or employment.

g. Each commission member and employee of the commission, including legal counsel, and each employee and agent of the division shall devote his entire time and attention to his duties and shall not pursue any other business or occupation or other gainful employment; provided, however, that secretarial and clerical personnel may engage in such other gainful employment as shall not interfere with their duties to the commission or division, unless otherwise directed; and provided further, however, that other employees of the commission and division and agents of the division may engage in such other gainful employment as shall not interfere or be in conflict with their duties to the commission or division, upon approval by the commission or the director of the division, as the case may be.

h. No member of the commission, employee of the commission, or employee or agent of the division shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise any person to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Take any active part in political campaigns or the management thereof; provided, however, that nothing herein shall prohibit a person from voting as he chooses or from expressing his personal opinions on political subjects and candidates.

i. For the purpose of applying the provisions of the "New Jersey Conflicts of Interest Law," any consultant or other person under contract for services to the commission shall be deemed to be a special State employee. Such person and any corporation, firm or partnership in which he has an interest or by which he is employed shall not represent any person or party other than the commission before the commission.

2. This act shall take effect immediately.

Approved January 3, 1984.

CHAPTER 407

AN ACT authorizing the sale of surplus real property owned by the Department of Human Services.

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 all of the State's interest in 1.07 acres of surplus real property located in the town of Westfield, Union county. The property is designated as Block 610, Part of Lot 1, on the town of Westfield tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved January 3, 1984.

CHAPTER 408

AN ACT concerning the administration of the oaths of office and allegiance and amending R. S. 41:2–10.

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

1. R. S. 41:2–10 is amended to read as follows:

Oaths of office.

41:2–10. The Chief Justice of the Supreme Court, any associate justice thereof, any judge of the Superior Court or judge of the tax court may administer the oaths of office and of allegiance to any person appointed to the office of Clerk of the Supreme Court, Clerk of the Superior Court, Secretary of State or Attorney General or to any other office as to which no other provision is made by law.

2. This act shall take effect immediately.

Approved January 3, 1984.

CHAPTER 409

AN ACT concerning fraternal benefit societies and amending P. L. 1959, c. 167

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

1. Section 17 of P. L. 1959, c. 167 (C. 17:44A–17) is amended to read as follows:

C. 17:44A-17 Nonforfeiture benefits, cash surrender values, certificate loans and other options.

17. Nonforfeiture benefits, cash surrender values, certificate loans and other options. A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued one year from the effective date of this act and thereafter, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of reducing term insurance contracts or contracts of term insurance of uniform amount of 15 years or less expiring before age 66.

In the case of certificates other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1958 Standard Ordinary Mortality Table, the 1941 Standard Industrial Table, or any more recent table made applicable to life insurance companies pursuant to Title 17B of the New Jersey Statutes, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of (a) over (b) as follows:

(a) The reserve under the certificate determined on the basis specified in the certificate; and

(b) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to 2½% of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

However, in the case of certificates issued on a substandard basis or in the case of certificates the reserves for which are computed upon the American Men Ultimate Table of Mortality,

the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than 130% of those shown by the mortality table specified in the certificate for the computation of the reserve.

In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1958 Standard Ordinary Mortality Table, the 1941 Standard Industrial Table, or any more recent table made applicable to life insurance companies pursuant to Title 17B of the New Jersey Statutes, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this State applicable to life insurers issuing policies containing life insurance benefits based on these tables. All values referred to above may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall not be less than the dividends used to provide such additions. Additional benefits payable (1) in the event of death or dismemberment by accident or accidental means, (2) in the event of total and permanent disability, (3) as reversionary annuity or deferred reversionary annuity benefits, (4) as reducing term insurance benefits provided by a rider or supplemental policy provision, and (5) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender and nonforfeiture benefits as described above and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits. Notwithstanding any other provisions of this section, additional benefits providing the privilege to purchase additional insurance at some future time without furnishing evidence of insurability, and premiums therefor, may, with the consent of the commissioner, be disregarded in ascertaining cash surrender values and nonforfeiture benefits as described in this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

In the case of annuity contracts issued after the effective date of this act, every annuity contract shall be subject to the requirements of N. J. S. 17B:25–19, as it applies to annuity contracts.

2. Section 34 of P. L. 1959, c. 167 (C. 17:44A–34) is amended to read as follows:

C. 17:44A-34 Reports and valuations.

34. Reports and valuations. Reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

(1) Every society transacting business in this State shall annually, on or before March 1, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of $20.00 for filing same. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(2) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

(3) As a part of the annual statement herein required, each society shall, on or before March 1, file with the commissioner a valuation of its certificates in force on December 31 last preceding; provided, the commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this act shall be determined in accordance with the provisions of law applicable prior to the effective date of this act and as to certificates issued one year from the effective date of this act and thereafter, shall not be less than the reserves determined according to the Commissioners' Reserve Valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, the minimum reserve required shall be determined in accordance

with the provisions of subsection e. of N. J. S. 17B:19-8. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

(4) Reserves according to the Commissioners' Reserve Valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of (a) over (b) as follows:

(a) a net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate; and

(b) a net one-year term premium for such benefits provided for in the first certificate year.

Reserves according to the Commissioners' Reserve Valuation method for (1) life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, (2) annuity and pure endowment benefits, (3) disability and accidental death benefits in all certificates and contracts, and (4) all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of this subsection.

(5) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in the following subsection.

(6) Such valuation and underlying data shall be certified by a competent actuary, or at the expense of the society, verified by the actuary of the Department of Insurance of the state of domicile

of the society, if such department consents to undertake the valuation.

The minimum standards of valuation for certificates issued prior to one year from the effective date of this act shall be for adult certificates the "National Fraternal Congress Table of Mortality" and 4% interest and for certificates on the lives of children the "Standard Industrial Mortality Table" or the "English Life Table Number 6" and 4% interest, but the minimum standards shall not be lower than the standards used in the calculating of rates for such certificates.

The minimum standard of valuation for certificates issued one year from the effective date of this act and thereafter, shall be 3½% interest or, at the discretion of the commissioner, any higher rate of interest permitted for life insurance companies pursuant to Title 17B of the New Jersey Statutes, and the following tables:

(a) for certificates of life insurance— American Men Ultimate Table of Mortality, with Bowerman's or Davis's Extension thereof or, with the consent of the commissioner, the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1958 Standard Ordinary Mortality Table or the Commissioners 1941 Standard Industrial Table of Mortality, provided that for any category of such certificates issued on female risks modified net premiums and present values, referred to in this section, may be calculated at the option of the society with approval of the commissioner, according to an age not more than six years younger than the actual age of the insured;

(b) for annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates and including life annuities provided or available under optional modes of settlement in any certificates—the 1937 Standard Annuity Table or the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner;

(c) for total and permanent disability benefits in or supplementary to life insurance certificates—Hunter's Disability Table, except that either the Class III Disability Table (1926) modified to conform to the contractual waiting period or the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries with due regard to the type of benefit shall be used in computing reserves for disability benefits under a contract which presumes that total disability shall be considered to be permanent after a specified period. Any such table shall, for active lives, be combined with a

mortality table permitted for calculating the reserves for life insurance certificates;

(d) for accidental death benefits in or supplementary to life insurance certificates—the Inter-Company Double Indemnity Mortality Table or the 1959 Accidental Death Benefits Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates;

(e) for noncancelable accident and health benefits—the Class III Disability Table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society's own experience; and

(f) for paid-up term insurance and accompanying pure endowment, the table of mortality based on the rates of mortality assumed in calculating the paid-up nonforfeiture benefit.

Provided, however, that any society may value its certificates in accordance with mortality and morbidity tables authorized by the laws of this State for the valuation of policies issued by life insurance companies.

The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra-hazardous lives by any society authorized to do business in this State. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

Any society, with the consent of the commissioner of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

(7) A society neglecting to file the annual statement in the form and within the time provided by this section shall be penalized $100.00 for each day during which neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this State shall cease while such default continues.

3. This act shall take effect immediately.

Approved January 3, 1984.

CHAPTER 410

AN ACT concerning penalties for the violation of municipal ordinances, and amending R. S. 40:49–5 and P. L. 1950, c. 210.

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

1. R. S. 40:49–5 is amended to read as follows:

Ordinance penalties.

40:49–5. The governing body may prescribe penalties for the violation of ordinances it may have authority to pass, either by imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days, or by a fine not exceeding $1,000.00, or both. The governing body may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding $100.00. The court before which any person is convicted of violating any ordinance of a municipality shall have power to impose any fine or term of imprisonment not less than the minimum and not exceeding the maximum fixed in such ordinance.

Any person convicted of the violation of any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefor, be imprisoned in the county jail or place of detention provided by the municipality, for any term not exceeding 90 days.

2. Section 2–4 of P. L. 1950, c. 210 (C. 40:69A–29) is amended to read as follows:

C. 40:69A-29 Powers of municipality.

2–4. Each municipality governed by an optional form of government pursuant to this act shall, subject to the provisions of this act or other general laws, have full power to:

(a) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their terms, tenure and compensation;

(b) Adopt and enforce local police ordinances of all kinds and impose penalties of fines not exceeding $1,000.00 or imprisonment for any term not exceeding 90 days or both for the violation

thereof; prescribe that for the violation of particular ordinances at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding $100.00; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(c) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(d) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law.

3. This act shall take effect immediately.

Approved January 4, 1984.

CHAPTER 411

AN ACT making persons convicted of offenses involving theft or unlawful taking of motor vehicles liable to the owners of the motor vehicles for expenses incurred in recovering the vehicles and for damages to them and supplementing Title 2C of the New Jersey Statutes.

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

C. 2C:43-2.1 Restitution for expenses, damages.

1. A person who is convicted of an offense involving the theft or unlawful taking of a motor vehicle, in addition to any other fine, penalty, or restitution which may be imposed by law, is liable to the owner of the motor vehicle for any reasonable and necessary expense incurred by the owner in recovering the motor vehicle and for any damage to the motor vehicle prior to its recovery by the owner. In the sentencing proceedings on the offense, the owner may submit evidence of expenses incurred and damages sustained. The court shall make a finding of the amount of ex-

penses incurred and damages sustained, and if the record does not contain sufficient evidence to support such a finding, the court may conduct a hearing upon the issue. The court shall order the person convicted of the offense to make restitution to the owner in the amount of the expenses and damages found by the court. The court shall file a copy of the order with the clerk of the Superior Court who shall enter upon his record of docketed judgments the name of the convicted person as judgment debtor, and of the owner as judgment creditor, a statement that the restitution is ordered under this section, the amount of the restitution, and the date of the order. This entry shall have the same force as a judgment docketed in the Superior Court.

2. This act shall take effect immediately.

Approved January 4, 1984.

CHAPTER 412

AN ACT concerning the enforcement of the orders of the Director of the Division of Civil Rights, the imposition of penalties and amending and supplementing P. L. 1945, c. 169.

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

1. Section 18 of P. L. 1945, c. 169 (C. 10:5–19) is amended to read as follows:

C. 10:5-19 Enforcement of Civil Rights orders.

18. Observance of an order of the director issued pursuant to the provisions of this act including collection or enforcement of damages or penalties may be enforced by a summary civil action brought by the director in the Superior Court to obtain such relief as may be necessary to effectuate the terms of said order.

C. 10:5-14.1a Penalties.

2. (New section) Any person who violates any of the provisions of the "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5–1 et seq.), shall, in addition to any other relief or affirmative action provided by law, be liable to a penalty of not more than $2,000.00 for the first offense and not more than $5,000.00 for the second and each subsequent offense. The penalties shall be determined by the

director in such amounts as he deems proper under the circumstances and included in his order following his finding of an unlawful discrimination or an unlawful employment practice pursuant to section 16 of P. L. 1945, c. 169 (C. 10:5–17). Any such amounts collected by the director shall be paid forthwith into the State Treasury for the general purposes of the State.

3. This act shall take effect immediately.

Approved January 4, 1984.

CHAPTER 413

AN ACT concerning the eligibility of certain firemen for exempt fireman certificates and amending N. J. S. 40A:14–56.

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

1. N. J. S. 40A:14–56 is amended to read as follows:

Exempt fireman certificate.

40A:14–56. Any member of the fire department and force of a municipality shall be entitled to an exempt fireman certificate when it appears that at the time of his appointment he was a resident of the municipality, a citizen of the United States, of good moral character and was not under 18 or over 40 years of age and that he had performed during a period of seven years, 60% of fire duty in each year, respectively. Any member who otherwise would be eligible for an exempt fireman certificate, but who, as the result of an injury or injuries incurred out of or in the course of fire duty, is permanently unable to fulfill the seven year performance requirement set forth in this section, shall be entitled to an exempt fireman certificate if, at the time he incurred the injury or injuries, the member had performed during a period of five years, 60% of fire duty in each year, respectively. In cases where the appointment was made during the war years the age limit shall be extended 10 years. Service in the United States Armed Forces during said war years shall be considered as fire duty service.

Service in more than one municipal fire department, for separate periods not concurrent, amounting in the aggregate to seven years, shall be deemed equivalent to seven years' service in a single

municipal fire department and any fireman so serving shall be entitled to an exempt fireman certificate from the department and force in the municipality wherein he is serving at the time when he becomes entitled to said certificate. The prior service shall be certified by the chief executive officer of the municipality or municipalities wherein said member served and attested by the municipal clerk or clerks.

2. This act shall take effect immediately and shall be retroactive to January 1, 1981.

Approved January 4, 1984.

CHAPTER 414

AN ACT appropriating funds from the Public Purpose Buildings Construction Fund for the construction of institutional facilities.

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

1. There is appropriated to the Department of Human Services from the "Public Purpose Buildings Construction Fund" created by the "New Jersey Public Purpose Building Construction Bond Act of 1980" (P. L. 1980, c. 119), the sum of $6,300,000.00 for the following construction project:

Division of Veterans' Programs and Special Services.

Construction of new long-term care facilities for disabled veterans . . . $6,300,000.00.

2. There is also appropriated from the proceeds of the sale of the above-mentioned bonds those items as may be necessary to meet any expense incurred by the issuing officials under P. L. 1980, c. 119 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. The State Treasurer and the Department of Human Services may enter into agreements with the federal government in order to secure and receive available financial grants which are related in purpose to the above appropriation made in this act. The State Treasurer shall establish and maintain separate accounts in the

"Public Purpose Buildings Construction Fund" for funds appropriated under this act and for financial grants received from the federal government. The Department of Human Services may requisition funds so established and maintained for the use and purpose specifically enumerated under this act, subject to the same restrictions and control as are exercised over all other appropriated State funds and subject to the provisions of P. L. 1980, c. 119.

4. 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 correction 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.

5. The Director of the Division of Budget and Accounting may approve expenditures for pre-design program planning and other related costs for capital projects authorized under this act.

6. 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 of appropriation to any other item of appropriation within the respective department accounts. The transfer shall be made upon the written approval of the director and of the Legislative Budget Officer in the Office of Legislative Services.

7. This act shall take effect immediately.

Approved January 4, 1984.

CHAPTER 415

AN ACT to amend the "Recycling Act," approved September 9, 1981 (P. L. 1981, c. 278).

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

1. Section 5 of P. L. 1981, c. 278 (C. 13:1E–96) is amended to read as follows:

C. 13:1E-96 Recycling Fund.

5. a. The State Recycling Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered jointly by the Department of Energy and the Department of Environmental Protection, and shall be credited with all tax revenue collected by the division pursuant to section 4 of this supplementary act. Interest received on moneys in the fund and sums received as repayment of principal and interest on outstanding loans made from the fund shall be credited to the fund. The Department of Energy and the Department of Environmental Protection, in their administration of the fund, are authorized to assign to the New Jersey Economic Development Authority the responsibility for making credit evaluations of applicants for loans, for servicing loans on behalf of the two departments, and, the provisions of any other law to the contrary notwithstanding, for making recommendations as to the approval or denial of loans pursuant to this section. The departments are further authorized to pay or reimburse the authority in the amounts as the departments jointly agree are appropriate for all services rendered by the authority in connection with any assignment of responsibility under the terms of this section out of moneys held in the fund for loans and the loan guarantee program.

b. Moneys in the fund shall be allocated and used for the following purposes and no others:

(1) Not less than 45% of the estimated annual balance of the fund shall be used for the annual expenses of a five-year program for recycling grants to municipalities. The amount of these grants shall be calculated, for the purposes of the first grant to a particular municipality, on the basis of the total number of tons of materials annually recycled from residential and commercial sources within that municipality. Thereafter, subsequent grants to a municipality

shall be calculated on the basis of the increase in the total number of tons of such materials from the total in the preceding year, except that no such grant shall exceed $25.00 per ton of materials recycled. For the purpose of calculating subsequent annual grants to municipalities pursuant to this subsection, not less than 15% of the estimated annual balance of the fund shall be allocated on the basis of the total number of tons of wastepaper recycled in the preceding year, not less than 15% of the estimated annual balance of the fund shall be allocated on the basis of the total number of tons of glass recycled in the preceding year, and not less than 15% of the estimated annual balance of the fund shall be allocated on the basis of the total number of tons of other materials recycled in the preceding year.

To be eligible for a grant pursuant to this subsection, a municipality shall demonstrate that the materials recycled by the municipal recycling program were not diverted from a commercial recycling program already in existence on the effective date of the ordinance establishing the municipal recycling program.

To be eligible for a subsequent annual grant pursuant to this subsection, a municipality shall demonstrate that at least two types of materials are currently recycled, or will be recycled in the succeeding grant year by the municipal recycling program. No recycling grant to any municipality shall be used for constructing or operating any facility for the baling of wastepaper or for the shearing, baling or shredding of ferrous or nonferrous materials;

(2) Not less than 20% of the estimated annual balance of the fund shall be used to provide low interest loans and to establish a sufficient reserve for a loan guarantee program for recycling businesses and industries;

(3) Not more than 10% of the estimated annual balance of the fund shall be used for State recycling program planning and program funding, including the administrative expenses thereof;

(4) Not more than 10% of the estimated annual balance of the fund shall be used for county and municipal recycling program planning and program funding, including the administrative expenses thereof; and

(5) Not less than 15% of the estimated annual balance of the fund shall be used for a public information and education program concerning recycling and anti-litter activities.

2. This act shall take effect immediately.

Approved January 4, 1984.

CHAPTER 416

AN ACT authorizing the Commissioner of Transportation to adopt regulations restricting the operation of certain motor vehicles over certain highways and supplementing Title 39 of the Revised Statutes.

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

C. 39:4-197.8 Route 94 regulations.

1. Notwithstanding any other law, the Commissioner of Transportation may adopt regulations limiting the operation of commercial motor vehicles, tractors, trailers or semi-trailers upon that portion of State Highway Route No. 94 located in Sussex county and Warren county. In adopting regulations the commissioner shall give consideration to normal traffic volume in the municipalities of the respective counties so that the residents and the business establishments of these counties shall not be penalized.

2. This act shall take effect immediately.

Approved January 4, 1984.

CHAPTER 417

AN ACT concerning licensed reinspection centers and amending P. L. 1983, c. 236.

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

1. Section 12 of P. L. 1983, c. 236 (C. 39:8-33) is amended to read as follows:

C. 39:8-33 Inspection station standards.

12. a. Within 90 days of the effective date of this act, the director, in cooperation with the Department of Environmental Protection, shall adopt regulations establishing standards for all licensed reinspection centers designated as official inspection stations pursuant to this act.

b. Except as provided in subsection c. of this section, all licensed reinspection centers shall use emission test equipment which has been certified by the Department of Environmental Protection. The department shall adopt standards within 90 days of the effective date of this act, for the certification of the equipment, which shall include but not be limited to all of the following:

(1) An automated system to control test sequencing, the automatic pass or fail decision, and the format for the test report and recorded magnetic tape file;

(2) An exhaust gas analysis portion;

(3) A device to accept and record vehicle identification information; and

(4) A device to provide a printed record of the test results to the consumer.

c. Facilities which have been licensed by the director as "reinspection centers" on or before June 30, 1983, may apply to the director for certification as official inspection stations which do not require immediate compliance with the standards established under subsection b. of this section concerning the certification of equipment; provided that the Department of Environmental Protection certifies that the licensure complies with the Clean Air Act (42 U. S. C. § 7401 et seq.). In the event that this act is extended to May 1, 1985 or thereafter the facilities shall comply with the standards established under subsection b. of this section by May 1, 1985, in order to maintain certification under this act.

2. Section 13 of P. L. 1983, c. 236 (C. 39:8–34) is amended to read as follows:

C. 39:8-34 Standards for mechanics.

13. a. Within 90 days of the effective date of this act, the director, in cooperation with the Department of Environmental Protection, shall adopt regulations establishing standards for the training and certification of mechanics employed by licensed reinspection centers.

b. Except as provided in subsection c. of this section, no licensee or his employee may perform inspections and make repairs for compensation pursuant to this act unless qualified by the completion of training courses prescribed by the division in cooperation with the Department of Environmental Protection.

c. Licensees and employees of facilities licensed by the director as "reinspection centers" on or before June 30, 1983, may perform inspections or make repairs for compensation pursuant to this act

without immediately complying with the requirements of subsection b. of this section concerning training and certification of mechanics. In the event that this act is extended beyond May 1, 1985 or thereafter all licensees and employees of licensees shall comply with the standards concerning certification and training of mechanics by May 1, 1985, in order to perform inspections or make repairs for compensation pursuant to this act after that date.

d. The director in cooperation with the Department of Environmental Protection shall take all necessary steps to promote expeditious compliance with the training and certification of mechanics as provided in this section.

3. This act shall take effect immediately.

Approved January 4, 1984.

CHAPTER 418

AN ACT to amend "An act to amend and supplement the 'Local Public Contracts Law,' approved June 9, 1971 (P. L. 1971, c. 198)," approved March 3, 1976 (P. L. 1975, c. 353).

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

1. Section 6 of P. L. 1975, c. 353 (C. 40A:11–6.1) is amended to read as follows:

C. 40A:11-6.1 Award of purchases, contracts or agreements.

6. Award of purchases, contracts or agreements. All purchases, contracts or agreements which require public advertisement for bids shall be awarded to the lowest responsible bidder.

Prior to the award of any other purchase, contract or agreement, the contracting agent shall, except in the case of the performance of professional services, solicit quotations, whenever practicable, on any such purchase, contract or agreement the estimated cost or price of which is $1,000.00 or more, and the award thereof shall be made, in accordance with section 3 (C. 40A:11–3) or 4 (C. 40A:11–4), as the case may be, of the "Local Public Contracts Law," P. L. 1971, c. 198, on the basis of the lowest responsible quotation received, which quotation is most advantageous to the contracting

unit, price and other factors considered; provided, however, that if the contracting agent deems it impracticable to solicit competitive quotations in the case of extraordinary unspecifiable service, or, in the case of such or any other purchase, contract or agreement awarded hereunder, having sought such quotations determines that it should not be awarded on the basis of the lowest quotation received, the contracting agent shall file a statement of explanation of the reason or reasons therefor, which shall be placed on file with said purchase, contract or agreement.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 419

AN ACT to amend the "New Jersey Commercial Fertilizer and Soil Conditioner Act of 1970," approved May 20, 1970 (P. L. 1970, c. 66).

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

1. Section 3 of P. L. 1970, c. 66 (C. 4:9–15.3) is amended to read as follows:

C. 4:9-15.3 Definitions.

3. As used in this act:

(a) "Commercial fertilizer" means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale; except that it shall not be considered to include unmanipulated animal or vegetable manure, agricultural liming materials, or wood ashes.

(b) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, parks, cemeteries, greenhouses, and nurseries.

(c) "Customer formulated mix" means a commercial fertilizer

prepared expressly for, and according to specifications furnished prior to mixing by, the customer.

(d) "Soil conditioner" means any substance intended or claimed to improve the chemical, physical or biological characteristics of the soil, which is sold, offered for sale, or intended for sale; except that it shall not be considered to include decomposed organic material having an ash content not exceeding 25% by dry weight, unmanipulated animal or vegetable manure, agricultural liming materials, or any other materials that may be exempted by regulation.

(e) "Brand" means a term, design, or trademark used in connection with a soil conditioner or with one or more grades of commercial fertilizer.

(f) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meal, and similar raw materials may be guaranteed in fractional units.

(g) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed and set forth in the manner prescribed in subsection 10 (c) of this act.

(h) "Index value" means an expression of the actual analysis of a fertilizer compared to the guaranteed analysis determined according to the following formula: Multiply the total nitrogen value by 3, the available phosphoric acid value by 2, and the soluble potash value by one, and then add these figures separately for the actual analysis and for the guaranteed analysis to obtain, respectively, the total actual value and the total guaranteed value. The index value is obtained by dividing the total actual value by the total guaranteed value.

(i) "Official sample" means any sample of commercial fertilizer or soil conditioner taken by an agent of the Department of Agriculture and designated as "official" by the department.

(j) "Person" includes any individual, partnership, association, firm, or corporation.

(k) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer or soil conditioner or who offers for sale, sells, barters, or otherwise supplies such products in this State.

(l) "Licensee" means a person who is licensed, or is required to be licensed, to distribute commercial fertilizers or soil conditioners under the provisions of this act.

(m) "Manufacturing facility" means any place where a commercial fertilizer or soil conditioner is manufactured, produced, compounded, mixed, blended, or in any way altered chemically or physically.

(n) "Label" means the display of all written, printed, or graphic matter on the immediate container or a statement accompanying a commercial fertilizer or soil conditioner.

(o) "Labeling" means all written, printed, or graphic matter on or accompanying any commercial fertilizer or soil conditioner, or the contents of any advertisements, brochures, posters, or television or radio announcements used in promoting the sale of such commercial fertilizer or soil conditioner.

(p) "Ton" means a net weight of 2,000 pounds avoirdupois.

(q) "Per cent" or "percentage" refers to the percentage by weight.

(r) "Department" means the New Jersey Department of Agriculture and includes the State Board of Agriculture, the Secretary of Agriculture, the State Chemist, and all employees and agents thereof.

(s) "State board" means the State Board of Agriculture of New Jersey.

(t) "Secretary" means the Secretary of Agriculture of New Jersey.

(u) "State Chemist" means the person appointed by the State board, subject to the supervision of the secretary, for the purpose of administering this act.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 420

AN ACT providing for the licensing of audiologists and speech-language pathologists by the Division of Consumer Affairs of the Department of Law and Public Safety, creating an Audiology and Speech-Language Pathology Advisory Committee thereunder, defining its powers and duties and prescribing penalties for violations of this act.

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

C. 45:3B-1 Findings, declarations.

1. The Legislature finds and declares that the practice of audiology and speech-language pathology needs to be regulated for the protection of the health, safety and welfare of the citizens of this State. The Legislature further finds and declares that peer regulation and the creation of a new board of examiners to carry out the provisions of this act are not in the public interest and it has devised a regulatory mechanism which is consonant with the licensing policies of this State.

C. 45:3B-2 Definitions.

2. As used in this act:

a. "Audiologist" means any individual who practices audiology and who represents himself to the public by title or by description of services, under any title incorporating such terms as "audiology," "audiologist," "audiological," "audiologic," "hearing clinic," "hearing clinician," "hearing therapist," or any similar title or description of services, provided that the individual has met the eligibility requirements contained in section 8 and has been duly licensed under this act.

b. "Committee" means the Audiology and Speech-Language Pathology Advisory Committee.

c. "Person" means any individual, corporation, partnership, trust, association or other organization, except that only individuals may be licensed under this act.

d. "Practice of audiology" means the nonmedical and nonsurgical application of principles, methods, and procedures of measurement, testing, evaluation, consultation, counseling, instruction, and habilitation or rehabilitation related to hearing, its disorders and related communication impairments for the purpose of nonmedical diagnosis, prevention, identification, amelioration or modification of these disorders and conditions in individuals or groups of individuals with speech, language or hearing handicaps, or to individuals or groups of individuals for whom these handicapping conditions must be ruled out.

e. "Practice of speech-language pathology" means the nonmedical and nonsurgical application of principles, methods and procedures of measurement, prediction, nonmedical diagnosis, testing, counseling, consultation, habilitation and rehabilitation and instruction related to the development and disorders of speech, voice, and

language for the purpose of preventing, ameliorating and modifying these disorders and conditions in individuals or groups of individuals with speech, language, or hearing handicaps, or to individuals or groups of individuals for whom these handicapping conditions must be ruled out.

f. "Speech-language pathologist" means an individual who practices speech-language pathology and who represents himself to the public by title or by description of services under any title incorporating such terms as "speech-language pathology," "speech-language pathologist," "speech pathology," "speech pathologist," "speech correction," "speech correctionist," "speech therapy," "speech therapist," "speech clinic," "speech clinician," "logopedist," "communicologist," "language therapist," "communication disorders specialist," "communication therapist," or any similar title or description of services, provided that the individual has met the eligibility requirements contained in section 8 and has been duly licensed under this act.

C. 45:3B-3 Advisory committee.

3. There is created in the Division of Consumer Affairs of the Department of Law and Public Safety an Audiology and Speech-Language Pathology Advisory Committee which shall serve as an advisory body to the Director of the Division of Consumer Affairs with respect to the licensure of audiologists and speech-language pathologists.

C. 45:3B-4 Membership.

4. The committee shall consist of nine residents of this State who shall be appointed by the Governor. Four members shall be audiologists or speech-language pathologists who shall fulfill the licensure requirements of this act, but not more than three of these members may represent the area of audiology or speech-language pathology. Two members shall be persons who are licensed to practice medicine and surgery by this State, one who is a diplomate of the American Board of Otolaryngology and one who is a diplomate of the American Osteopathic Board of Otolaryngology. Two members shall be public members and one member shall be a State representative.

C. 45:3B-5 Terms.

5. Each member of the committee, except the members first appointed, shall serve for a term of 5 years and shall hold office until the appointment and qualification of his successor. The initial appointments to the committee shall be two members for a term

of two years, two members for terms of three years, two members for terms of four years and three members for terms of five years.

The audiologist and speech-language pathologist members of the first committee shall be deemed to be and shall become licensed practicing audiologists and speech-language pathologists immediately upon their appointment and qualification as members of the committee, provided that they have met the requirements for licensure under this act.

Vacancies shall be filled for the unexpired terms only. No member may be appointed for more than two consecutive terms.

C. 45:3B-6 Oaths; officers; meetings.

6. The members of the committee, before entering the discharge of their duties, and within 30 days after their appointment, shall take and subscribe to an oath before an officer authorized to administer oaths in this State for the faithful performance of their duties and file the oath with the Secretary of State. The members of the committee shall annually elect from their number a chairman and a secretary-treasurer each of whom shall hold office for 1 year and until his successor shall have been elected and qualified.

Regular meetings of the committee shall be held at such times and places as it prescribes and special meetings may be held upon the call of the chairman or the director. At least one regular meeting shall be held each year.

C. 45:3B-7 Powers, duties.

7. The committee may have the following powers and duties as delegated by the director:

a. To determine and secure publication of education and continuing education requirements for licensing as audiologists and speech-language pathologists;

b. To evaluate the qualifications of all applicants for licensing as audiologists and speech-language pathologists, supervise the examination of applicants and make recommendations to the director concerning the licensure of qualified individuals;

c. To establish or recommend to the director standards of professional conduct for licensed audiologists and speech-language pathologists;

d. To do any and all other things which may be appropriate to achieve the objectives contemplated by this act, or which may be useful in executing any of the duties, powers, or functions of the committee.

C. 45:3B-8 License requirements.

8. To be eligible for a license to practice audiology or speech-language pathology, an applicant shall:

a. Possess at least a master's degree or its equivalent in the area of audiology or speech-language pathology from an accredited college or university acceptable to the Department of Higher Education;

b. Submit to the director transcripts from one or more accredited educational institutions evidencing the completion of specific requirements which shall be determined and published by the director in consultation with the committee and the Department of Higher Education. These requirements shall not be substantially inconsistent with current nationally recognized professional standards and shall include both academic courses and clinical practice;

c. Submit to the director evidence of the completion of a clinical internship in the professional area for which the license is sought. The clinical internship shall not be substantially inconsistent with currently recognized national professional standards.

Clinical internship shall be under the direct supervision of a person licensed to practice speech-language pathology or audiology, as appropriate, by this State or by another state which has standards substantially equivalent to those of this State; or a person in a state without licensure laws, provided that the supervisor shows evidence of credentials equivalent to the requirements for licensure under this act; or a person in this State practicing in an exempt setting, provided that the supervisor shows evidence of credentials equivalent to the requirements for licensure under this act;

d. Pass a written examination approved by the director in consultation with the committee. An examination shall be given at least once each year.

C. 45:3B-9 Issuance of licenses.

9. The director, in consultation with the committee, shall issue a license to practice audiology or speech-language pathology to all applicants who meet the established qualifications. Licenses shall be effective for a period not to exceed 2 years and may be renewed biennially.

Licensure shall be granted independently in audiology or speech-language pathology. A person may be licensed in both areas if he is qualified.

C. 45:3B-10 Active practitioners.

10. In lieu of the examination given to other applicants for licensure the director, in consultation with the committee, may issue a license to an individual who presents bona fide proof to the director that he was actively engaged in the practice of audiology or speech-language pathology, or both, in this State for 3 of the last 5 years immediately preceding the enactment of this act, and has a master's degree or its equivalent in speech-language pathology or audiology, and has passed the national examination in speech-language pathology or audiology, and meets the currently recognized national professional standards in speech-language pathology or audiology. The application shall be made to the director within one year of the enactment of this act. Prior to the licensure of an individual under this section, the director shall require that the applicant demonstrate satisfactory knowledge of current developments and procedures in his area of specialization.

C. 45:3B-11 Pre-1970 practitioners.

11. In lieu of the examination given to all other applicants for licensure the director, in consultation with the committee, may issue a license to an individual who presents bona fide proof to the director that he was actively engaged in the practice of audiology or speech-language pathology, or both, prior to January 1, 1970, and who has practiced in this State for 3 of the 5 years immediately preceding the enactment of this act and meets the currently recognized national professional standards in speech-language pathology or audiology. The application shall be made to the director within one year of the enactment of this act. Prior to the licensure of an individual under this section, the director shall require that the applicant demonstrate satisfactory knowledge of current developments and procedures in his area of specialization.

C. 45:3B-12 Provisional licenses.

12. The director, in consultation with the committee, may issue a provisional license to any person who has received a bachelor's degree from an accredited college or university acceptable to the Department of Higher Education and who presents bona fide proof that he was actively engaged in the practice of speech-language pathology or audiology or both, in this State for 3 of the last 5 years immediately preceding the enactment of this act, and who is working toward fulfilling the requirements for licensure as an audiologist or speech-language pathologist. Provisional licensees shall work only under the supervision of a licensed audiologist or speech-language pathologist who shall be responsible for the actions

of the provisional licensee. Provisional licenses shall be in effect for a period of 2 years and may be renewed once. No provisional licenses shall be issued after 5 years from the effective date of this act. The application shall be made to the director within 1 year of the enactment of this act.

C. 45:3B-13 Reciprocity.

13. The director, in consultation with the committee, shall accept in lieu of a written examination proof that an applicant for licensing holds a current license in a state which has standards substantially equivalent to those of this State.

C. 45:3B-14 Temporary license.

14. The director, in consultation with the committee, may issue a temporary license to any person who has recently become a resident of this State, who has applied for licensing as an audiologist or speech-language pathologist, or both, as the case may be, and who has been licensed by the state of his former residence. The temporary license shall be effective for a period not to exceed 1 year, and shall not be renewed.

C. 45:3B-15 Licensure mandatory.

15. No person shall practice or hold himself out as being able to practice audiology or speech-language pathology in this State unless he is licensed in accordance with the provisions of this act.

C. 45:3B-16 Employment of licensees.

16. Nothing in this act shall prohibit any person from engaging in the practice of audiology or speech-language pathology without licensure if he employs licensed individuals in the direct practice of audiology or of speech-language pathology. Such a person shall file a statement with the director, on a form approved by the director that he submits himself to the rules and regulations of the director and the provisions of this act which are applicable to him.

C. 45:3B-17 Exemptions.

17. The provisions of this act do not apply to:

a. The activities and services of any person who is licensed to practice medicine and surgery by this State, or a person under the direct supervision and control of a physician, engaged in his practice, providing such a person is not referred to as an audiologist or speech-language pathologist;

b. The activities, services, and use of an official title on the part of a person in the employ of a federal agency, as such services are part of the duties of his office or position with that agency;

or any person certified by the State Board of Examiners as a speech correctionist;

c. The activities and services of a student, fellow, trainee in audiology or speech-language pathology pursuing a course of study of an accredited university or college, or working in a recognized training center, if these activities and services constitute a part of his course of study under a supervisor licensed in audiology or speech-language pathology;

d. The activities and services within the scope of practice of any person licensed by this State as a hearing aid dispenser pursuant to P. L. 1973, c. 19 (C. 45:9A–1 et seq.); or any person who is registered, certified or licensed in this State under any other law to engage in the profession or occupation for which he is registered, certified or licensed;

e. No person shall be exempt under subsection b. of this section for that portion of his time spent as a private practitioner of audiology or speech-language pathology. If he does any work as an audiologist or speech-language pathologist for which a fee may be paid by a recipient of the service or as part of a private practice apart from his position with the government agency, he shall hold a valid and current license.

C. 45:3B-18 Continuing education.

18. All applicants for license renewal shall submit to the director evidence of satisfactory completion of such continuing education requirements as are determined and published by the director.

The director shall notify each licensed individual of any failure to comply with this requirement, and shall further notify him that upon continued failure to comply within 3 months of the date of the notice, the director in consultation with the committee, may, in his discretion, take action, pursuant to section 20 of this act, to suspend or revoke the license.

C. 45:3B-19 Address notification.

19. Every licensed audiologist and speech-language pathologist commencing to practice in this State shall notify the director of his office address. Every licensed audiologist and speech-language pathologist shall promptly notify the director of any change in his office address. The director shall annually publish complete lists of the names and office addresses of all audiologists and speech-language pathologists licensed and practicing in this State. The list shall be arranged alphabetically by name and also by the names of the municipalities in which the various offices are situated.

C. 45:3B-20 Fees.

20. a. All applicants for licenses, temporary licenses or renewals under this act shall pay a fee for the issuance or renewal which shall be determined by the director in consultation with the committee. The revenue generated from these fees shall not exceed the operating costs of the director and the committee under this act.

b. All fees and any fines imposed by the director shall be forwarded to the State Treasurer and shall be deposited in the General Fund. All expenditures deemed necessary to carry out the provisions of this act shall be paid by the State Treasurer from the funds collected and forwarded by the director subject to, and within the limits of, appropriations made pursuant to law, but expenditures shall not exceed revenues from the operation of this act during any fiscal year.

C. 45:3B-21 Revocation; suspension, nonrenewal.

21. The director, in consultation with the committee may, upon notice and opportunity for a hearing, revoke, suspend, or refuse to renew any license or temporary license issued pursuant to this act upon a finding:

a. That the license was obtained by means of fraud, misrepresentation, or concealment of material facts;

b. Of fraud or deceit in connection with services rendered;

c. Of unprofessional conduct;

d. That the provisions of this act, or the rules or regulations promulgated pursuant to this act, have been violated.

C. 45:3B-22 Restoration.

22. A license may be restored after 1 year from the date of its revocation by the director, in consultation with the committee.

C. 45:3B-23 Violations; penalties.

23. Any person who violates the provisions of this act shall be subject to a penalty of $200.00 for the first offense and $500.00 for each subsequent offense, to be sued for and recovered by and in the name of the director pursuant to the provisions of the "penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

If any person practices without a valid license or holds himself out as being able to practice audiology or speech-language pathology in violation of section 15 of this act, each day during which the violation continues shall constitute an additional and separate and distinct offense for the purposes of this section.

C. 45:3B-24 Regulations.

24. The director shall adopt, amend or repeal such regulations, consistent with the policy and objectives of this act, as he may deem desirable or necessary for the public interest, provided that the regulations shall be adopted, amended and repealed in accordance with the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

25. This act shall take effect immediately, but section 15 shall take effect on the first day of the nineteenth month after the effective date of this act.

Approved January 5, 1984.

CHAPTER 421

AN ACT concerning decisions by the Commissioner of Labor as to Second Injury Fund Benefits and amending P. L. 1938, c. 198.

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

1. Section 3 of P. L. 1938, c. 198 (C. 34:15–95.1) is amended to read as follows:

C. 34:15-95.1 Second Injury Fund benefits.

3. Applications for benefits under this act shall be made by a verified petition filed in duplicate within 2 years after the date of the last payment of compensation by the employer or the insurance carrier addressed to the Commissioner of Labor who shall refer it to a judge of compensation to hear testimony and for a decision as to whether the petitioner shall or shall not be admitted to the benefits provided under this act; provided, however, that the limitation herein shall not apply to those persons now receiving or who have received compensation payments from said fund and whose accident occurred since June 27, 1923. Review of said decision shall be in accordance with R. S. 34:15–66. In all proceedings affecting the fund under this act the Commissioner of Labor shall be a necessary party.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 422

AN ACT to amend the "Corporation Business Tax Act (1945)", approved April 13, 1945, P. L. 1945, c. 162 (C. 54:10A–1 et seq.) and amending P. L. 1975, c. 170 (C. 54:10A–33 et seq.) to provide an exemption from taxation for international banking facilities.

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

1. 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 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 mean the earnings accumulated over the life of such facility and shall not include the pro rata 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 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. Entire net income shall exclude for the periods set forth in paragraph (2) (F) (i) of this subsection, any amount, except with respect to property described in section 168 (f) (8) (D) (iii) of the Internal Revenue Code, 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 subsection (k) (1) of this section;

(C) Taxes paid or accrued to the United States on or measured by profits or income, 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 subsection (k) (1) of this section;

(D) Net operating losses sustained during any year or period other than that covered by the report;

(E) 90% of interest on indebtedness owing directly or indirectly to holders of 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes; except that such interest may, in any event, be deducted

(i) Up to an amount not exceeding $1,000.00;

(ii) In full to the extent that it relates to bonds or other evidences of indebtedness issued, with stock, pursuant to a bona fide plan of reorganization, to persons who, prior to such reorganization, were bona fide creditors of the corporation or its predecessors, but were not stockholders or shareholders thereof;

(iii) In full to the extent that it relates to debt of a financial business corporation owed to an affiliate corporation; provided that such interest rate does not exceed 2% over prime rate; the prime rate to be determined by the Commissioner of Banking;

(iv) In full to the extent that it relates to financing of motor vehicle inventory held for sale to customers; provided said indebtedness is owed to a taxpayer customarily and routinely providing this type of financing;

(v) In full to the extent it relates to debt of a banking corporation to a bank holding company, as defined in 12 U.S.C. § 1841, of which the banking corporation is a subsidiary;

(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, 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.

(ii) For the periods set forth in subparagraph (F) (i) of this subsection, any amount, except with respect to property described in section 168 (f) (8) (D) (iii) of the Internal Revenue Code, 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.

(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; or

(iii) Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph;

(iv) Such other activities of 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 paragraph (B) of this subsection.

(l) "Real estate investment trust" shall mean any unincorporated trust or unincorporated 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, 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 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 shall thereafter provide the applicable definitions.

2. Section 6 of P. L. 1945, c. 162 (C. 54:10A–6) is amended to read as follows:

C. 54:10A-6 Allocation factor.

6. In the case of a taxpayer which maintains a regular place of business outside this State other than a statutory office, the portion of its entire net worth to be used as a measure of the tax imposed by section 5(a) of this act, and the portion of its entire net income to be used as a measure of the tax imposed by section 5(c) of this

act, shall be determined by multiplying such entire net worth and entire net income, respectively, by an allocation factor which shall be the average of the fractions computed in (A), (B) and (C) below, or of so many of them as may be applicable, that is:

(A) The average value of the taxpayer's real and tangible personal property within the State during the period covered by its report divided by the average value of all the taxpayer's real and tangible personal property wherever situated during such period; provided, however, that for the purpose of determining average value, the provisions with respect to depreciation as set forth in paragraph 2 (F) of subsection (k) of section 4 of P. L. 1945, c. 162 (C. 54:10A–4) shall be taken into account for arriving at such value.

(B) The receipts of the taxpayer, computed on the cash or accrual basis according to the method of accounting used in the computation of its net income for federal tax purposes, arising during such period from

(1) sales of its tangible personal property located within this State at the time of the receipt of or appropriation to the orders where shipments are made to points within this State,

(2) sales of tangible personal property located without the State at the time of the receipt of or appropriation to the orders where shipment is made to points within the State,

(3) (Deleted by amendment.)

(4) services performed within the State,

(5) rentals from property situated, and royalties from the use of patents or copyrights, within the State,

(6) all other business receipts (excluding dividends excluded from entire net income by subsection (k) (1) of section 4 hereof) earned within the State, divided by the total amount of the taxpayer's receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties and all other business receipts, whether within or without the State.

For the purposes of this section, receipts shall not include any sum or sums of money received in payment for gas or electric energy sold to a public utility subject to taxation pursuant to P. L. 1940, c. 5 (C. 54:30A–49 et seq.) for resale to ratepayers of the public utility.

(C) The total wages, salaries and other personal service compensation, similarly computed, during such period of officers and employees within the State divided by the total wages, salaries and other personal service compensation, similarly computed, during such period of all the taxpayer's officers and employees within and without the State.

In the case of a taxpayer which does not maintain a regular place of business outside this State other than a statutory office, the allocation factor shall be 100%.

In the case of a banking corporation which maintains a regular place of business outside this State other than a statutory office, and which elects to take the exclusion from net worth provided in subsection (d) of section 4 of P. L. 1945, c. 162 (C. 54:10A–4) or the deduction from entire net income provided in subsection (k)(4) of section 4 of P. L. 1945, c. 162, the allocation factor shall be computed and applied in accordance with section 6 of P. L. 1945, c. 162 (C. 54:10A–6); provided, however, that the numerators and the denominators of the fractions described in section 6(A), 6(B) or 6(C) shall include all amounts attributable, directly or indirectly, to the production of the eligible net income of an international banking facility as defined in subsection (k)(4) of section 4 of P. L. 1945, c. 162, whether or not such amounts are otherwise attributable to this State.

3. Section 4 of P. L. 1975, c. 170 (C. 54:10A–34) is amended to read as follows:

C. 54:10A-34 Annual franchise tax.

4. Every banking corporation shall pay an annual franchise tax in the year 1976 and each year thereafter, as provided in the Corporation Business Tax Act, P. L. 1945, c. 162 (C. 54:10A–1 et seq.) for the privilege of having or exercising its corporate franchise in this State, or for the privilege of doing business, employing or owning capital or property, or maintaining an office in this State. For the purposes of this act, (1) the privilege period of each banking corporation shall be the calendar year, and the initial privilege period shall be the calendar year ending December 31, 1976; (2) January 1, 1976 and January 1, of each year thereafter shall be the assessment dates; (3) the tax on income shall be based upon the income of the calendar year preceding the assessment date; (4) net worth shall be determined as of the December 31 preceding the assessment date; and (5) income of a banking corporation in any privilege period shall include the

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income of any banking corporation merged into or consolidated with such banking corporation in such privilege period. From and after January 1, 1976, no banking corporation shall be subject to the provisions of R. S. 54:9–1 through 54:9–18 and section 13 of P. L. 1970, c. 8 (C. 54:9–19) but shall, to the extent and in the manner provided by this act, become and be subject to the provisions of the Corporation Business Tax Act and the Business Personal Property Tax Act, P. L. 1966, c. 136 (C. 54:11A–1 et seq.). To effect the transition from taxation under R. S. 54:9–1 through 54:9–18 and section 13 of P. L. 1970, c. 8, to taxation under the Corporation Business Tax Act, every banking corporation shall, within 90 days after the effective date of this act, but not later than December 1, 1975, pay to the State a sum equal to 60% of the amount of the tax that would have been due from such banking corporation had it been subject to taxation under the Corporation Business Tax Act during the calendar year ending December 31, 1974. Thereafter, as provided by the Corporation Business Tax Act, each banking corporation shall, on or before April 15 of each privilege period, commencing with the privilege period beginning January 1, 1976, file a tax return and pay the full amount of the tax determined to be due for the then current privilege period, and shall, in addition, pay a sum equal to 60% of the full amount of the tax due for such privilege period as an advance partial payment against the tax determined to be due for the next succeeding privilege period. Each such banking corporation shall, in the final calculation of the tax determined to be due from it for the 1976 privilege period, receive a credit for the 60% payment made by it on or before December 1, 1975 pursuant to this section, and thereafter, each banking corporation shall, in the final calculation of the tax determined to be due from it for any subsequent privilege period, receive credit for the advance partial payment made by it in the next preceding privilege year. No banking corporation shall, in calculating its income for any of the purposes of taxation under the Corporation Business Tax Act deduct from its income the amount of any tax paid pursuant to R. S. 54:9–1 through 54:9–18 and section 13 of P. L. 1970, c. 8 (C. 54:9–19). Any excess payment made in any privilege year shall be returned as provided in section 15 of the Corporation Business Tax Act (C. 54:10A–15). Notwithstanding anything contained in this act to the contrary, during each of the privilege years 1976, 1977, 1978 and 1979, the amount to be paid by each banking corporation as taxes under this act shall be the greater of (1) the amount which such banking

corporation paid in the calendar year 1975 as taxes pursuant to R. S. 54:9–1 through 54:9–18 and section 13 of P. L. 1970, c. 8 or (2) a sum equal to the total of the taxes paid by such banking corporation pursuant to this section and section 5 of this act. In any case where the corporate existence of a banking corporation transacting business on the effective date of this act terminates during a privilege period by voluntary or involuntary dissolution, or by merger or consolidation, or otherwise, such banking corporation shall be liable for the payment of taxes under this section for the full privilege period in which such termination takes place.

The effect of the amendments to this act relating to international banking facilities shall be phased in over a five year period. In order to implement the transition, each banking corporation which elects to utilize the deduction from entire net income for eligible net income from international banking facilities (provided in subsection (k)(4) of section 4 of P. L. 1945, c. 162 (C. 54:10A–4)) or the exclusion from net worth for international banking facilities (provided in subsection (d) of section 4 of P. L. 1945, c. 162) shall, with its return for the first year in which it makes that election, file an information return for 1981 which shall report its income and net worth attributable to the activities referred to in subsection (k)(4) of section 4 of P. L. 1945, c. 162 as if the taxpayer had an established international banking facility during the entire calendar year 1981 and as if the amendments to this act relating to international banking facilities had been effective during that entire year. The difference between a taxpayer's corporate franchise tax liability for 1981 and the amount it would have been liable for if said amendments were in effect during 1981 shall be the taxpayer's base international banking facilities tax liability.

For each of the years 1982 through 1986 in which the taxpayer elects to utilize the deduction from entire net income for eligible net income from international banking facilities (provided in subsection (k)(4) of section 4 of P. L. 1945, c. 162) or the exclusion from net worth for international banking facilities (provided in subsection (d) of section 4 of P. L. 1945, c. 162), the taxpayer shall pay, in addition to the tax computed under section 5 of P. L. 1945, c. 162 (C. 54:10–5) the following percentage of its base international banking facilities tax liability:

1982	100%
1983	80%
1984	60%
1985	40%
1986	20%

4. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 423

AN ACT concerning bail for persons accused of minor offenses.

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

C. 2C:6-1 Bail for minor offenses.

1. No person charged with a crime of the fourth degree, a disorderly persons offense or a petty disorderly persons offense shall be required to deposit bail in an amount exceeding $2,500.00, unless the court finds that the person presents a serious threat to the physical safety of potential evidence or of persons involved in circumstances surrounding the alleged offense or unless the court finds bail of that amount will not reasonably assure the appearance of the defendant as required. The court may for good cause shown impose a higher bail; the court shall specifically place on the record its reasons for imposing bail in an amount exceeding $2,500.00.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 424

AN ACT establishing a Supervised Visitation Program.

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

C. 2A:12-7 Findings, declarations.

1. The Legislature finds and declares that:

a. In the area of child visitation a court often orders supervised visitation where there has been a history of child abuse, medical disabilities, psychiatric problems or other situations where the safety and welfare of the child may be jeopardized.

b. Often court ordered, supervised visitation never occurs due to the inability to locate volunteers willing to be present during the visitation and a facility in which the visitation may take place.

c. The inability of a parent or guardian to spend time with a child poses serious psychological problems to both the parent and the child and prevents the growth of a normal, healthy relationship.

d. The purpose of this act is to facilitate supervised visitation by making the facilities and members of local community organizations available to assist in court ordered, supervised visitation.

C. 2A:12-8 Definitions.

2. As used in this act:

a. "Approved community organization" means a community organization which applies to the director for participation in the program and is approved for participation;

b. "Director" means the Director of the Administrative Office of the Courts;

c. "Program" means the Supervised Visitation Program created pursuant to this act.

C. 2A:12-9 Supervised Visitation Program.

3. There is created a program to be known as the "Supervised Visitation Program" which shall be administered by the director.

C. 2A:12-10 Purpose.

4. The purpose of the program shall be to promote court ordered, supervised visitation by having approved community organizations throughout the State supply facilities and personnel to enable supervised visitation to take place.

C. 2A:12-11 Duties of director.

5. The director shall:

a. Publicize the existence of the program;

b. Adopt rules for the program, including among other things—

(1) Standards for approved community organizations,

(2) Standards for accounting and auditing, and

(3) The number of approved community organizations needed throughout each county;

c. Prepare uniform applications for community organizations

to apply for participation in the program, which applications shall request, among other things—

(1) The name, address, county and function of the community organization,

(2) The size and location of the facility where supervised visitation would take place,

(3) The average number of persons available in the facility at any given time who would be present during the supervised visitation,

(4) The community organization's fee for use of its personnel and facilities for the program,

(5) The number of persons the facility could accommodate at one time, and

(6) The general contents of the facility;

d. Select and approve those community organizations which comply with the director's standards and which would accept the lowest fee for participation in the program;

e. Prepare a printed list by county of approved community organizations available for participation in the program;

f. Distribute the list to each court within the State having jurisdiction over child visitation matters;

g. Prepare and submit budget estimates of State appropriations necessary for the operation of the program and make recommendations with respect thereto;

h. Report annually to the Legislature and the Chief Justice of the Supreme Court on the activities of the program and make recommendations with respect thereto; and

i. Do all other things necessary and proper to implement the purposes of this act.

C. 2A:12-12 Use of approved community organizations.

6. Any court having jurisdiction over a child visitation matter, which orders supervised child visitation, may direct in the order that the visitation take place at an approved community organization.

7. There is appropriated to the program from the General State Fund $50,000.00 which is necessary to carry out the purposes of this act.

8. This act shall take effect 90 days after enactment.

Approved January 5, 1984.

CHAPTER 425

AN ACT to authorize the appointment of additional municipal court judges in certain municipalities and supplementing chapter 8 of Title 2A of the New Jersey Statutes.

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

C. 2A:8-6.6 Additional municipal court judges.

1. In addition to the number of municipal court judges authorized by any other law, the governing body of every municipality having a population of more than 200,000 may provide for the appointment of one additional judge of the municipal court if one of its previously authorized municipal court judges has been assigned to sit on its municipal housing court and another additional judge may be appointed if one of those previously authorized municipal court judges has been assigned on a full-time basis to the central processing court of the county in which the municipality is located.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 426

AN ACT concerning certain food services contracts and amending P. L. 1971, c. 198.

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

1. Section 15 of P. L. 1971, c. 198 (C. 40A:11–15) is amended to read as follows:

C. 40A:11-15 Duration of certain contracts.

15. Duration of certain contracts. All purchases, contracts or agreements for the performing of work or the furnishing of materials, supplies or services shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, two years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, two years;

(c) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 20 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam;

(2) (Deleted by amendment; P. L. 1977, c. 53.)

(3) The collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, five years;

(4) The recycling of solid waste, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P. L. 1970, c. 39 (C. 13:1E–1 et seq.), and with the approval of the Division of Local Government Services and the Department of Environmental Protection;

(5) Data processing service, for any term of not more than three years;

(6) Insurance, for any term of not more than three years;

(7) Leasing or servicing of automobiles, motor vehicles, machinery and equipment of every nature and kind, for a period not to exceed three years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding five years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services for any term not exceeding three years;

(11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act" (P. L. 1975, c. 217; C. 52:27D–119 et seq.) for any term of not more than three years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in buildings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 10 years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Energy establishing a methodology for computing energy cost savings;

(13) The performance of work or services or the furnishing of materials or supplies for the purpose of elevator maintenance for any term not exceeding three years;

(14) Leasing or servicing of electronic communications equipment for a period not to exceed five years; provided, however, such contract shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(15) Leasing of motor vehicles, machinery and other equipment primarily used to fight fires, for a term not to exceed seven years, when the contract includes an option to purchase, subject to and in accordance with rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs.

All multi-year leases and contracts entered into pursuant to this section 15, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, or contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 427

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, 1983 and regulating the disbursement thereof," approved June 30, 1982 (P. L. 1982, c. 49).

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

1. There is appropriated out of the General Fund for the purpose specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

Disaster Assistance—Berkeley township for costs incurred in providing police protection, health and sanitation emergency operations, and street and other cleanup operations necessitated by the June 29, 1982 tornado	($40,000.00)	
Total Appropriation, Community Development Management		$40,000.00

Amounts appropriated under this act shall be paid to Berkeley township by the State Treasurer upon certification of the Commissioner of Community Affairs that the commissioner has approved itemized bills submitted by the township for expenses actually incurred for the above purposes.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 428

AN ACT concerning certain motor vehicle license plates and amending R. S. 39:3–33.

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

1. R. S. 39:3–33 is amended to read as follows:

Vehicle registration plates.

39:3–33. The owner of an automobile which is driven on the public highways of this State shall display not less than 12 inches nor more than 48 inches from the ground in a horizontal position, and in such a way as not to swing, an identification mark or marks to be furnished by the division; provided, that if two marks are issued they shall be displayed on the front and rear of the vehicle; and provided, further, that if only one mark is issued it shall be displayed on the rear of the vehicle; and provided, further, that the rear identification mark may be displayed more than 48 inches from the ground on tank trucks, trailers and other commercial vehicles carrying inflammable liquids and on sanitation vehicles which are used to collect, transport and dispose of garbage, solid wastes and refuse. Motorcycles shall also display an identification mark or marks; provided, that if two marks are issued they shall be displayed on the front and rear of the motorcycle; and provided, further, that if only one mark is issued it shall be displayed on the rear of the motorcycle.

The identification mark or marks shall contain the number of the registration certificate of the vehicle and shall be of such design and material as the director prescribes. All registration plates issued by the division after January 1, 1982 shall be of a permanent nature and shall be fully treated with a reflectorized material designed to increase the nighttime visibility and legibility thereof, according to specifications prescribed by the division, except that the division shall first use any existing supplies of nonreflectorized plates which it ordered prior to that date. Whenever reflectorized registration plates are issued for any vehicle for which a registration fee is normally charged, the division may charge an additional fee not to exceed $0.05 above actual costs. All identification marks shall be kept clear and distinct and free from grease, dust

or other blurring matter, so as to be plainly visible at all times of the day and night.

The director is authorized and empowered to issue registration plate inserts, to be inserted in and attached to the registration plates or markers described herein. They may be issued in the place of new registration plates or markers; and inscribed thereon, in numerals, shall be the year in which registration of the vehicle has been granted.

No person shall drive a motor vehicle the owner of which has not complied with the provisions of this subtitle concerning the proper registration and identification thereof, nor drive a motor vehicle which displays a fictitious number, or a number other than that designated for the motor vehicle in its registration certificate.

A person convicted of displaying a fictitious number, as prohibited herein, shall be subject to a fine not exceeding $500.00 or imprisonment in the county jail for not more than 60 days.

A person violating any other provision of this section shall be subject to a fine not exceeding $100.00. In default of the payment thereof, there shall be imposed an imprisonment in the county jail for a period not exceeding 10 days. A person convicted of a second offense of the same violation may be fined in double the amount herein prescribed for the first offense and may, in default of the payment thereof, be punished by imprisonment in the county jail for a period not exceeding 20 days. These penalties shall not apply to the display of a fictitious number.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 429

A SUPPLEMENT to the "State Lottery Law," approved February 16, 1970 (P. L. 1970, c. 13; C. 5:9–1 et seq.).

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

C. 5:9-12.1 Sanctions of licensees.

1. In addition to any penalty, fine or term of imprisonment authorized by law, the commission shall, after appropriate hearings

and factual determinations, have the authority to impose the following sanctions upon any person licensed pursuant to P. L. 1970, c. 13 (C. 5:9–1 et seq.):

a. Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed $10,000.00;

b. Order restitution of any moneys or property unlawfully obtained or retained by a licensee;

c. Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee;

d. Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee so sanctioned; or

e. Impose any or all of the foregoing sanctions in combination with each other.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 430

AN ACT concerning the appointment of acting municipal judges and supplementing chapter 8 of Title 2A of the New Jersey Statutes.

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

C. 2A:8-5.2 Acting municipal judges.

1. a. Each municipality may appoint, at the request of the assignment judge of the vicinage wherein the particular municipality is located, one or more acting municipal judges, as the need may appear, who while sitting, shall have all the powers of a municipal court judge. An acting judge shall serve for a term of up to one year.

b. Each acting judge shall be appointed as follows:

(1) In municipalities governed by a mayor-council form of government, by the mayor with the advice and consent of the council, except that in municipalities governed under the borough law (chapters 86 to 94 of Title 40 of the Revised Statutes), if the mayor

fails to nominate an acting judge within 30 days after the need appears, or the council fails to confirm a nomination made by the mayor within 30 days after it is made, the council shall appoint the acting judge;

(2) In all other municipalities, by the governing body of the municipality;

(3) Where the acting judge would sit in a municipal court serving two or more municipalities, by the Governor with the advice and consent of the Senate.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 431

AN ACT to amend "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. The following language on page 154 of P. L. 1983, c. 240 is amended to read as follows:

Of the amount hereinabove for family support services, the Division of Youth and Family Services may, subject to the approval of the Director of the Division of Budget and Accounting, expend those sums which are necessary to provide emergency services funds to families with children to prevent the out-of-home placement of such children and to foster families to stabilize foster care placements.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 5, 1984.

CHAPTER 432

A SUPPLEMENT to "An act establishing grounds for evicting tenants and lessees of certain residential property, amending N. J. S. 2A:18–53 and repealing section 1 of P. L. 1973, c. 153 (C. 46:8C–1)," approved June 25, 1974 (P. L. 1974, c. 49).

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

C. 2A:18-61.3a "For sale" signs protected.

1. No mobile home park owner or operator may evict a mobile home resident for posting in or on his mobile home a "for sale" sign or similar notice of the private sale of the mobile home. Nor may a mobile home park owner or operator prohibit or unreasonably restrict such posting by any means, including but not limited to, rules and regulations of the mobile home park or written leases or rental agreements between the park owner or operator and mobile home residents.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 433

AN ACT concerning county detectives and amending N. J. S. 2A:157–4.

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

1. N. J. S. 2A:157–4 is amended to read as follows:

County detectives.

2A:157–4. a. In counties of the second class having a population in excess of 580,000 there may be appointed not in excess of 40 county detectives, of whom one may be designated chief of county detectives, one deputy chief of county detectives, one captain of county detectives, six lieutenants of county detectives and four sergeants of county detectives.

b. In counties of the second class having a population between 500,000 and 580,000 there may be appointed not in excess of 28 county detectives, of whom one may be designated chief of county detectives, one deputy chief of county detectives, one captain of county detectives, six lieutenants of county detectives and four sergeants of county detectives.

c. In counties of the second class having a population between 440,000 and 500,000, there may be appointed not in excess of 28 county detectives, of whom one may be designated chief of county detectives, one deputy chief of county detectives, four captains of county detectives and six lieutenants of county detectives.

d. In the counties of the second class having a population between 400,000 and 440,000, there may be appointed not in excess of 24 county detectives of whom one may be designated chief of county detectives, one captain of county detectives, four lieutenants of county detectives and two sergeants of county detectives.

e. In the counties of the second class having a population of 400,000 or under, there may be appointed not in excess of 12 county detectives of whom one may be designated chief of county detectives, one captain of county detectives, and three lieutenants of county detectives.

f. Their annual salaries shall be fixed as follows: chief of county detectives, not less than $9,500.00; deputy chief of county detectives, not less than $9,000.00; captain of county detectives, not less than $8,000.00; lieutenant of county detectives, not less than $7,000.00; sergeant of county detectives, not less than $6,500.00; and other county detectives, not less than $6,000.00.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 434

AN ACT to validate certain proceedings for the authorization, sale and issuance of bonds of fire districts and any bonds issued or to be issued in pursuance of 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 district issued or to be issued pursuant to a resolution of the board of commissioners of such fire district approved by the legal voters at such fire district election, are hereby ratified, validated and confirmed, notwithstanding that notices of or relating to such election did not include in the cost of the project for which the proceeds of such bonds or other obligations are to be used, the amounts to be contributed by persons or other public or private entities, and amounts which may be spent from available funds of such fire district; provided, however, that no action, suit or other proceedings of any nature to contest the validity of such proceedings has 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 been heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 435

AN ACT to amend and supplement "An act providing for the establishment, development, improvement and expansion of community mental health services and providing for payment by the State of financial grants-in-aid for community mental health projects," approved July 15, 1957 (P. L. 1957, c. 146; C. 30:9A–1 et seq.) and making an appropriation.

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

1. Section 9 of P. L. 1957, c. 146 (C. 30:9A–9) is amended to read as follows:

C. 30:9A-9 Community mental health aid.

9. a. Reimbursement or advancement grants shall be paid to an eligible sponsoring agency from State funds in an amount not exceeding 60% of the allowable expenditures for each project and

based upon the priority services to target populations approved by the commissioner. Allowable expenditures shall include expenditures other than capital expenditures, for such purposes as the commissioner shall, by regulation, determine to be necessary or required to carry out the mental health project. The total of the annual reimbursement or advancement grants from State funds for all community mental health projects, exclusive of capital expenditures, in any one county shall be the greater of $100,000.00 or an amount equal to $1.50 multiplied by the population of that county for the 1984 fiscal year of the county and, for each fiscal year thereafter, the amount shall be increased by $0.25, up to a total of $2.00. The amount for each fiscal year shall be multiplied by the population of the county for that particular fiscal year. No county or municipality shall, in any year, appropriate an amount for community mental health projects which is less than the amount appropriated in the preceding year, nor shall any sponsoring agency use any new or additional funding made available pursuant to this act in replacement of current funding levels unless approved in writing by the commissioner.

To permit initiation, expansion, improvement or continuation of services, the commissioner may make payments in advance to any sponsoring agency of amounts not to exceed 25% in any one quarter of the fiscal year of the amount of an approved annual grant to the agency.

b. Claims for State reimbursement or advancement to the sponsoring agency shall be made in accordance with the regulations of the department.

C. 30:9A-9.1 Areas lacking centers.

2. (New section) The Commissioner of the Department of Human Services shall, in distributing any amounts appropriated pursuant to this act, give due consideration to committing funds for establishing essential elements of service in areas lacking comprehensive community mental health centers. In giving this consideration the commissioner shall give due regard to the annual county mental health service plans required pursuant to P. L. 1957, c. 146 (C. 30:9A–1 et seq.).

C. 30:9A-9.2 Target populations.

3. (New section) a. The reimbursement or advancement grants shall be used to initiate or expand services to the following target populations and such other populations as may be designated by the Commissioner of the Department of Human Services:

(1) Persons in State or county psychiatric institutions whose conditions do not warrant institutionalization; and

(2) Adults and children in the community who have psychiatric problems and are at risk of hospitalization because of a lack of alternative community services.

b. The commissioner shall promulgate rules and regulations clearly delineating the conditions which shall be met for an individual to be considered part of a "target population."

c. In addition, the commissioner shall promulgate standards for monitoring and evaluating local mental health programs and shall cause a report, in writing, to be prepared and submitted to the Governor and the Legislature through the Standing Reference Committees on Institutions, Health and Welfare and the Office of Legislative Services on the results of the monitoring and evaluation, in a manner sufficient to indicate utilization of State funds for target populations served. The commissioner shall include in the report a funding source analysis of all projects within each county receiving reimbursement or advancement grants. The report shall be submitted within 12 months following enactment of this act and annually thereafter.

4. There is appropriated from the General Fund $925,000.00 to the Department of Human Services to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved January 5, 1984.

CHAPTER 436

AN ACT to amend the "Recycling Act," approved September 9, 1981, (P. L. 1981, c. 278).

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

1. Section 3 of P. L. 1981, c. 278 (C. 13:1E-94) is amended to read as follows:

C. 13:1E-94 "Recycling Act" definitions.

3. As used in this act:

a. "Division" means the Division of Taxation in the Department of the Treasury;

b. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

c. "Municipality" means any city, borough, town, township or village situated within the boundaries of this State;

d. "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

e. "Tax period" means every calendar month or any other period as may be prescribed by rule and regulation adopted by the director, on the basis of which the owner or operator of a sanitary landfill facility is required to report to the director pursuant to this act;

f. "Taxpayer" means the owner or operator of a sanitary landfill facility subject to the tax provisions of this act.

2. This act shall take effect immediately.

Approved January 6, 1984.

CHAPTER 437

AN ACT concerning certain loans made by secondary mortgage loan licensees, and amending and supplementing P. L. 1970, c. 205.

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

1. Section 2 of P. L. 1970, c. 205 (C. 17:11A–35) is amended to read as follows:

C. 17:11A-35 Definitions.

2. As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

a. "Secondary mortgage loan" means a loan made to an individual, association, joint venture, partnership, limited partnership, limited partnership association, or any other group of individuals however organized, except a corporation, which is secured in whole or in part by a lien upon any interest in real property, including but not limited to shares of stock in a cooperative corporation,

created by a security agreement, including a mortgage, indenture, or any other similar instrument or document, which real property is subject to one or more prior mortgage liens, except that a loan which: (1) is to be repaid in 90 days or less; (2) is taken as security for a home repair contract executed in accordance with the provisions of chapter 41, P. L. 1960; (3) is at an interest rate which is not in excess of the usury rate in existence at the time the loan is made, as established in accordance with the law of this State, and on which loan the borrower has not agreed to pay, directly or indirectly, any charge, cost, expense or any fee whatsoever other than said interest; or (4) is the result of the private sale of a dwelling if title to the dwelling is in the name of the seller and the seller has resided in said dwelling for at least one year, if the buyer is purchasing said dwelling for his own residence and, as part of the purchase price, executes a secondary mortgage in favor of the seller, shall not be subject to the provisions of this act.

b. "Borrower" means any person applying for a secondary mortgage loan, whether or not the loan is granted, and any person who has actually obtained such a loan.

c. "Licensee" means a person who is required to be licensed by section 3 of this act.

d. "Person" means an individual, association, joint venture, partnership, limited partnership, limited partnership association, corporation or any other group of individuals however organized.

e. "Commissioner" means the Commissioner of Banking of New Jersey including his deputies, or any other salaried employee of the Department of Banking appointed or designated by the commissioner to perform the functions required for the administration or enforcement of this act.

f. "Billing cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from that date.

g. "Open-end loan" means a secondary mortgage loan made by a licensee pursuant to a written agreement between the licensee and the borrower whereby:

(1) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(2) The amount of each advance and permitted interest and charges are debited to the borrower's account and payments and other credits are credited to the same account;

(3) Interest is computed on the unpaid principal balance or balances of the account from time to time;

(4) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement; and

(5) The agreement expressly states that the open-end loan is made pursuant to this 1983 amendatory and supplementary act.

2. Section 11 of P. L. 1970, c. 205 (C. 17:11A–44) is amended to read as follows:

C. 17:11A-44 Interest rate increase, decrease.

11. a. Notwithstanding the provisions of R. S. 31:1–1 or any other law to the contrary, a licensee shall have authority to make a secondary mortgage loan repayable in installments, and may charge, contract for and receive thereon interest at an annual percentage rate or rates agreed to by the licensee and the borrower.

The note evidencing a loan other than an open-end loan may provide for an increase, or may provide for a decrease, or both, in the rate of interest applicable to the loan. No increase during the entire loan term shall result in an interest rate of more than 6% per annum over the rate applicable initially, nor shall the rate be raised more than 3% per annum during any 12-month period. The lender shall not be obligated to decrease the interest rate more than 6% over the term of the loan, nor more than 3% per annum during any 12-month period. If a rate increase is applied to the loan, the lender shall also be obligated to adopt and implement uniform standards for decreasing the rate. If the note provides for the possibility of an increase or decrease, or both, in the rate, that fact shall be clearly described in plain language, in at least 8-point boldface type on the face of the note. No rate increase shall take effect during the first three years of the term of the loan, or thereafter, (a) unless at least 90 days prior to the effective date of the first such increase, or 30 days prior to the effective date of any subsequent increase, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes such increase, and (b) unless at least 365 days have elapsed without any increase in the rate. No increase during the

entire loan term shall result in an interest rate of more than 6% per annum over the rate applicable initially, nor shall the rate be raised more than 3% per annum during any 12-month period. Where the note evidencing the loan so provides for an increase or decrease in the rate of interest, the provision of subsection b. of section 18 of P. L. 1970, c. 205 (C. 17:11A–51b.) requiring that payment be made in substantially equal installment payment amounts shall not apply.

b. The agreement evidencing an open-end loan may provide that the interest rate applicable to the loan may be increased or may be decreased, or both, from time to time; provided, however, that no increase in the interest rate shall be effective unless: (1) at least 90 days prior to the effective date of the first increase, or 30 days prior to the effective date of any subsequent increase, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes the change and the indebtedness to which it applies and states that the incurrence by the borrower of any further indebtedness under the plan to which the agreement relates on or after the effective date of the interest rate increase specified in the notice shall constitute acceptance of the interest rate increase; and (2) the borrower either agrees in writing to the increase or incurs that further indebtedness on or after the effective date of the increase stated in the notice. The provisions of this subsection permitting an increase in the interest rate applicable to an open-end loan shall not apply in the case of an agreement which expressly prohibits changing of interest rates or which provides limitations on the changing of interest rates which are more restrictive than the requirements of this subsection. If the written agreement evidencing the open-end loan provides for the possibility of an increase or decrease, or both, in the interest rate applicable to the loan, that fact shall be clearly described in plain language, in at least 8-point boldface type on the face of the written agreement.

c. No interest shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. For the purposes of computing interest, a month shall be considered a calendar month and where a fraction of a month is involved a day shall be considered one-thirtieth of a month.

C. 17:11A-44.1 Open-end loans.

3. (New section) Open-end loans shall be subject to the following:

a. A licensee may make open-end loans and may contract for

and receive interest thereon as set forth in subsection b. of section 11 of P. L. 1970, c. 205 (C. 17:11A–44).

b. A licensee shall not compound interest by adding any unpaid interest to the unpaid principal balance of the borrower's account, but the unpaid principal balance may include any charges authorized by subsection g. of section 13 of P. L. 1970, c. 205 (C. 17:11A–46).

C. 17:11A-44.2 Computation methods.

4. (New section) a. The interest charges on an open-end loan shall be deemed not to exceed the maximum interest permitted by subsection b. of section 11 of P. L. 1970, c. 205 (C. 17:11A–44) if that interest is computed in each billing cycle by any of the following methods:

(1) By converting the per annum rate to a daily rate and multiplying the daily rate by the applicable portion of the daily unpaid principal balance of the account, in which case the daily rate is determined by dividing the per annum rate by 365; or

(2) By multiplying one-twelfth of each per annum rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the billing cycle divided by the number of days in the billing cycle; or

(3) By converting the per annum rate applicable to the loan to a daily rate and multiplying the daily rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case each daily rate is determined by dividing the per annum rate by 365, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the billing cycle divided by the number of days in the billing cycle.

b. For all of the above methods of computation, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day.

C. 17:11A-44.3 Payment of balance.

5. (New section) The borrower may at any time pay all or any part of the unpaid balance in his account; or, if the account is not in default, the borrower may pay the unpaid principal balance in monthly installments, subject to minimum payment requirements set forth in this section.

Minimum monthly payments shall be an amount provided for in the open-end loan agreement. No minimum payment shall exceed the amount required to pay the balance in full, including unpaid interest and charges to date.

C. 17:11A-44.4 Insurance charges.

6. (New section) In addition to the interest permitted under subsection a. of section 3 of this amendatory and supplementary act, a licensee may contract for and receive the other charges permitted by P. L. 1970, c. 205 (C. 17:11A–34 et seq.) on other loans, subject to all the conditions and restrictions set forth in those sections with the following variations:

a. If credit life or disability insurance is provided and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance shall be sufficient to pay the total balance of the loan due on the date of the borrower's death in the case of credit life insurance, or all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance. The additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for that insurance, as the rate may be determined by the Commissioner of Insurance, to the unpaid balance in the borrower's account, using any of the methods specified in section 4 of this amendatory and supplementary act for the calculation of interest.

b. No credit life or disability insurance written in connection with an open-end loan shall be cancelled by the licensee because of delinquency of the borrower in the making of the required minimum payments on the loan unless one or more of the payments is past due for a period of 90 days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

c. If insurance covering direct or indirect damage or loss, by fire or other perils, including those of extended coverage, to the property of the borrower which is the security for the loan, is made available, that insurance shall be for an amount not to exceed the maximum amount of credit agreed to be extended and a term not to extend beyond the time in which payments will be due under the loan agreement.

C. 17:11A-44.5 Subsections inapplicable.

7. (New section) The provisions of subsections l. and m. of section 12 of P. L. 1970, c. 205 (C. 17:11A–45) shall not apply to

open-end loans made under this amendatory and supplementary act.

C. 17:11A-44.6 Review of records.

8. (New section) The record keeping systems used by licensees for open-end loans shall be reviewed on an individual basis to determine whether the records are adequate for the purposes of subsection e. of section 12 of P. L. 1970, c. 205 (C. 17:11A–45).

9. This act shall take effect immediately.

Approved January 6, 1984.

CHAPTER 438

AN ACT concerning portable, oil-burning heating devices.

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

C. 2C:40-6 Definitions.

1. As used in this act:

a. "Portable, oil-burning heating device" means any self-contained, self-supporting, oil-fueled heater not connected to a flue, equipped with an integral reservoir, and designed to be carried from one location to another.

b. "Oil" means any liquid fuel with a flash point of greater than 100 degrees Fahrenheit, including but not limited to kerosene.

C. 2C:40-7 Evaluation before sale.

2. A portable, oil-burning heating device shall not be sold, offered for sale, or used in this State unless a nationally recognized testing or inspection agency, such as but not limited to Underwriters' Laboratory, Inc.:

a. Has evaluated the portable, oil-burning heating device with respect to reasonably foreseeable hazards to life and property that it might cause;

b. Has found the portable, oil-burning heating device to be reasonably safe for its specific purpose;

c. Has shown the particular model of the portable, oil-burning heating device on a list of devices that have been evaluated according to the requirements of subsection a. of this section and found

to be safe according to the requirements of subsection b. of this section;

d. Has accompanied the portable, oil-burning heating device with a certificate or with the mark, name, or symbol of the agency as an indication that it has been evaluated according to the requirements of subsection a. of this section, found safe according to the requirements of subsection b. of this section, and listed according to the requirements of subsection c. of this section. The certificate or the mark, name, or symbol of the agency must accompany the portable, oil-burning heating device at all times when it is sold, offered for sale, or used in this State.

C. 2C:40-8 Labeling.

3. A portable, oil-burning heating device shall not be sold, offered for sale, or used in this State unless a label is affixed to the device cautioning and informing the user concerning:

a. The amount and source of ventilation that is adequate when the device is in operation;

b. The type of fuel that should be used in the device;

c. The steps that should be followed in order to refuel the device safely;

d. The proper placement and handling of the device when it is in operation to prevent fire, burns, and other safety hazards;

e. The proper procedures for lighting the device and regulating and extinguishing the flame.

C. 2C:40-9 Instructions.

4. No portable, oil-burning heating device shall be sold or offered for sale in this State unless it is accompanied by instructions concerning its proper and safe maintenance and operation.

C. 2C:40-10 Construction.

5. No portable, oil-burning heating device shall be sold, offered for sale, or used in this State unless it is constructed with a low center of gravity and a minimum tipping angle of 33 degrees from the vertical with an empty reservoir.

C. 2C:40-11 Automatic shut-off.

6. No portable, oil-burning heating device shall be sold, offered for sale, or used in this State unless equipped with an automatic safety shut-off device or inherent design feature that eliminates fire hazards in the event of tipover.

C. 2C:40-12 Limit on carbon monoxide.

7. No portable, oil-burning heating device which, when operated according to the instructions that must accompany the heater as

required by section 4 of this act, produces carbon monoxide at a rate that creates a hazard shall be sold, offered for sale, or used in this State.

C. 2C:40-13 Prohibited in multiple dwellings.

8. No portable, oil-burning heating device shall be sold or offered for sale in this State unless a conspicuous sign is posted at the point of sale and the point of display notifying a purchaser or potential purchaser that portable, oil-burning heating devices prohibited for use in multiple dwellings in the State by regulations adopted pursuant to the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A–1 et seq.) and that certain municipalities in the State have adopted housing codes prohibiting the use of portable, oil-burning heating devices in residences within the municipality.

C. 2C:40-14 Regulations.

9. Pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), the Commissioner of the Department of Community Affairs shall adopt regulations for the implementation and enforcement of this act.

C. 2C:40-15 Petty disorderly persons offense.

10. Any person who sells, offers for sale or uses any portable, kerosene-burning heating device in violation of the provisions of this act is guilty of a petty disorderly persons offense. Each sale of a heater in violation of this act constitutes a separate offense.

11. This act shall take effect 180 days following enactment.

Approved January 9, 1984.

CHAPTER 439

AN ACT to amend and supplement "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944, c. 255, C. 43:16A–1 et seq.), as said title was amended by P. L. 1976, c. 139.

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

1. Section 1 of P. L. 1944, c. 255 (C. 43:16A–1) is amended to read as follows:

C. 43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator, or inspector of combustibles of any police or fire department or any employee of a police or fire department who was a member of the retirement system for a period of 15 years prior to his transfer to a position within the department not otherwise covered by the retirement system. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement, and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, conservation officer, assistant district conservation officer, district conservation officer and chief conservation officer in the Division of Fish, Game, and Wildlife, ranger and chief ranger in the Bureau of Parks, State fire warden and chief, assistant chief, division fire warden, assistant division fire warden, staff section fire warden, and field section fire warden in the Forest Fire Service, Department of Environmental Protection, chief, Bureau of Forest Fire Management—State forest fire warden, supervising forester (fire), principal forester (fire), senior forester (fire), assistant forester (fire) in the Bureau of Forest Fire Management, Department of Environmental Protection, marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief, and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, and deputy keeper in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of

county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor-investigator, electronics specialist, traffic safety coordinator-investigator, supervisor of electronics and investigations, and county investigator in the office of the county prosecutors, county sheriff, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the office of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 850,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, supervising juvenile officer, patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14–21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the three years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least two years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the two year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least two years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment of an accidental death benefit, the two-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work day.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

(28) "Final compensation" means the compensation received by the member in the last 12 months of creditable service preceding his retirement.

C. 43:16A-3.6 Age restriction.

2. (New section) No county sheriff shall qualify for membership in the Police and Firemen's Retirement System of New Jersey pursuant to this amendatory and supplementary act if he has reached the age of 37 years on the date of his application for membership. In calculating his age for purposes of eligibility for membership, a person may subtract the time spent in active service in any branch of the United States military service.

C. 43:16A-3.7 Transfer of membership.

3. (New section) Any officer eligible to become a member pursuant to the amendatory provisions of this act who is enrolled in the Public Employees' Retirement System (P. L. 1954, c. 84, C. 43:15A–1 et seq.) or any county pension fund established under Title 43 of the Revised Statutes shall be permitted to transfer membership from the aforesaid system or fund to the Police and Firemen's Retirement System of New Jersey in accordance with the provisions of P. L. 1973, c. 156 (C. 43:16A–62 et seq.) and upon a lump sum payment into the Police and Firemen's Retirement System annuity savings fund of the amount of the difference between the contribution which was paid as a member of the Public Employees' Retirement System or county pension fund and the contribution that would have been required if he had been a member of the Police and Firemen's Retirement System since the date of last enrolling in the Public Employees' Retirement System or a county pension fund. In addition, the employee shall be liable for any payment to the retirement system that the employer would have been required to make on behalf of the member for the purchase of such credit; this payment may be made in regular monthly installments or in a lump sum, as the employee may elect, and pursuant to rules and regulations as may be promulgated by the Division of Pensions.

Whenever in P. L. 1973, c. 156 a period of time is set which is to be calculated from the effective date of said act, such time shall be

calculated from the effective date of this amendatory and supplementary act for the purposes hereof.

4. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 440

AN ACT concerning bidding procedures for the leasing of municipal property, and amending P. L. 1971, c. 199.

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

1. Section 14 of P. L. 1971, c. 199 (C. 40A:12–14) is amended to read as follows:

C. 40A:12-14 Leasing of county or municipal real property, capital improvements or personal property.

14. Leasing of county or municipal real property, capital improvements or personal property. Any county or municipality may lease any real property, capital improvement or personal property not needed for public use as set forth in the resolution or ordinance authorizing the lease, other than county or municipal real property otherwise dedicated or restricted pursuant to law, and except as otherwise provided by law, all such leases shall be made in the manner provided by this section.

(a) In the case of a lease to any private person, said lease shall be made to the highest bidder by open public bidding at auction or by submission of sealed bids. Advertisement of the method of bidding shall be published in a newspaper circulating in the municipality or municipalities in which the leasehold is situated by two insertions at least once a week during two consecutive weeks; the lease publication to be not earlier than seven days prior to the letting of the lease. The governing body may, by resolution, fix a minimum rental with the reservation of the right to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the letting of the lease and public notice thereof shall be given of the time of the letting of the lease. Such resolution may provide that upon the completion of the bidding, the highest bid may be accepted or all of the bids

may be rejected. It shall also set out the conditions, restrictions and limitations upon the tenancy subject to the lease. Acceptance or rejection of the bid or bids shall be made not later than at the second regular meeting of the governing body following the completion of the bidding, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such award may be adjourned at the time advertised for not more than one week without readvertising.

(b) In the case of a lease to a public body, the lease may be upon such terms and conditions and for nominal or other consideration as the governing body of the county or municipality shall approve by ordinance or resolution.

(c) In the case of a lease to a nonprofit corporation for a public purpose, the lease shall be authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, and may be for nominal or other consideration. Said authorization shall include the nominal or other consideration for the lease; the name of the corporation or corporations who shall be the lessees; the public purpose served by the lessee; the number of persons benefiting from the public purpose served by the lessee, whether within or without the municipality in which the leasehold is located; the term of the lease, and the officer, employee or agency responsible for enforcement of the conditions of the lease. Said ordinance or resolution shall also require any nonprofit corporation holding a lease for a public purpose pursuant to this section, to annually submit a report to the officer, employee or agency designated by the governing body, setting out the use to which the leasehold was put during each year; the activities of the lessee undertaken in furtherance of the public purpose for which the leasehold was granted; the approximate value or cost, if any, of such activities in furtherance of such purpose; and an affirmation of the continued tax-exempt status of the nonprofit corporation pursuant to both State and federal law.

(d) In the case of a lease to a housing corporation or resident first-time homebuyer for the public purposes, and pursuant to the provisions of P. L. 1983, c. 335 (C. 55:18–1 et seq.), the lease shall be authorized by ordinance by a municipality.

2. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 441

AN ACT to amend the "Unfair Cigarette Sales Act of 1952," approved May 19, 1952 (P. L. 1952, c. 247).

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

1. Section 2 of P. L. 1952, c. 247 (C. 56:7–19) is amended to read as follows:

C. 56:7-19 Definitions.

2. The following words, terms and phrases, when used in this act, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

a. "Person" shall mean and include any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, municipal corporation or other political subdivision of this State, trust, receiver, trustee, fiduciary and conservator.

b. "Cigarettes" shall mean and include any roll for smoking, made wholly or in part of tobacco, or of any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

c. "Sale" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale and distribution in any manner or by any means whatsoever.

d. "Wholesaler" shall include any person who:

(1) Purchases cigarettes directly from the manufacturer; or

(2) Purchases cigarettes from any other person who purchases from the manufacturer and who acquires such cigarettes solely for the purpose of bona fide resale to retail dealers or to other persons for the purposes of resale only; or

(3) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing contained herein shall prevent a person from qualifying in different capacities as both a "wholesaler" and "retailer" under the applicable provisions of this act.

e. "Retailer" shall mean and include any person who operates a store, stand, booth, or concession for the purpose of making sales of cigarettes at retail.

f. "Sell at retail," "sale at retail" and "retail sales" shall mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

g. "Sell at wholesale," "sale at wholesale" and "wholesale sales" shall mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

h. "Basic cost of cigarettes" shall mean the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower, less all trade discounts and the normal discount for cash afforded for prompt payment, but excluding any special, extraordinary, or anticipatory discounts for payment within a shorter period of time than the prompt payment date required for eligibility for the normal discount for cash, to which shall be added the full face value of any stamps which may be required by any cigarette tax act of this State and by ordinance of any municipality thereof, now in effect or hereafter enacted, if not already included by the manufacturer in his list price.

i. "Director" means the Director of the Division of Taxation, in the Department of the Treasury.

j. "Business day" shall mean any day other than a Sunday or a legal holiday.

2. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 442

AN ACT concerning the power to waive, release, modify or subordinate building restrictions in certain conveyances by municipalities and amending P. L. 1943, c. 33.

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

1. Section 1 of P. L. 1943, c. 33 (C. 40:60–51.2) is amended to read as follows:

C. 40:60-51.2 Power to waive restrictions.

1. Any municipality is authorized and empowered, by resolution of the governing body thereof, to waive, release, modify or subordinate any terms, covenants, conditions, limitations or reverters imposed in sales and conveyances of lands as to the erection, alteration or demolition of buildings or any other use to be made of land heretofore imposed by said municipality, to accomplish the purposes for which such lands were sold and conveyed, either at public or private sale made prior to January 1, 1979, but only after public hearing held before such governing body, of the holding of which notice describing the lands in question, and the terms, covenants, conditions, limitations or reverters to be waived, released, modified or subordinated, and, if to be modified or subordinated, describing the manner in which the same shall be modified or subordinated, shall first have been given by advertisement published once each week for two weeks in a newspaper published in said municipality or, if no newspaper be published therein, then in a newspaper circulating in such municipality, provided, however, that the power herein granted shall not be exercised to impair any vested or contractual rights of third parties.

2. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 443

AN ACT concerning the periodic testing of public water supplies, establishing penalties for noncompliance, amending P. L. 1940, c. 5 and amending and supplementing P. L. 1977, c. 224 (C. 58:12A–1 et seq.), and making an appropriation.

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

C. 58:12A-12 Periodic testing.

1. (New section) The owner or operator of each public community water system shall undertake the periodic testing of the water provided to customers by the system in order to determine the presence of hazardous contaminants, as identified pursuant to section 2 of this amendatory and supplementary act. A schedule for the periodic testing shall be established by the commissioner within six months of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.). The tests shall be conducted during periods of representative demand by a laboratory certified by the department. The initial tests for the substances identified in subsection a. of section 2 of this amendatory and supplementary act shall be administered within 12 months of the effective date of this amendatory and supplementary act and semiannually thereafter, pursuant to the schedule established by the commissioner, unless the commissioner shall determine, on a case-by-case basis, that greater or lesser frequency of testing is necessary or sufficient to ensure the public health and safety. The tests for the substances for which maximum contaminant levels will be established pursuant to subsection b. of section 2 of this amendatory and supplementary act shall be conducted within one year of the effective date of this act and annually thereafter, unless the commissioner shall determine, on a case-by-case basis, that greater or lesser frequency of testing is necessary to ensure the public health and safety.

C. 58:12A-13 Establishment of maximum contaminant levels.

2. (New section) a. The commissioner, after considering the recommendations of the Drinking Water Quality Institute created pursuant to section 10 of this amendatory and supplementary act, shall, within 18 months of the effective date of this amendatory and sup-

plementary act and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), adopt rules and regulations which establish a maximum contaminant level for each of the following organic compounds:

Trichloroethylene
Tetrachloroethylene
Carbon tetrachloride
1,1,1—Trichloroethane
1,2—Dichloroethane
Vinyl chloride
Methylene chloride
Benzene
Chlorobenzene
Dichlorobenzene (s)
Trichlorobenzene (s)
1,1—Dichloroethylene
Cis—1,2-dichloroethylene
Trans—1,2-dichloroethylene
Polychlorinated biphenyls (PCBs)
Xylenes
Ethylene glycol
Chlordane
Kerosene
Formaldehyde
n-Hexane
Methyl ethyl ketone

b. The commissioner, after considering the recommendations of the Drinking Water Quality Institute, shall, within two years of the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), adopt rules and regulations which develop, within the limits of medical, scientific, and technological feasibility, a list of those pesticides and related compounds, metals, and base/neutral extractable organic compounds and acid extractable organic compounds which he believes may be found in drinking water and the presence of which above maximum contaminant levels in drinking water, upon ingestion or assimilation, may, on the basis of the best information available to the commissioner, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunction (including malfunctions in reproduction), or physical deformity; and establish, within the limits of medical scientific and technological feasibility, maximum contaminant levels

for each chemical or chemical compound on the list which, with respect to carcinogens, permit cancer in no more than one in one million persons ingesting that chemical for a lifetime, and, with respect to other chemicals or chemical compounds on the list and those carcinogens resulting from compounds with public health benefits, eliminate within the limits of practicability and feasibility all adverse physiological effects which may result from ingestion; provided, however, that in no case shall the standard adopted by the commissioner for any chemical or chemical compound on the list be less stringent than that established for the same chemical or chemical compound by the United States Environmental Protection Agency, pursuant to the "Safe Drinking Water Act," Pub. L. 93–523 (42 U. S. C. § 300f et seq.), or any other federal agency.

No maximum contaminant level need be established for any substance identified pursuant to subsection a. or b. of this section until the presence of the substance in drinking water is established by any test required by this act.

C. 58:12A-14 Submission of test results.

3. (New section) The water purveyor whose water was submitted for a potability test required by this amendatory and supplementary act shall forward to the department a copy of all test results. The certified laboratory conducting the potability test may, upon written approval by the department, submit the test results on behalf of the water purveyor. The department is authorized to conduct spot checks to assure compliance with this amendatory and supplementary act and the accuracy and integrity of the reported results.

C. 58:12A-15 Compliance with standard.

4. (New section) a. The owner or operator of each public community water system which has been determined to contain a chemical or chemical compound identified pursuant to section 2 of this amendatory and supplementary act at a level exceeding the maximum contaminant level shall, within a year after receipt of the test results, take any action required to bring the water into compliance with the standard; provided, however, that the commissioner may require compliance as promptly as necessary to abate an immediate public health threat, or extend the period of compliance if new construction is required therefor; provided further, however, that the extension shall be granted only upon a determination by the commissioner, after a public hearing, that the extension will not pose an imminent threat to public health.

b. In the event that the owner or operator of a public water system fails to bring the water supplied to consumers into compliance pursuant to subsection a. of this section, the commissioner may enjoin the water purveyor from continuing to supply water to the public, and establish, in conjunction with the local board of health or county health department, or other appropriate agency, a program to bring the water supply into compliance or provide an alternate potable water supply for the customers of the system.

C. 58:12A-16 Voluntary testing.

5. (New section) Local health departments, in cooperation with the department, shall develop voluntary procedures for the testing of water for homeowners whose principal source of potable water is a well, to be paid by the homeowner, or who are served by a nonpublic water system or a public water system which is not a public community water system, to be paid for by the owner or operator thereof.

C. 58:12A-17 Increase in tariffs.

6. (New section) Within 90 days of the effective date of this amendatory and supplementary act, the Board of Public Utilities shall issue appropriate orders increasing current tariffs established pursuant to law for the supplying of water service by an amount equal to the total increase in the relevant water supply service costs resulting from the testing of water required by the provisions of this amendatory and supplementary act and the tax levied pursuant to section 11 of this amendatory and supplementary act. In issuing this order, the board shall not be bound to find a rate base under the provisions of section 31 of P. L. 1962, c. 198 (C. 48:2–21.2).

C. 40A:4-45.22 Mandated expenditures.

7. (New section) Any additional expenditures for the testing of water supplies pursuant to P. L. 1983, c. 443 (C. 58:12A–12 et al.) made by any county or municipality shall, for the purpose of P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.), be considered an expenditure mandated by State law.

C. 58:12A-18 Certification.

8. (New section) When the department orders a municipality, county, or agency thereof which operates a public water supply system to install treatment techniques or other apparatus or equipment for the purpose of achieving a maximum contaminant level established by the department, the Division of Local Government Services in the Department of Community Affairs shall, when

reviewing the annual budget of the municipality, county, or agency thereof, certify that an amount sufficient to cover the cost of the treatment technique specified in the order issued to the municipality, county, or agency thereof is included in the annual budget.

C. 58:12A-19 Annual report.

9. (New section) The commissioner shall make an annual report to the Legislature and the Governor and to the Chairmen of the Senate Energy and Environment Committee and General Assembly Agriculture and Environment Committee, or their successors, which shall summarize and analyze the results and effects of the testing program mandated by this amendatory and supplementary act, and make any recommendations concerning the "Safe Drinking Water Act" deemed appropriate. This report shall be due on October 1, 1984 and annually thereafter.

C. 58:12A-20 Drinking Water Quality Institute.

10. (New section) a. There is established in the department the Drinking Water Quality Institute. The institute shall comprise 15 members as follows: the Commissioner of Environmental Protection, the Commissioner of Health, and the Chairman of the Water Supply Advisory Council, the Director of the Division of Water Resources in the department, the Director of the Office of Science and Research in the department and the Director of the Office of Occupational and Environmental Health in the Department of Health, all of whom shall serve ex officio; and nine appointed members, three of whom shall represent the water purveyors, at least one of which has as its primary water source an underground source; three of whom shall represent the academic scientific community, and three of whom, having backgrounds in environmental health issues, shall represent the public, with one of each group of three set forth hereinbefore to be appointed by the Governor, the President of the Senate and the Speaker of the General Assembly. Of the members first appointed, three shall serve for terms of three years, three for terms of two years and three for terms of one year. Thereafter, all terms shall be for three years. Each member shall serve for the term of his appointment and until his successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only. Any member of the institute may be removed by the appointing authority, for cause, after public hearing.

b. Members of the institute shall serve without compensation,

but the institute may, within the limits of funds appropriated or otherwise made available to it for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

c. The institute shall meet at such times and places as may be determined by its chairman, who shall be designated by the Governor. A majority of the membership of the institute shall constitute a quorum for the transaction of business. Action may be taken and motions and resolutions adopted by the institute at any meeting by the affirmative vote of a majority of the full membership of the institute.

d. The institute shall make recommendations for the implementation of the Drinking Water Quality Program by the department. These recommendations shall consist of:

(1) The development of a list of contaminants for which testing shall be required;

(2) The development of maximum contaminant levels;

(3) The development of appropriate testing techniques to measure maximum contaminant levels;

(4) The development of testing frequencies;

(5) The review of all activities undertaken pursuant to the "Safe Drinking Water Act" and any amendments or supplements thereto.

e. The Drinking Water Quality Institute shall have the authority to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, commission or agency that may be required and made available for such purposes.

C. 58:12A-21 Water tax.

11. (New section) a. There is levied upon the owner or operator of every public community water system a water tax of $0.01 per 1,000 gallons of water delivered to a consumer, not including water purchased for resale, on or after first day of the first full fiscal quarter following enactment of this amendatory and supplementary act, and quarterly thereafter.

b. (1) The owner or operator of every public community water system 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 of the Division of Taxation, on such form as may be prescribed by the director, indicating the number of gallons of water delivered to a consumer, and at said time owner or operator shall pay the full amount of tax due.

(2) The owner or operator of every public community water system shall, within 20 days, register with the director on forms prescribed by him.

c. If a return required by this amendatory and supplementary 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.

d. 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," subtitle 9 of Title 54 of the Revised Statutes. 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.

e. (1) Any person failing to file a return, failing to pay the tax, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this amendatory and supplementary act, or rules or regulations adopted hereunder, which is willfully false, or failing to keep any records required by this amendatory and supplementary act or rules and regulations adopted hereunder, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a crime of the fourth degree.

(2) The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of this amendatory and supplementary act or rules or regulations adopted hereunder shall be presumptive evidence thereof.

f. In addition to the other powers granted to the director in this section, he is authorized:

(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 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.

g. The tax imposed by this section shall be governed in all respects by the provisions of the "State tax uniform procedure law," subtitle 9 of Title 54 of the Revised Statutes, except only to the extent that a specific provision of this section may be in conflict therewith.

h. The "Safe Drinking Water Fund" (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered by the department, and shall be credited with all tax revenue collected by the division pursuant to this section. Interest received on moneys in the fund shall be credited to the fund. Moneys in the fund shall be appropriated to the department for all costs associated with the department's administration of all aspects of the programs set forth in the "Safe Drinking Water Act," P. L. 1977, c. 224 (C. 58:12A–1 et seq.), in the annual budget request of the department.

12. Section 2 of P. L. 1977, c. 224 (C. 58:12A–2) is amended to read as follows:

C. 58:12A-2 Findings, declarations.

2. The Legislature finds and declares that it is a paramount policy of the State to protect the purity of the water we drink and that the Department of Environmental Protection shall be empowered to promulgate and enforce regulations to purify drinking water by filtration or such other treatment method as it may require, prior to the distribution of said drinking water to the public; that the maintenance of high-quality potable water is essential in order to safeguard the health and welfare of the people of the State; that the Federal Safe Drinking Water Act provides a comprehensive framework, at a minimum, for establishing standards, providing technical assistance, and for regulating the collection, treatment, monitoring, storage, and distribution of potable water, and for consolidating and improving existing State law regarding potable water; and that it is in the best interests of the people of the State for the State, through its Department of En-

vironmental Protection, to assume primary enforcement responsibility under the Federal Safe Drinking Water Act.

13. Section 3 of P. L. 1977, c. 224 (C. 58:12A–3) is amended to read as follows:

C. 58:12A-3 "Safe Drinking Water Act" definitions.

3. As used in this act:

a. "Administrator" means the Administrator of the United States Environmental Protection Agency or his authorized representative;

b. "Contaminant" means any physical, chemical, biological or radiological substance or matter in water;

c. "Commissioner" means the Commissioner of Environmental Protection or his designated representative;

d. "County" means any county or any agency or instrumentality of one or more thereof;

e. "Department" means the Department of Environmental Protection;

f. "Federal act" means the Safe Drinking Water Act, P. L. 93–523, 42 U. S. C. § 300 et al.;

g. "Federal agency" means any department, agency, or instrumentality of the United States;

h. "Municipality" means any city, town, township, borough or village or any agency or instrumentality of one or more thereof;

i. "National primary drinking water regulations" means primary drinking water regulations promulgated by the administrator pursuant to the federal act;

j. "Person" means any individual, corporation, company, firm, association, partnership, municipality, county, State agency or federal agency;

k. "Primary drinking water regulation" means a regulation which:

(1) Applies at a minimum to public water systems;

(2) Specifies contaminants which, in the judgment of the commissioner, may have any adverse effect on the health of persons;

(3) Specifies for each such contaminant either: (a) a maximum contaminant level if, in the judgment of the commissioner, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or (b) if, in the judgment of the commissioner, it is not economically or technologically feasible to ascertain the level of such contaminant, each treatment technique known to the commissioner which leads to a

reduction in the level of such contaminant sufficient to satisfy the requirements of section 4 of this act;

(4) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control, sampling frequencies, and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to: (a) the minimum quality of water which may be taken into the system, and (b) siting for new facilities for public water systems;

l. "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes: (1) any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system. "Public community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents;

m. "State agency" means any department, agency or instrumentality of this State or of this State and any other state or states;

n. "Supplier of water" means any person who owns or operates a public water system;

o. "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water regulations apply, except in the case of turbidity, where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition;

p. "Nonpublic water system" means a water system that is not a public water system;

q. "Sanitary survey" means an on-site review of the water source, facilities, equipment, operation and maintenance of a public or nonpublic water system for the purpose of evaluating the adequacy of the source, facilities, equipment, operation and mainte-

nance for producing and distributing safe drinking water with adequate pressure and volume;

r. "Secondary drinking water regulation" means a regulation applying to one or more water systems, and which specifies the maximum contaminant levels that are required to protect the public welfare; such regulations may apply to any contaminant in drinking water: (1) which may adversely affect the taste, odor, or appearance of such water and consequently may cause a substantial number of persons served by such water systems to discontinue their use, or (2) which may otherwise adversely affect the public welfare;

s. "Water system" means a system for providing potable water to any person.

14. Section 4 of P. L. 1977, c. 224 (C. 58:12A–4) is amended to read as follows:

C. 58:12A-4 Drinking water regulations.

4. a. The commissioner shall prepare, promulgate and enforce and may amend or repeal: (1) State primary drinking water regulations that at any given time shall be no less stringent than national regulations in effect at that time; (2) State secondary drinking water regulations; and (3) other regulations to protect potable waters, regulate public and nonpublic water systems, and carry out the intent of this act in any one or more areas of the State requiring a particular safe drinking water program.

b. Subject to section 5 of this act, State primary drinking water regulations shall apply to each public water system in the State, except that such regulations shall not apply to a public water system:

(1) Which consists only of distribution and storage facilities and which does not have any collection and treatment facilities;

(2) Which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) Which does not sell water to any person; and

(4) Which does not provide water for potable purposes to any carrier which conveys passengers in interstate commerce.

c. The commissioner shall adopt and implement adequate procedures, promulgate appropriate rules and regulations, and issue such orders as are necessary for the enforcement of State primary drinking water regulations and for the provision of potable water of adequate volume and pressure; such regulations and procedures to include but not be limited to:

(1) Monitoring and inspection procedures;

(2) Maintenance of an inventory of public water systems in the State;

(3) A systematic program for conducting sanitary surveys of public water systems throughout the State or in a part thereof, whenever the commissioner determines that such surveys are necessary or advisable;

(4) The establishment and maintenance of a program for the certification of laboratories conducting analytic measurements of drinking water contaminants specified in the State primary and secondary drinking water regulations; and the assurance of the availability to the department of laboratory facilities certified by the administrator and capable of performing analytic measurements of all contaminants specified in the State primary and secondary drinking water regulations;

(5) The establishment and maintenance of programs concerning plans and specifications for the design, construction and operation of water systems, which programs: (a) require all such plans and specifications to be first approved by the department before any work thereunder shall be commenced; (b) assure that all water systems will comply with any rules and regulations of the department; and (c) assure and certify compliance with the State primary drinking water regulations or such requirements of the State secondary drinking water regulations as the commissioner deems applicable, and will deliver water with sufficient quality, volume and pressure to the users of such systems.

d. The commissioner shall keep such records and make such reports with respect to his activities under subsections a. and c. of this section as may be required by regulations established by the administrator pursuant to the federal act.

e. The commissioner may require any public water system to install, use, and maintain such monitoring equipment and methods, to perform such sampling, to maintain and retain such records of information from monitoring and sampling activities, to submit such reports of monitoring and sampling results, and to provide such other information as he may require to assist in the establishment of regulations under this act, or to determine compliance or noncompliance with this act or with regulations promulgated pursuant to this act.

f. The commissioner shall have the right to enter any premises upon presentation of appropriate credentials during regular

business hours, in order to test, inspect or sample any feature of a public water system, and in order to inspect, copy or photograph any monitoring equipment or records required to be kept under provisions of this act.

g. The department shall further transmit copies of all rules and regulations proposed pursuant to this act to the Senate and General Assembly on a day on which both Houses shall be meeting in the course of a regular or special session. The provisions of the aforesaid "Administrative Procedure Act" or any other law to the contrary notwithstanding, no such rule or regulation shall take effect if, within 60 days of the date of its transmittal to the Senate and General Assembly, the Legislature shall pass a concurrent resolution stating in substance that the Legislature does not favor such proposed rule or regulation.

15. Section 6 of P. L. 1977, c. 224 (C. 58:12A–6) is amended to read as follows:

C. 58:12A-6 Actions to protect health.

6. The commissioner, upon receipt of information that a contaminant which is present in or is likely to enter a water system may present an imminent and substantial endangerment to the health of persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such actions may include, but shall not be limited to: a. issuing such orders as may be necessary to protect the health of persons who are or may be users of such system, including travelers; and b. commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

16. Section 9 of P. L. 1977, c. 224 (C. 58:12A–9) is amended to read as follows:

C. 58:12A-9 Authority of commissioner.

9. The commissioner is authorized, in order to carry out the provisions and purposes of this act, to:

a. Perform any and all acts necessary to carry out the purposes and requirements of this act relating to the adoption and enforcement of any regulations authorized pursuant to this act;

b. Administer and enforce the provisions of this act and all rules, regulations, and orders promulgated, issued, or effective hereunder;

c. Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as he deems appropriate,

with the Department of Health and any other state agency, federal agencies, municipalities, counties, educational institutions, municipal or county health departments, or other organizations or individuals;

d. Receive financial and technical assistance from the federal government and other public or private agencies;

e. Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations;

f. Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of this act;

g. Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of this act;

h. Establish and collect fees, in accordance with a fee schedule adopted as a rule or regulation, for conducting inspections and laboratory analyses and certifications as may be necessary;

i. Prescribe such regulations and issue such orders as are necessary or appropriate to carry out his functions under this act;

j. Conduct research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of contaminants in drinking water;

k. Provide for the education of the public as to the causes, effects, extent, prevention, and control of contaminants in drinking water;

l. Collect and make available, through publications, a data management system and other appropriate means, the results of and other information, including appropriate recommendations by the institute in connection therewith, pertaining to such research and other activities;

m. Cooperate with and contract with other public and private agencies, institutions, and organizations and with any industries involved, in the preparation and conduct of such research and other activities;

n. Review treatment methods used for removal of contaminants from drinking water;

o. Provide for the education and training of departmental personnel in those areas relating to the causes, effects, extent, prevention and control of contaminants in drinking water;

p. Establish and collect reasonable fees, in accordance with a fee schedule adopted as a rule or regulation, for the estimated costs of administering and enforcing the programs pursuant to this amendatory and supplementary act, to the extent that the costs are not available from the fund, including but not limited to conducting inspections, laboratory analyses and certifications as may be necessary;

q. The authority to collect fees pursuant to this section may be delegated by the commissioner to the appropriate county agency consistent with a delegation, pursuant to the provisions of the "County Environmental Health Act," P. L. 1977, c. 443 (C. 26:3A2–21 et seq.), of any authority to administer the provisions of this act.

17. Section 10 of P. L. 1977, c. 224 (C. 58:12A–10) is amended to read as follows:

C. 58:12A-10 Violations; penalties.

10. a. If any person violates any of the provisions of this act or any rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent such violation or violations, and the said court may proceed in the action in a summary manner.

b. Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a civil administrative penalty of not more than $5,000.00 for the first offense, not less than $5,000.00 nor more than $10,000.00 for the second offense, and up to $25,000.00 for the third and each subsequent offense. If the violation is of a continuing nature, each day during which it continues subsequent to receipt of an order to cease the violation shall constitute an additional, separate and distinct offense. No civil administrative penalty shall be levied, except subsequent to the notification of the violator by certified mail or personal service. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; a concise statement of the facts alleged to constitute the violation; a statement of the amount of the civil penalties to be imposed; and a statement of the violator's right to a hearing. The violator shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon a finding that a violation has

occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order upon the expiration of the 20 day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in this act, and the payment of a civil administrative penalty shall not be deemed to affect the availability of any other enforcement provision in connection with the violation for which the penalty is levied.

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

d. Any person who violates this act, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection a. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection b. of this section shall be subject, upon order of the court, to a civil penalty not to exceed $10,000.00 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). The Superior Court and county district court shall have jurisdiction to enforce "the penalty enforcement law."

18. 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. A person or business entity owning or operating a cogeneration facility as defined in subsection (j) of this section shall not be deemed a corporation subject to taxation under this act unless it shall be a public utility as specifically enumerated in sections 1 and 6 of P. L. 1940, c. 5 (C. 54:30A–49 and C. 54:30A–54).

(b) "Real estate" means lands and buildings, but it does not include 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 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 gas or electrical energy or water sold and furnished to another public utility which is also subject to the payment of a tax based upon its gross receipts, nor any sum or sums of money received by the taxpayer from a cogenerator in payment for cogenerated electrical energy resold by the taxpayer to the producing cogenerator where produced, nor in the case of a street railway or traction corporation the receipts from the operation of autobuses or vehicles of the character described in R. S. 48:15–41 through R. S. 48:15–56, inclusive, 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) "Scheduled property" means only those classes or types of property of a taxpayer set forth in section 10 of this act and which are to be used in computing the apportionment value as herein defined.

(e) "Unit value" means the value set forth in section 10 of this act to be uniformly applied to each of the several classes or types of scheduled property in computing the apportionment value.

(f) "Apportionment value" or "apportionment valuation" means the result obtained by multiplying the quantities of each class or type of scheduled property of a taxpayer by the applicable unit value, and the addition of such results.

(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.

(h) "Service connections" means the wires or 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) "Cogenerator" means a person or business entity which 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 Utilities Regulatory Policies Act of 1978," Pub. L. 95–617.

19. There is appropriated from the General Fund the sum of $500,000.00 to the Department of Environmental Protection to carry out the purposes of this amendatory and supplementary act. This appropriation shall be repaid to the General Fund as soon as practicable from the assessments made pursuant to section 11 of this amendatory and supplementary act.

20. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 444

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs, amending R. S. 39:4–50 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. 39:4–50 is amended to read as follows:

Penalties for driving while intoxicated.

39:4–50. (a) A person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the

defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood, shall be subject:

(1) For the first offense, to a fine of not less than $250.00 nor more than $400.00 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than six months nor more than one year.

(2) For a second violation, a person shall be subject to a fine of not less than $500.00 nor more than $1,000.00, 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 be sentenced to imprisonment for a term of not less than 48 consecutive hours, which shall not be suspended or served on probation, nor more than 90 days, and shall forfeit his right to operate a motor vehicle over the highways of this State for a period of two years upon 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, consistent with subsection (b) of this section.

(3) For a third or subsequent violation, a person shall be subject to a fine of $1,000.00, and shall be sentenced to imprisonment for a term of not less than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and shall thereafter forfeit his right to operate a motor vehicle over the highways of this State for 10 years.

If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title at the time of any conviction for a violation of this section, the revocation or

suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. A court that imposes a term of imprisonment under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, to an inpatient rehabilitation program or to an Intoxicated Driver Resource Center or other facility approved by the Director of the Division of Motor Vehicles and the Director of the Division of Alcoholism in the Department of Health; provided that for a third or subsequent offense a person shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f).

A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to render him liable to the punishment imposed by this section on a second or subsequent offender, but if the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes and if a third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

(b) A person convicted under this section must satisfy the screening, evaluation, referral and program requirements of the Division of Motor Vehicles' Bureau of Alcohol Countermeasures, and of the Intoxicated Driver Resource Centers. The sentencing court shall inform the person convicted that failure to satisfy such requirements shall result in a mandatory two day term of imprisonment in a county jail and a driver license revocation or suspension and continuation of revocation or suspension until such requirements are satisfied, unless stayed by court order in accordance with Rule 7:8–2 of the N. J. Court Rules, 1969, or R. S. 39:5–22. Upon sentencing, the court shall forward to the Bureau of Alcohol Countermeasures a copy of a person's conviction record. A fee, not to exceed $40.00, shall be payable to the Division of Motor Vehicles for the Bureau of Alcohol Countermeasures' screening and evaluation program.

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Director of the Division of Motor Vehicles. The court shall inform the person convicted that if he is convicted of personally operating a motor vehicle during the period of license suspension imposed

pursuant to subsection (a) of this section, he shall, upon conviction, be subject to the penalties established in R. S. 39:3–40. The person convicted shall be informed orally and in writing. A person shall be required to acknowledge receipt of that 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. In the event that a person convicted under this section is the holder of any out-of-state driver's license, the court shall not collect the license but shall notify forthwith the director, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle in this State, in accordance with this section. Upon conviction of a violation of this section, the court shall notify the person convicted, orally and in writing, of the penalties for a second, third or subsequent violation of this section. A person shall be required to acknowledge receipt of that 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 this section.

(d) The Director of the Division of Motor Vehicles shall promulgate administrative rules and regulations in order to effectuate the purposes of this act.

(e) Any person accused of a violation of this section who is liable to punishment imposed by this section as a second or subsequent offender shall be entitled to the same rights of discovery as allowed defendants pursuant to the Rules Governing Criminal Practice, as set forth in the Rules Governing the Courts of the State of New Jersey.

(f) The counties, in cooperation with the Division of Alcoholism and the Division of Motor Vehicles, but subject to the approval of the Division of Alcoholism, shall designate and establish on a county or regional basis Intoxicated Driver Resource Centers. These centers shall have the capability of serving as community treatment referral centers and as court monitors of a person's compliance with the ordered treatment, service alternative or community service. All centers established pursuant to this subsection shall be administered by a certified alcoholism counsellor or other professional with a minimum of five years' experience in treatment of alcoholism. All centers shall be required to develop individualized treatment plans for all persons attending the centers; provided that the duration of any ordered treatment or referral shall not exceed

one year. It shall be the center's responsibility to establish networks with the community alcohol education, treatment and rehabilitation resources and to receive monthly reports from the referral agencies regarding a person's participation and compliance with the program. Nothing in this subsection shall bar these centers from developing their own education and treatment programs; provided that they are approved by the Division of Alcoholism.

Upon a person's failure to report to the initial screening or any subsequently ordered referral, the Intoxicated Driver Resource Center shall promptly notify the sentencing court of the person's failure to comply.

Required detention periods at the Intoxicated Driver Resource Centers shall be determined according to the individual treatment classification assigned by the Bureau of Alcohol Countermeasures. Upon attendance at an Intoxicated Driver Resource Center, a person shall be assessed a per diem charge not to exceed $25.00 to be collected by the center and used to defray costs. The per diem charge may be waived by the sentencing court upon good cause shown.

The Directors of the Divisions of Alcoholism and Motor Vehicles shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), in order to effectuate the purposes of this subsection.

2. (New section) The Judiciary, Law, Public Safety and Defense Committee of the General Assembly, and the Law, Public Safety and Defense Committee of the Senate, or their respective successors, are constituted a joint committee for the purposes of monitoring the effectiveness of the implementation of this act. The Commissioner of Health and the Attorney General shall, one year from the effective date of this act, submit a report to the joint committee which evaluates the effectiveness of this act. The committee shall, upon receiving the report, issue as it may deem necessary and proper, recommendations for administrative or legislative changes affecting the implementation of this act.

3. This act shall take effect on the two-hundred and seventieth day following enactment but shall remain inoperative until the enactment into law of either Assembly Bill No. 3468 of 1983 or Senate Bill No. .... of 1983, and Assembly Bill No. 2262 of 1982, now pending before the Legislature.

Approved January 9, 1984.

CHAPTER 445

AN ACT concerning individual retirement annuities and amending N. J. S. 40A:9–17, N. J. S. 40A:10–17, P. L. 1965, c. 173 and supplementing Title 40A of the New Jersey Statutes and Title 52 of the Revised Statutes.

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

1. N. J. S. 40A:9–17 is amended to read as follows:

Payroll deductions.

40A:9–17. Whenever any person holding public office, position or employment, whose compensation is paid by any county or municipality or by any board, body, agency or commission thereof, or any board of education, shall indicate in writing to the proper disbursing officer his desire to have any deductions made from his compensation for payment: *a.* to a credit union, organized under the laws of this State or of the United States, the membership of which is limited to public employees, or b. to an insurance company authorized to do business in this State for the purchase of an individual retirement annuity written on a group or individual basis, as defined by section 408 (b) of the Federal Internal Revenue Code of 1954 as amended (26 U. S. C. § 408 (b)), or c. to any State or federally chartered bank, savings bank, or savings and loan association selected by the employer for deposit into an individual retirement account, as defined by section 408 (a) of the Federal Internal Revenue Code of 1954 as amended (26 U. S. C. § 408 (a)), such deductions shall be made by the proper disbursing officer, when directed so to do by resolution of the governing body of any county or municipality or by resolution of the board, body, agency or commission or board of education of which he is the disbursing officer, and shall be transmitted to the treasurer of the credit union, insurance company or the bank, savings bank, or savings and loan association. Any such written authorization may be withdrawn upon filing notice of such withdrawal with the proper disbursing officer.

2. N. J. S. 40A:10–17 is amended to read as follows:

Contracts for group insurance, individual retirement annuity programs or individual retirement accounts.

40A:10–17. Contracts for group insurance, individual retirement annuity programs or individual retirement accounts. Any local unit or agency thereof, herein referred to as employers, may:

a. Enter into contracts of group life, accidental death and dismemberment, hospitalization, dental, medical, surgical, major medical expense, or health and accident insurance with any insurance company or companies authorized to do business in this State, or may contract with a nonprofit hospital service or medical service or dental service corporation with respect to the benefits which they are authorized to provide respectively. The contract or contracts shall provide any one or more of such coverages for the employees of such employer and may include their dependents;

b. Enter into a contract or contracts to provide drug prescription and other health care benefits, or enter into a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiation agreement, or as may be required to implement a determination by a local unit to provide such benefit or benefits to employees not included in collective negotiations units;

c. Enter into a contract with an insurance company authorized to do business in this State to provide to its employees on a group or individual basis, individual retirement annuities, as defined by section 408 (b) of the Federal Internal Revenue Code of 1954 as amended (26 U. S. C. § 408 (b)). The contract shall provide for coverage under these annuities of any employee of the employer and may provide for the establishment of annuities on behalf of the spouse of the employee.

Nothing herein contained shall be deemed to authorize coverage of dependents of an employee under a group life insurance policy or to allow the issuance of a group life insurance policy under which the entire premium is to be derived from funds contributed by the insured employees.

3. 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 1954 as amended, (26 U. S. C. § 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 1954, as amended (26 U. S. C. § 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) 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.

4. Title 40A of the New Jersey Statutes is supplemented as follows:

C. 40A:9-17.1 Individual retirement accounts.

(New section) Any county or municipal government or any board, body, agency or commission thereof may establish individual retirement accounts, as defined by section 408 (a) of the Federal Internal Revenue Code of 1954 as amended (26 U. S. C. § 408 (a)), for any employee and for the spouse of the employee.

5. Title 52 of the Revised Statutes is supplemented as follows:

C. 52:18-11.1 Individual retirement annuities.

(New section) The State Treasurer may enter into a contract with an insurance company authorized to do business in this State to provide to its employees, on a group or individual basis, individual retirement annuities, as defined by section 408 (b) of the Federal Internal Revenue Code of 1954 as amended (26 U. S. C. § 408 (b)). The contract shall provide for coverage under these annuities of any employee of the State and may provide for the establishment of annuities on behalf of the spouse of the employee.

6. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 446

AN ACT concerning the removal of tenants from rental premises 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:18-59.1 Terminally ill tenants.

1. Notwithstanding the provisions of any other law to the contrary, the county district court or the Superior Court may authorize and review one year stays of eviction during which the tenant shall be entitled to renew the lease at its term of expiration, subject to reasonable changes proposed to the tenant by the landlord in written notice, whenever:

a. The tenant fulfills all the terms of the lease and removal is sought under subsection a. of N. J. S. 2A:18–53 where a residential tenant holds over after written notice for delivery of possession; and

b. The tenant has a terminal illness which illness has been certified by a licensed physician; and

c. There is substantial likelihood that the tenant would be unable to search for, rent and move to a comparable alternative rental dwelling unit without serious medical harm; and

d. The tenant has been a tenant of the landlord for at least two years prior to the issuance of the stay.

In reviewing a petition for a stay of eviction, the court shall specifically consider whether the granting of the stay of eviction would cause an undue hardship to the landlord because of the landlord's financial condition or any other factor relating to the landlord's ownership of the premises.

C. 2A:18-59.2 Not applicable to transients.

2. This act shall not apply to a hotel, motel or other guest house, or part thereof, rented to a transient guest or seasonal tenant, or a residential health care facility as defined in section 1 of P. L. 1953, c. 212 (C. 30:11A–1).

3. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 447

AN ACT to amend the "Hotel and Multiple Dwelling Law," approved May 31, 1967 (P. L. 1967, c. 76), as said short title was amended by P. L. 1970, c. 138.

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

1. Section 3 of P. L. 1967, c. 76 (C. 55:13A–3) is amended to read as follows:

C. 55:13A-3 Definitions.

3. The following terms whenever used or referred to in this act shall have the following respective meanings for the purposes of

this act, except in those instances where the context clearly indicates otherwise:

(a) The term "act" shall mean this act, any amendments or supplements thereto, and any rules and regulations promulgated thereunder.

(b) The term "accessory building" shall mean any building which is used in conjunction with the main building of a hotel, whether separate therefrom or adjoining thereto.

(c) The term "board" shall mean the Hotel and Multiple Dwelling Health and Safety Board created by subsection (a) of section 5 of this act in the Division of Housing and Urban Renewal of the Department of Community Affairs.

(d) The term "bureau" shall mean the Bureau of Housing Inspection in the Division of Housing and Urban Renewal of the Department of Community Affairs.

(e) (Deleted by amendment.)

(f) The term "commissioner" shall mean the Commissioner of the Department of Community Affairs.

(g) The term "department" shall mean the Department of Community Affairs.

(h) The term "unit of dwelling space" or the term "dwelling unit" shall mean any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

(i) The term "protective equipment" shall mean any equipment, device, system or apparatus, whether manual, mechanical, electrical or otherwise, permitted or required by the commissioner to be constructed or installed in any hotel or multiple dwelling for the protection of the occupants or intended occupants thereof, or of the public generally.

(j) The term "hotel" shall mean any building, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains 10 or more units of dwelling space or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to transient or permanent guests.

This definition shall also mean and include any motor hotel, motel, or established guesthouse, which is commonly regarded as a motor hotel, motel, or established guesthouse, as the case may be, in the community in which it is located; provided, that this definition shall not be construed to include any building or structure defined as a multiple dwelling in this act, registered as a multiple dwelling with the Commissioner of Community Affairs as hereinafter provided, and occupied or intended to be occupied as such.

(k) The term "multiple dwelling" shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or are intended to be occupied by three or more persons who live independently of each other. This definition shall also mean any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. This definition shall not be construed to include any building or structure defined as a hotel in this act, or registered as a hotel with the Commissioner of Community Affairs as hereinafter provided, or occupied or intended to be occupied exclusively as such; nor shall this definition be construed to include any building section containing not more than two dwelling units held under a condominium or cooperative form of ownership, or by a mutual housing corporation, where all the dwelling units in the section are occupied by their owners, if a condominium, or by shareholders in the cooperative or mutual housing corporation, and where such building section has at least two exterior walls unattached to any adjoining building section and is attached to any adjoining building sections exclusively by walls of such fire-resistant rating as shall be established by the bureau in conformity with recognized standards; nor any building of three stories or less, owned or controlled by a nonprofit corporation organized under any law of this State for the primary purpose to provide for its shareholders or members housing in a retirement community as same is defined under the provisions of the "Retirement Community Full Disclosure Act," P. L. 1969, c. 215 (C. 45:22A–1 et seq.), provided that the corporation meets the requirements of section 2 of this amendatory and supplementary act.

(l) The term "owner" shall mean the person who owns, purports to own, or exercises control of any hotel or multiple dwelling.

(m) The term "person" shall mean any individual, corporation, association, or other entity, as defined in R. S. 1:1–2.

(n) The term "continuing violation" shall mean any violation of this act or any regulation promulgated thereunder, where notice is served within two years of the date of service of a previous notice and where violation, premise and person cited in both notices are substantially identical.

(o) The term "project" shall mean a group of buildings subject to the provisions of this act, which are or are represented to be under common or substantially common ownership and which stand on a single parcel of land or parcels of land which are contiguous and which group of buildings is named, designated or advertised as a common entity. The contiguity of such parcels shall not be adversely affected by public rights-of-way incidental to such buildings.

(p) The term "mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the Lanham Act (National Defense Housing), P. L. 849, 76th Congress, 54 Stat. 1125, 42 U. S. C. 1521 et seq., as amended, which acquired a National Defense Housing Project pursuant to said act.

(q) "Condominium" means the form of ownership so defined in the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1 et seq.).

(r) "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association.

2. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 448

AN ACT to amend the "State Police Retirement System Act," approved June 9, 1965 (P. L. 1965, c. 89).

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

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

C. 53:5A-8 State Police retirement.

8. a. 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. 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.

b. (Deleted by amendment, P. L. 1983, c. 448.)

c. 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.

2. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 449

AN ACT concerning sheriff's officers, and amending and supplementing P. L. 1982, c. 133.

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

1. Section 3 of P. L. 1982, c. 133 (C. 40A:9–117.8) is amended to read as follows:

C. 40A:9-117.8 Appointment as sheriff's officer.

3. Every duly appointed employee holding permanent civil service status in a title the functions of which encompass the performance of duties set forth in section 1 of this act, may apply to the sheriff

for appointment as a sheriff's officer within 30 days after the effective date of this act, and shall be so appointed to the corresponding level sheriff's officer title and be granted permanent civil service status upon meeting the training qualifications for the position of sheriff's officer. Training may be waived at the discretion of the sheriff, if the applicant has graduated from a police training school or has 10 or more years in the position held by the employee immediately prior to appointment as a sheriff's officer.

If no application is made, the employee's title shall remain in effect, together with all duties, benefits, privileges and powers pertaining thereto. If application is made and the applicant shall fail to meet the qualifications for sheriff's officer within a reasonable period as the Civil Service Commission shall prescribe, the employee's title shall remain in effect as if no application had been made.

2. (New section) Nothing in P. L. 1982, c. 133 (C. 40A:9–117.6 et seq.) shall preclude a sheriff from making promotions within the title "Sheriff's Identification Officer," provided that the promotions are made within six months of the effective date of this act from a promotion list or lists promulgated prior to September 14, 1982.

3. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 450

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the sums appropriated under P. L. 1983, c. 240, there is appropriated out of the General State Fund the following sum for the purpose specified:

STATE AID

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Community Development and Environmental Management

45 Recreational Resource Management

12-4875 Parks Management $79,000

Special Purpose:
Maintenance of the American Labor Museum, Botto House Historical Site (State share) ..... ($79,000)

2. This act shall take effect immediately.

Approved January 9, 1984.

CHAPTER 451

A SUPPLEMENT to "An act making appropriations for the support of State Government and the several public purposes for the fiscal year ending June 30, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the amounts appropriated by P. L. 1983, c. 240, the following amount is appropriated from the General Fund for the following purpose:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

04-8030 Local Government Services $7,386,640.00

State Aid:
Municipal aid pursuant to C. 52: 27D-178 et seq. ..... ($7,386,640.00)

Notwithstanding the provisions of P. L. 1978, c. 14 (C. 52:27D-178 et seq.), the amount hereinabove shall be allocated among the

municipalities which are qualified to receive State aid pursuant to P. L. 1978, c. 14 as follows: (a) to each qualified municipality having a population in excess of 300,000, according to the 1980 federal decennial census, $1,450,000.00; (b) to each qualified municipality having a population in excess of 200,000, but not exceeding 300,000, according to the 1980 federal decennial census, $940,000.00; (c) to each qualified municipality having a population in excess of 125,000, but not exceeding 200,000, according to the 1980 federal decennial census, $865,000.00; (d) to each qualified municipality having a population in excess of 84,000, but not exceeding 125,000, according to the 1980 federal decennial census, $665,000.00; (e) to each qualified municipality having a population in excess of 70,000, but not exceeding 84,000, according to the 1980 federal decennial census, $450,000.00; (f) to each qualified municipality having a population in excess of 50,000, but not exceeding 70,000, according to the 1980 federal decennial census, $110,000.00; and (g) to each qualified municipality having a population in excess of 35,000, but not exceeding 50,000, according to the 1980 federal decennial census, $65,000.00; except that, other than a municipality which became a qualified municipality pursuant to P. L. 1983, c. 384, no qualified municipality shall receive an amount of State aid pursuant to the provisions of this act which exceeds the amount of State aid it received during the 1983 local budget year pursuant to P. L. 1978, c. 14. The amounts allocated pursuant to the provisions of this act shall be used exclusively for one or more of the following purposes: to avert layoffs of policemen or firemen, to employ additional policemen or firemen, and to increase police and fire services within the municipality. On or before February 1, 1984, the State Treasurer shall pay to the chief financial officer of each qualified municipality the amount of State aid allocated thereto pursuant to the provisions of this act.

2. In order to receive any funds pursuant to section 1 of this act a municipality qualifying pursuant to subsections (e), (f) and (g) of section 1 shall apply to the Director of the Division of Local Government Services in the Department of Community Affairs. In reviewing the application the director shall consider cash deficits, shortfalls in revenue, personnel reductions, tax collections, the equalized valuation per capita and the general fiscal well-being of the municipality. If the director finds a substantial financial need for this State aid then the municipality shall receive the amounts set forth in section 1 of this act. Appeals from the decisions of the

director may be taken to the Local Finance Board in the Department of Community Affairs.

3. The director shall monitor the municipalities to assure that the funds are used pursuant to the purposes of this act and if not, any unspent funds shall be returned to the State.

4. This act shall take effect immediately.

Approved January 10, 1984.

CHAPTER 452

AN ACT to amend the "Casino Control Act," approved June 2, 1977 (P. L. 1977, c. 110).

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

1. Section 96 of P. L. 1977, c. 110 (C. 5:12–96) is amended to read as follows:

C. 5:12-96 Operation certificate.

96. Operation Certificate. a. Notwithstanding the issuance of a license therefor, no casino may be opened or remain open to the public, and no gaming activity, except for test purposes, may be conducted therein, unless and until a valid operation certificate has been issued to the casino licensee by the commission. Such certificate shall be issued by the commission upon a finding that a casino complies in all respects with the requirements of this act and regulations promulgated hereunder, that the casino licensee has implemented necessary management controls and security precautions, that casino personnel are properly trained and licensed for their respective responsibilities, and that the casino is prepared in all respects to receive the public.

b. The operation certificate shall include a statement of compliance with subsection a. of this section and an itemized list by category and number of the authorized games permitted in the particular casino establishment.

c. A casino licensee shall notify the commission 30 days in advance of any proposed change in the number of authorized games to be played in a particular casino, and shall request the

issuance of an operation certificate which permits such changes to occur. The commission shall issue a revised operation certificate unless it finds that the planned change in authorized games does not conform to the requirements of this act or regulations promulgated hereunder, or that there has been a change of circumstances in the casino or with respect to the casino licensee materially affecting compliance with subsection a. of this section.

d. An operation certificate shall remain in force and effect unless altered in accordance with subsection c. of this section, or revoked, suspended, limited, or otherwise altered by the commission in accordance with this act.

e. It shall be an express condition of continued operation under this act that a casino licensee shall maintain all books, records, and documents pertaining to the licensee's operations and approved hotel in a manner and location within this State approved by the commission. All such books, records and documents shall be immediately available for inspection during all hours of operation in accordance with the rules of the commission and shall be maintained for a period of seven years or such other period of time as the commission shall require.

2. This act shall take effect immediately.

Approved January 11, 1984.

CHAPTER 453

AN ACT concerning parole, amending P. L. 1979, c. 441 and making an appropriation.

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, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social, physical and mental 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.

(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 b. 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. Any provision of this section to the contrary notwithstanding, the board shall, by rule and regulation, modify the scope of the required reports and time periods for rendering such reports with reference to county penal institutions.

2. Section 11 of P. L. 1979, c. 441 (C. 30:4–123.55) is amended to read as follows:

C. 30:4-123.55 Parole release, denial; 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 this act, and shall determine whether there is a basis for denial of parole in the preparole report 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 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 this act 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. 30:4–123.51g.). 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 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. A senior hearing officer of the parole board, on behalf and under the direction of the board panel, may receive the testimony. 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 sections 10 and 11 may be waived by the appropriate board panel for good cause.

3. There is appropriated $254,000.00 to the State Parole Board to effectuate the purposes of this act.

4. This act shall take effect 180 days after enactment.

Approved January 12, 1984.

CHAPTER 454

AN ACT concerning public hearings and certain public meetings of the Board of Public Utilities, and supplementing Title 48 of the Revised Statutes.

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

C. 48:2-32.5 Definitions.

1. For purposes of this act:

a. "Geographic region" means one of the following regions of the State: the southern region encompassing the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem; the central region encompassing the counties of Hunterdon, Mercer, Middlesex, Monmouth and Somerset; and the northern region encompassing those counties remaining in the State.

b. "Intervenor" means any person permitted to intervene by the Board of Public Utilities or its presiding officer in any proceeding.

c. "Objector" means any person who objects on the grounds of public or private interest to the approval, determination, consent, certification or authorization of any petition pending before the board.

d. "Petitioner" means any person who files a petition, or on whose behalf a petition is made, for approval, determination, consent, certification or authorization of the board.

e. "Respondent" means any person subject to the jurisdiction of the board to whom the board issues notice instituting a proceeding or investigation of the board or ordered before any pending proceeding of the board or against whom a petition is filed.

f. "Service area" means the entire geographic area over which a gas or electric light, heat or power company has a privilege or franchise granted by the State or by any political subdivision of the State, in accordance with the provisions of R. S. 48:2–13 and R. S. 48:2–14.

g. "Significant increase" means an increase other than one resulting from a levelized energy adjustment clause or raw materials adjustment clause.

C. 48:2-32.6 Public hearings in service areas.

2. a. The provisions of any other law, rule, regulation or order to the contrary notwithstanding, the board, or the Office of Administrative Law acting pursuant to subsection (c) of section 10 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–10(c)), shall conduct as many of its public hearings held to review applications by gas and electric light, heat and power companies other than municipally owned companies for significant increases, changes, or alterations in their rate schedules, in the service area of the applicant as it deems necessary or appropriate to afford the affected ratepayers the opportunity to monitor the decision-making process by which the rates are set. At least two public hearings shall be held in the service area with respect to any application except that if substantial portions of the service area are located in more than one geographic region of the State, then at least two public hearings shall be held in the service area located in each of those geographic regions, under the terms and conditions specified in this subsection. One of the public hearings held in the service area, or one of the hearings held in each geographic area, as the case may be, shall be a hearing in which petitioners, respondents, and intervenors are parties. At the second hearing or hearings required by the provisions of this subsection statements by objectors shall be permitted. All public hearings held pursuant to the provisions of this subsection shall be held at places which are easily accessible to the public with at least one such hearing held during evening hours.

b. On the day that the final public hearing is to be held in connection with any application, after which the recommended report and decision is to be filed in accordance with subsection (c) of section 10 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–10 (c)), the administrative law judge or the board, as the case may be, may require the parties to the proceedings to present a summary statement of their cases or defenses. After such a presentation, statements by the objectors shall be permitted in order to accord persons not parties to the proceedings an opportunity to participate in the proceedings. If no such presentation is made, objectors' statements shall be permitted in any event before the conclusion of the hearing. The final public hearing shall be held in the service area.

C. 48:2-32.7 Decision in public.

3. The board shall adopt a final decision or order with respect to an application under section 2 of this act at a public meeting,

in accordance with subsection (d) of section 10 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–10(d)). Each member of the board shall individually state the reason or reasons for his decision on the application either at the public meeting or in a written document, which document shall be available to the public on request.

4. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 455

AN ACT providing for the removal, storage, sale and junking of abandoned motor vehicles left at motor vehicle repair facilities, establishing a penalty for certain violations and supplementing P. L. 1964, c. 81 (C. 39:10A–1 et seq.).

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

C. 39:10A-8 When vehicle deemed abandoned.

1. For purposes of this act a motor vehicle shall be deemed to be abandoned if it is left at a motor vehicle repair facility without an attempt by the owner, a person on the owner's behalf or any other person having a legal right thereto to regain possession thereof:

a. For a period in excess of 60 days without the consent of an authorized representative of the motor vehicle repair facility;

b. For a period of 60 days in excess of the period for which consent has been given by an authorized representative of the motor vehicle repair facility; or

c. For a period in excess of 60 days after being notified by an authorized representative of the motor vehicle repair facility that service or repairs to the motor vehicle have been completed.

C. 39:10A-9 Actions permitted.

2. a. An authorized representative of a motor vehicle repair facility may take one or more of the following actions with respect to an abandoned motor vehicle:

(1) Remove and store, or hire another person to remove and store the motor vehicle pursuant to section 3 of this act;

(2) Sell or cause the motor vehicle to be sold, at public or private sale, pursuant to section 4 of this act; or

(3) Cause a junk title certificate to be issued for the motor vehicle pursuant to section 5 of this act.

b. No motor vehicle shall be sold and no junk title certificate shall be issued pursuant to this act where the cause for a motor vehicle being left in the possession of a motor vehicle repair facility for a period in excess of that set forth in section 1 of this act is a dispute between the motor vehicle repair facility and the owner of the motor vehicle or other person having a legal right thereto regarding the amount to be paid in order to regain possession of the motor vehicle.

C. 39:10A-10 Notice of intent to remove.

3. Prior to the removal and storage of a motor vehicle pursuant to section 2a. (1) of this act, an authorized representative of a motor vehicle repair facility shall give the owner of the motor vehicle or other person having a legal right thereto 30 days' notice of the intent to remove and store the motor vehicle.

C. 39:10A-11 Notice of intent to sell.

4. Prior to the sale of a motor vehicle pursuant to section 2a. (2) of this act, an authorized representative of a motor vehicle repair facility shall:

a. Give the owner of the motor vehicle or other person having a legal right thereto, the holder of any security interest in the motor vehicle filed with the Director of the Division of Motor Vehicles and the Director of the Division of Motor Vehicles 30 days' notice of the intent to sell the motor vehicle or cause it to be sold; and

b. Give the owner of the motor vehicle or other person having a legal right thereto and the holder of any security interest in the motor vehicle filed with the Director of the Division of Motor Vehicles at least five days' notice of the date, time, place and manner of the proposed sale.

C. 39:10A-12 Junk title certificate.

5. If a motor vehicle repair facility determines that a motor vehicle subject to the provisions of this act is incapable of being operated safely or of being put in safe operational condition except at a cost in excess of the value thereof, an authorized representative of the motor repair facility shall so certify to the Director of the Division of Motor Vehicles, on an application prescribed by

him, and the Division of Motor Vehicles shall thereupon, without further certification or verification, issue to the motor vehicle repair facility, for a fee of $10.00, a junk title certificate for the vehicle; but no title certificate shall be issued unless the motor vehicle repair facility first gives 30 days' notice of its intention to obtain a junk title certificate to the owner of the motor vehicle or other person having a legal right thereto and to the holder of any security interest in the motor vehicle filed with the Director of the Division of Motor Vehicles.

C. 39:10A-13 Service of notice.

6. Any notice required to be given by this act shall be in writing and sent by certified or registered mail, return receipt requested, to the last known address of the person to whom the notice is to be given. In the event that the notice is unclaimed by the addressee, or if the address of the person to whom the notice is to be given is unknown to the person giving the notice and cannot be ascertained from the records on file with the Division of Motor Vehicles, the notice shall be given by publishing it twice in at least one newspaper published in this State and circulating in the municipality in which the motor vehicle is left.

C. 39:10A-14 Reclamation of possession.

7. At any time prior to the sale of the motor vehicle or the issuance of a junk title certificate therefor, the owner of the motor vehicle may reclaim possession of the motor vehicle from the motor vehicle repair facility or other person with whom the motor vehicle is stored pursuant to this act, upon payment of the reasonable costs of removal and storage of the motor vehicle, the expenses incurred pursuant to the provisions of this act, and the charges for the servicing or repair of the motor vehicle.

C. 39:10A-15 Certificate of ownership.

8. Upon the sale of a motor vehicle for which no junk title certificate has been issued, an application for a certificate of ownership on a form prescribed by the Director of the Division of Motor Vehicles shall be submitted to the director. The application, in addition to containing any information required by the director, shall set forth the name and address, if known, of the former owner and shall contain a certification from the motor vehicle repair facility selling the motor vehicle that the sale was in conformity with the provisions of this act. The application shall be accepted by the director for issuance of a certificate of ownership for a fee of $10.00.

C. 39:10A-16 Claims barred.

9. Upon the sale of a motor vehicle, or the issuance of a junk title certificate pursuant to the provisions of this act, all claims of interest in the motor vehicle of the former owner, any other person formerly having legal right thereto and any holder of a security interest shall be forever barred, except as provided for in section 10 of this act.

C. 39:10A-17 No claims against repair facility.

10. No claim of any kind may be asserted against a motor vehicle repair facility that complies with the provisions of this act by the owner of a motor vehicle for damages arising out of the storage, removal, sale or issuance of a junk title certificate for a motor vehicle except for the balance of the proceeds of the sale of the motor vehicle, if any, after deduction of the expenses of the sale, the costs and expenses incurred in the removal and storage of the motor vehicle and the charges of the motor vehicle repair facility for the servicing and repair of the motor vehicle.

C. 39:10A-18 Third degree crime.

11. A motor vehicle repair facility, or any employee, officer or agent thereof, which or who engages in a pattern or practice of knowingly violating any of the provisions of this act or aids or advises in such a pattern or practice is guilty of a crime of the third degree.

C. 39:10A-19 Rules, regulations.

12. The Director of the Division of Motor Vehicles shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), to implement the provisions of this act.

C. 39:10A-20 Lien priority.

13. This act provides an additional remedy and shall not be construed to supersede procedures provided under any other act, and shall not be deemed to supersede or alter the priority of any perfected lien or security interest in an abandoned motor vehicle, which lien or security interest shall have priority over the amounts due to the motor vehicle repair facility.

14. This act shall take effect on the thirtieth day after enactment.

Approved January 12, 1984.

CHAPTER 456

AN ACT concerning the licensing of real estate brokers and salesmen and amending R. S. 45:15–9 and P. L. 1966, c. 227.

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

1. R. S. 45:15–9 is amended to read as follows:

Real estate licenses.

45:15–9. All persons desiring to become real estate brokers or real estate salesmen shall apply to the commission for a license under the provisions of this article. Every applicant for a license as a broker or salesman shall be of the age of 18 years or over and a citizen of the United States, and in the case of an association or a corporation the directors thereof shall be of the age of 18 years or over. Application for a license, whether as a real estate broker or a real estate salesman, shall be made to the commission upon forms prescribed by it and shall be accompanied by a fee of $10.00 which fee shall not be refundable. Every applicant for a license whether as a real estate broker or a real estate salesman shall have the equivalent of a high school education. The issuance of a license to an applicant who is a nonresident of this State shall be deemed to be his irrevocable consent that service of process upon him as a licensee in any action or proceeding may be made upon him by service upon the secretary of the commission or the person in charge of the office of the commission. The applicant shall furnish evidence of good moral character, and in the case of an association, partnership or corporation, the members, officers or directors thereof shall furnish evidence of good moral character. The commission may make such investigation and require such proof as it deems proper and in the public interest as to the honesty, trustworthiness, character and integrity of an applicant. Every such application shall be on file with the commission at least 10 days prior to the granting of a license, except in the case of record changes. Every applicant for a license as a broker shall have first served an apprenticeship of two full years as a duly licensed real estate salesman in this State immediately preceding the date of application which requirement may be waived by the commission where the applicant has been the holder of a broker's license in another state and actively engaged in the real estate

business for at least two years immediately preceding the date of his application, meets the educational requirements and qualifies by examination. No license as broker shall be granted to a partnership or corporation unless at least one of the partners or officers of said partnership or corporation qualifies as and holds a license as a broker to transact business in the name and on behalf of said partnership or corporation as its authorized broker and no such authorized broker shall act as a broker on his own individual account unless he is also licensed as a broker in his individual name; the license of said partnership or corporation shall cease if at least one partner or officer does not hold a license as its authorized broker at all times. A change in the status of the license of an authorized broker to an individual capacity or vice versa shall be effected by application to the commission accompanied by a fee of $5.00.

In event that any person to whom a broker's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of two consecutive years or more after the expiration of the last license, the commission shall require such person to serve the same apprenticeship, to pass an examination, and to attend school. This paragraph shall not apply to a person reapplying for a broker's license who was a licensed broker on or after January 1, 1982 and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within three months of termination of that employment.

In event that any person to whom a salesman's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of two consecutive years or more after the expiration of the last license, the commission shall require such person to attend an approved school and pass the State examination prior to issuance of a further license.

2. Section 1 of P. L. 1966, c. 227 (C. 45:15–10.1) is amended to read as follows:

C. 45:15-10.1 Educational requirements.

1. A. As a prerequisite to admission to an examination, every individual applicant for license as a real estate salesman shall give evidence of 75 hours' satisfactory completion in the aggregate of such courses of education in real estate subjects at a school approved by the commission as the commission shall by regulation prescribe.

B. As a prerequisite to admission to an examination, every individual applicant for license as a real estate broker shall give evidence of 90 hours' satisfactory completion in the aggregate of such courses of education in real estate and related subjects at a school approved by the commission as the commission shall by regulation prescribe.

3. This act shall take effect on the first day of the fourth month after its enactment.

Approved January 12, 1984.

CHAPTER 457

AN ACT concerning specialty licenses for bio-analytical laboratory directors and amending P. L. 1953, c. 420.

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

1. Section 7 of P. L. 1953, c. 420 (C. 45:9–42.7) is amended to read as follows:

C. 45:9-42.7 Laboratory director's license.

7. a. Any person possessing the educational and experiential qualifications hereinafter set forth may apply for examination for a plenary license as a bio-analytical laboratory director. The following qualifications as to education and experience are established as prerequisites for application for examination or licensure for a bio-analytical laboratory director's plenary license:

(1) A doctorate degree, plus not less than one year of experience, or

(2) A master's degree, plus not less than two years of experience, or

(3) A bachelor's degree, plus not less than three years of experience.

The above academic degrees shall be course-earned in the fields of chemistry, pharmacy or the biological sciences and awarded by an educational institution approved by the board. "Years of experience," as used in this section, means for plenary license applicants, years of general bio-analytical laboratory experience acceptable to the board.

b. The board shall grant a plenary license to all applicants who meet the qualifications for licensure and satisfactorily complete the examination given by the board.

All examinations shall be written in the English language, but the board, in its discretion, may use supplementary oral and practical examinations of the whole class or of individual applicants. The scope of all examinations shall be such as to determine the competence of the applicant to perform and supervise such tests which are within the scope of the director's plenary license and the clinical laboratory license under the "New Jersey Clinical Laboratory Improvement Act," P. L. 1975, c. 166 (C. 45:9–42.26 et seq.).

c. The board shall grant a specialty license in one or more of the fields of toxicological chemistry, microbiology, cytogenetics, biochemical genetics and clinical chemistry if the applicant is certified by a national accrediting board, which board requires a doctorate degree plus experience, such as but not limited to the American Board of Pathology, the American Osteopathic Board of Pathology, the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bio-analysis or the American Society of Cytopathology or any other national accrediting board recognized by the Board of Medical Examiners.

The applicant for a specialty license must offer proof to the satisfaction of the Board of Medical Examiners of one year's experience in the specialty, which one year's experience must be within three years next preceding the date of application for the specialty license.

The specialty license shall authorize the licensee to perform and supervise only those tests which are within the scope of the specialty.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 458

AN ACT concerning school bonds payable in installments and amending N. J. S. 18A:24–6.

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

1. N. J. S. 18A:24–6 is amended to read as follows:

Annual installments on bonds.

18A:24–6. All bonds issued under this chapter shall be payable in annual installments commencing not more than two years from their date, and no installment shall be more than 100% in excess of the amount of the smallest prior installment.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 459

AN ACT concerning bicycle safety 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. 39:4-14.3v1 Bicycle safety program.

1. The Director of the Division of Motor Vehicles shall use a portion of the fund established pursuant to section 22 of P. L. 1983, c. 105 (C. 39:4–14.3v) for the purpose of providing an educational program for the safe operation of bicycles.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 460

AN ACT authorizing licensed professional land surveyors to enter lands of third parties under certain circumstances.

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

C. 45:8-44.1 Authority to enter land.

1. A person licensed to practice land surveying as provided in P. L. 1938, c. 342 (C. 45:8–27 et seq.) and any of his agents, servants or employees under his direction who are necessary to make a land survey shall have the authority to go on, over and upon lands of others during reasonable hours when necessary to make land surveys if:

a. The licensed professional land surveyor has made a reasonable attempt, as defined in this section, to notify the owner of the land and, in the case of a lease, the lessee thereof, of his desire to enter on, over and upon the owner's or lessee's land to make a land survey and, the attempt having failed, the licensed professional land surveyor has given written notice, seven days prior to the proposed entry, to the municipal police department of the municipality in which the land is located of his intention to enter, containing the names, addresses, and telephone numbers of those who propose to enter the land and the date, time, duration, and location of the proposed entry; and

b. The land or any part thereof, to which entry is sought, is not enclosed by a constructed or natural barrier which is at least 6 feet in height or is not posted with signs or notices which prohibit trespassing and contain the name and address of the owner or lessee of the land;

c. As used in this section, a "reasonable attempt" to notify an owner or lessee means: an attempt to seek acknowledgment of the owner of the land and, in the case of a lease, the lessee thereof, by certified mail, return receipt requested, the attempt to be made a second time if unsuccessful the first time and a third time if unsuccessful the second time, each attempt to be made on a separate business day.

C. 45:8-44.2 Not trespass.

2. Any entry under the right granted in this act shall not constitute trespass nor shall the licensed professional land surveyor

or his agents, servants or employees be liable to arrest or civil action by reason of the entry.

C. 45:8-44.3 Liability for damage.

3. Nothing in this act shall be construed as giving the licensed professional land surveyor or his agents, servants or employees any right to destroy, injure or damage the land or any person or property on the land of another. A licensed professional land surveyor or his agents, servants or employees shall be liable for any such destruction, injury or damage which he is found to have caused to such persons, property or land.

C. 45:8-44.4 Owner, lessee not liable.

4. Neither the owner of the land nor the lessee thereof shall be liable to a licensed professional land surveyor or his agents, servants or employees or any other person for any destruction, injury or damage, which was not willfully or maliciously done by the owner or lessee, to property or persons resulting from the licensed professional land surveyor or his agents, servants or employees going on, over and upon such lands under the provisions of this act.

C. 45:8-44.5 Inapplicable to railroad property.

5. This act shall not apply to lands traversed by an operating railroad.

6. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 461

AN ACT concerning certain public utility rates, 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. 48:2-21.11 Reimbursements considered available.

1. In determining just and reasonable rates for any electric utility pursuant to R. S. 48:2–21, R. S. 48:2–21.1, or section 31 of P. L. 1962, c. 198 (C. 48:2–21.2), the Board of Public Utilities shall provide that any moneys received by the utility as reimbursement for costs incurred, including those for replacement energy, from

any insurance carrier, or as a result of any legal action or settlement shall be accounted for as moneys available to the utility.

C. 48:2-21.12 Rate adjustment.

2. The board shall make an appropriate adjustment to the rates charged to ratepayers to provide that any reimbursements so received are applied properly for reducing utility rates at the utility's rate hearing next following the utility's receipt of those moneys if the board determines that those reimbursed costs are also being charged to ratepayers.

C. 48:2-21.13 $100,000 minimum.

3. The provisions of this act shall not apply to moneys reimbursed which are less than $100,000.00.

4. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 462

AN ACT concerning sentences imposed for offenses committed under certain circumstances and amending N. J. S. 2C:44-5.

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

1. N. J. S. 2C:44-5 is amended to read as follows:

Multiple sentences; concurrent and consecutive terms.

2C:44-5. Multiple Sentences; Concurrent and Consecutive Terms. a. Sentences of imprisonment for more than one offense. When multiple sentences of imprisonment are imposed on a defendant for more than one offense, including an offense for which a previous suspended sentence or sentence of probation has been revoked, such multiple sentences shall run concurrently or consecutively as the court determines at the time of sentence, except that:

(1) The aggregate of consecutive terms to a county institution shall not exceed 18 months; and

(2) Not more than one sentence for an extended term shall be imposed.

b. Sentences of imprisonment imposed at different times. When a defendant who has previously been sentenced to imprisonment

is subsequently sentenced to another term for an offense committed prior to the former sentence, other than an offense committed while in custody:

(1) The multiple sentences imposed shall so far as possible conform to subsection a. of this section; and

(2) Whether the court determines that the terms shall run concurrently or consecutively, the defendant shall be credited with time served in imprisonment on the prior sentence in determining the permissible aggregate length of the term or terms remaining to be served; and

(3) When a new sentence is imposed on a prisoner who is on parole, the balance of the parole term on the former sentence shall not be deemed to run during the period of the new imprisonment unless the court determines otherwise at the time of sentencing.

c. Sentence of imprisonment for offense committed while on parole. When a defendant is sentenced to imprisonment for an offense committed while on parole in this State, such term of imprisonment and any period of reimprisonment that the parole board may require the defendant to serve upon the revocation of his parole shall run consecutively unless the court orders these sentences to run concurrently.

d. Multiple sentences of imprisonment in other cases. Except as otherwise provided in this section, multiple terms of imprisonment shall run concurrently or consecutively as the court determines when the second or subsequent sentence is imposed.

e. Calculation of concurrent and consecutive terms of imprisonment.

(1) When terms of imprisonment run concurrently, the shorter terms merge in and are satisfied by discharge of the longest term.

(2) When terms of imprisonment run consecutively, the terms are added to arrive at an aggregate term to be served equal to the sum of all terms.

f. Suspension of sentence or probation and imprisonment; multiple terms of suspension and probation. When a defendant is sentenced for more than one offense or a defendant already under sentence is sentenced for another offense committed prior to the former sentence:

(1) The court shall not sentence to probation a defendant who is under sentence of imprisonment, except as authorized by section 2C:43-2b. (2);

(2) Multiple periods of suspension or probation shall run consecutively, unless the court orders these sentences to run concurrently from the date of the first such disposition;

(3) When a sentence of imprisonment in excess of one year is imposed, the service of such sentence shall satisfy a suspended sentence on another count or prior suspended sentence or sentence to probation, unless the suspended sentence or probation has been violated in which case any imprisonment for the violation shall run consecutively; and

(4) When a sentence of imprisonment of one year or less is imposed, the period of a suspended sentence on another count or a prior suspended sentence or sentence to probation shall run during the period of such imprisonment, unless the suspended sentence or probation has been violated in which case any imprisonment for the violation shall run consecutively.

g. Offense committed while under suspension of sentence or probation. When a defendant is convicted of an offense committed while under suspension of sentence or on probation and such suspension or probation is not revoked:

(1) If the defendant is sentenced to imprisonment in excess of one year, the service of such sentence shall not satisfy the prior suspended sentence or sentence to probation, unless the court determines otherwise at the time of sentencing;

(2) If the defendant is sentenced to imprisonment of 1 year or less, the period of the suspension or probation shall not run during the period of such imprisonment; and

(3) If sentence is suspended or the defendant is sentenced to probation, the period of such suspension or probation shall run concurrently with or consecutively to the remainder of the prior periods, as the court determines at the time of sentence.

h. Offense committed while released pending disposition of a previous offense. When a defendant is sentenced to imprisonment for an offense committed while released, with or without bail, pending disposition of a previous offense, the term of imprisonment shall run consecutively, unless the court orders these sentences to run concurrently, to any sentence of imprisonment imposed for the previous offense.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 463

AN ACT concerning employer required lie detector tests and amending N. J. S. 2C:40A–1.

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

1. N. J. S. 2C:40A–1 is amended to read as follows:

Employer requiring lie detector test.

2C:40A–1. Employer Requiring Lie Detector Test. Any person who as an employer shall influence, request or require an employee or prospective employee to take or submit to a lie detector test as a condition of employment or continued employment, commits a disorderly persons offense. The provisions of this section shall not apply if: (1) the employer is authorized to manufacture, distribute or dispense controlled dangerous substances pursuant to the provisions of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21–1 et seq.); (2) the employee or prospective employee is or will be directly involved in the manufacture, distribution, or dispensing of, or has or will have access to, legally distributed controlled dangerous substances; and (3) the test, which shall cover a period of time no greater than five years preceding the test, and except as provided in this section, shall be limited to the work of the employee or prospective employee and the individual's improper handling, use or illegal sale of legally distributed controlled dangerous substances. The test may include standard baseline questions necessary and for the sole purpose of establishing a normal test pattern. Any employee or prospective employee who is required to take a lie detector test as a precondition of employment or continued employment shall have the right to be represented by legal counsel. A copy of the report containing the results of a lie detector test shall be in writing and be provided, upon request, to the individual who has taken the test. Information obtained from the test shall not be released to any other employer or person. The employee or prospective employee shall be informed of his right to present to the employer the results of an independently administered second lie detector examination prior to any personnel decision being made in his behalf by the employer.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 464

A SUPPLEMENT to the "Solid Waste Management Act", approved May 6, 1970 (P. L. 1970, c. 39; C. 13:1E–1 et seq.), as said short title was amended by P. L. 1975, c. 326.

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

C. 13:1E-5.1 Additional requirements.

1. In addition to all other standards, conditions and procedures required pursuant to law for the approval of applications for registration statements and engineering designs for new solid waste disposal facilities:

a. The department shall transmit, by certified mail, a completed copy of any application for a registration statement or engineering design approval for a new solid waste disposal facility to the governing body of the affected municipality;

b. Within 6 months of the receipt of a completed application, the department shall reject the application or grant tentative approval thereof, which tentative approval shall establish design and operating conditions for the proposed solid waste disposal facility, requirements for the monitoring thereof, and any other conditions required under federal or State laws or rules and regulations;

c. All tentative approvals of applications granted pursuant to subsection b. of this section shall be transmitted to the applicant and to the affected municipality and shall be accompanied by a fact sheet setting forth the principal facts and the significant factual, legal, methodological, and policy questions considered in granting the tentative approval. The fact sheet shall include a description of the facility which is the subject of the tentative approval, the type and quantities of solid waste or sludge which may be disposed of at the proposed facility, and a brief summary of the basis for the conditions of the tentative approval; and

d. Within 45 days of the granting of a tentative approval of an application, a public hearing on the proposed facility and operator shall be conducted by the department. The department shall adopt and promulgate rules and regulations necessary to ensure that the public hearing is full and impartial and that the applicant is present to answer questions relating to the facility which are posed by interested parties.

C. 13:1E-5.2 Notices to each affected municipality.

2. In the event that any application review by the department pursuant to this 1983 act is for a registration statement and engineering design approval for a proposed solid waste disposal facility on a site located in more than one municipality, the notices required herein shall be transmitted to each affected municipality, and all of the affected municipalities shall be considered a single party for the purposes of the public hearing held concerning the application.

3. The act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 465

AN ACT concerning the supplying of liquefied petroleum gas to residential dwellings and supplementing P. L. 1952, c. 143 (C. 51:10–1 et seq.).

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

C. 51:10-18 Notice of intent to discontinue, curtail service.

1. No supplier of liquefied petroleum gas to residential dwellings shall discontinue or curtail its service for nonpayment of a bill by any customer who uses the gas as a main source of space heating without giving a prior seven day, excluding Saturdays, Sundays and holidays, written notification in six-point type or larger on the front of the invoice or in a separate notice, to the customer of the intent to discontinue or curtail service; provided, however, that any notification after January 1, 1984, shall be in 10-point bold type or larger.

C. 51:10-19 Violations; penalties.

2. Any person violating this act shall be subject to a penalty of $1,000.00 for each violation. The penalty shall be enforced pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) in a summary proceeding brought in the name of the State by the health officer of the municipality in which the violation occurred or by a weights and measures officer. Whenever the health officer of a municipality brings the summary proceeding, half of the penalty shall be remitted to the State and the other half shall be

remitted to the municipality in which the violation occurred. Whenever a weights and measures officer brings the summary proceeding, the penalty shall be disposed of in accordance with section 16 of P. L. 1952, c. 143 (C. 51:10–16).

It shall not be a violation of this act to discontinue service to a residential dwelling or property which has unsafe equipment or when other conditions prevail as specified by regulations promulgated by the Office of Weights and Measures which prevent delivery of a notice or liquefied petroleum gas to the customer.

3. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 466

AN ACT restricting the disclosure of certain information contained in electronic fund transfers.

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

C. 17:16K-1 Short title.

1. This act shall be known and may be cited as the "Electronic Fund Transfer Privacy Act."

C. 17:16K-2 Definitions.

2. As used in this act:

a. "Access device" means a card, code, or other means of access to a consumer's account, or any combination thereof, that may be used by the consumer for the purpose of initiating electronic fund transfers.

b. "Account" means a demand, time, or savings deposit, or other consumer asset account, other than an occasional or incidental credit balance, held either directly or indirectly by a financial institution and established for personal, family or household purposes.

c. "Electronic fund 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. The term includes, but is not limited to point-of-sale transfers, automated teller machine transfers, direct deposits or withdrawals of funds and transfers initiated by telephone. The term does not include payments made by check, draft, or similar paper instrument at an electronic terminal or any transaction which is exempt, by statute or regulation, from the provisions of Title IX of the Federal Consumer Credit Protection Act.

d. "Financial institution" means a State or National Bank, a State or Federal Savings and Loan Association, a State or Federal Mutual Savings Bank, a State or Federal Credit Union, or any other person who, directly or indirectly, holds an account belonging to a consumer. The term also includes any person who issues an access device and agrees with a consumer to provide electronic fund transfer services.

e. "Government agency" means any federal, State, or local unit of government or any agency or instrumentality thereof.

f. "Supervisory agency" means the New Jersey Department of Banking and any other State or federal agency which has statutory authority to examine the financial condition or business operations of a particular financial institution.

C. 17:16K-3 Disclosure to 3rd party.

3. A financial institution may disclose information relative to an electronic fund transfer or account to a third party when:

a. The disclosure is necessary for the completion of an electronic fund transfer;

b. The possessor of the account gives written permission to the financial institution to disclose the information;

c. The disclosure is for the purpose of verifying the existence and condition of an account for a third party, including, but not limited to, a credit bureau or a merchant;

d. The disclosure is necessary to resolve an error or an inquiry as to alleged error;

e. The disclosure is made to a supervisory agency in the exercise of its supervisory and regulatory examination functions with respect to a financial institution; or

f. The disclosure is made to a government agency in the exercise of its statutory functions with respect to a person applying for or receiving public assistance.

C. 17:16K-4 Warrant, subpena required.

4. No government agency, except as provided for in subsections e. and f. of section 3 of this act, may obtain information from an

electronic fund transfer account without first obtaining a search warrant or subpena.

C. 17:16K-5 Court order.

5. a. No government agency shall intercept an electronic fund transfer without first obtaining a court order.

b. The judge, upon consideration of an application, may enter an ex parte order, as requested or as modified, authorizing the interception of an electronic fund transfer, if the court determines on the basis of the facts submitted by the applicant that there is or was probable cause for belief that:

(1) The person whose electronic fund transfer is to be intercepted is engaging or was engaged over a period of time as a part of a continuing criminal activity or is committing, has or had committed or is about to commit an offense;

(2) Particular communications concerning such offense may be obtained through such interception;

(3) Normal investigative procedures with respect to such offense have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ.

c. To effect an order issued pursuant to this section, the government agency shall deliver a true copy of the order to the financial institution which shall promptly carry out the terms of the order under the direct supervision of the investigative law enforcement officers or agency authorized to intercept the electronic fund transfer.

C. 17:16K-6 Damages, costs.

6. If a court of competent jurisdiction determines that a financial institution or a government agency acted negligently, willfully, or recklessly in violating this act, the financial institution or government agency shall be liable to the aggrieved person for actual damages sustained by him; reasonable litigation costs; reasonable attorney's fees; and only in cases where a financial institution or government agency acted willfully or recklessly, a court of competent jurisdiction may award punitive damages where appropriate.

7. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 467

AN ACT creating a Commission on Missing Persons and a Missing Persons Unit in the Department of Law and Public Safety and making an appropriation therefor.

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

C. 52:17B-9.6 Findings, declarations.

1. The Legislature finds that more than 10,000 "missing persons" reports are filed in New Jersey each year and that hundreds of individual reports are turned into local police departments each week, and that the local police departments have neither the resources nor the experience to carry out a thorough missing persons investigation. The Legislature further finds that, without the expertise developed by experienced missing persons investigators, authorities may inadvertently pass over a report in which the missing person has actually been kidnapped or has met foul play. Federal and State law enforcement officials have recommended that missing persons cases in New Jersey could be better handled by a Statewide effort specializing in this matter.

C. 52:17B-9.7 Missing Persons Unit.

2. There is established within the Department of Law and Public Safety in the Division of State Police a Missing Persons Unit. The Superintendent of State Police shall appoint a supervisor of the unit with the rank and pay of at least a lieutenant in the New Jersey State Police, any other personnel, with the equivalent rank and pay of their positions in the New Jersey State Police, and any civilian personnel, including local law enforcement personnel, which he deems necessary to carry out the provisions of this act. All persons assigned to the Missing Persons Unit shall devote their full-time duties to carrying out the provisions of this act.

C. 52:17B-9.8 Powers, duties.

3. In addition to any other powers and duties vested in it by law or by the Attorney General, the unit shall:

a. Coordinate, file and investigate all missing persons cases in this State, and cooperate with local law enforcement officials and federal law enforcement officials in the creation of a centralized office on missing persons in this State;

b. Provide staff support for the work of the Commission on Missing Persons;

c. Collect and maintain data on missing persons and unidentified bodies in this State and throughout the United States;

d. Coordinate efforts with other states and with the federal government in the investigation of cases involving missing persons or unidentified bodies;

e. Provide specialized training to law enforcement officers and medical examiners in this State, in conjunction with the Police Training Commission, which would enable them to more efficiently handle the tracing of missing persons and unidentified bodies on the local level;

f. Employ the services of local law enforcement agencies or other social or governmental agencies.

C. 52:17B-9.9 Commission created.

4. To assist and advise the Attorney General in the administration of this act there is created within the Department of Law and Public Safety, a 16-member Commission on Missing Persons, which shall consist of the following persons:

a. The Attorney General, the Superintendent of State Police, the State Medical Examiner and the Special Agent-in-Charge of the State of New Jersey for the Federal Bureau of Investigation, ex officio, or their designated representatives;

b. Four public members, two to be appointed by the Governor, one to be appointed by the President of the Senate and one to be appointed by the Speaker of the General Assembly; and

c. Six law enforcement officers to be appointed by the Governor, each representing a different county of this State. For the purposes of this subsection, "law enforcement officer" means a permanent, full-time, active member in good standing of a law enforcement agency of a municipality or county in this State, but shall not mean a member of the State Police;

d. Two members from social service agencies to be appointed by the Governor.

C. 52:17B-9.10 Officers; terms of members.

5. a. The designation of a chairman and two vice-chairmen of the commission, who shall be chosen pursuant to subsection e. of this section, shall be made by the Governor after consultation with the Attorney General.

b. Initial appointments to the commission shall be made by the Governor, the Senate President and the Speaker of the General

Assembly within 90 days after enactment of this act and shall be for the terms as follows:

(1) Three members listed in subsection b. of section 4 of this act for two years, except that the members appointed by the Senate President and the Speaker of the General Assembly shall serve terms concurrent with the term of the respective appointing authority.

(2) One member listed in subsection b. of section 4 of this act for three years.

(3) Two members listed in subsection c. of section 4 of this act for one year.

(4) One member listed in subsection c. of section 4 of this act for two years.

(5) One member listed in subsection c. of section 4 of this act for three years.

(6) One member listed in subsection c. of section 4 of this act for four years.

(7) One member listed in subsection c. of section 4 of this act for five years.

(8) One member listed in subsection d. of section 4 of this act for three years.

(9) One member listed in subsection d. of section 4 of this act for four years.

c. After the expiration of the initial appointments, all members listed in subsections b., c. and d. of section 4 of this act who have been appointed by the Governor shall be appointed for terms of five years each, except that no member shall serve more than two five-year terms. The members appointed by the Senate President and the Speaker of the General Assembly shall serve terms concurrent with the term of the respective appointing authority. If a member listed in subsection c. of section 4 of this act is not reappointed upon the expiration of this member's term, the next member to be appointed shall not represent the same county, but shall represent a county which is not represented on the commission at the time of the appointment. Membership on the commission for all members appointed pursuant to subsections c. and d. of section 4 shall be contingent upon their occupational status not changing for the duration of their appointed term. All members of the commission shall remain in office until a successor has been appointed.

d. Appointments to fill vacancies on the commission shall be for the unexpired terms of the members to be replaced.

e. The Governor shall designate one member as chairman and two members as vice-chairmen of the commission from among the members listed in subsection c. of section 4 of this act, each of whom shall serve in the designated capacity throughout the member's entire term and until a successor is appointed and qualified. The chairman and vice-chairmen shall not serve in their capacities for more than five years. The chairman shall be the chief executive officer of the commission.

f. A member of the commission may be removed from office by the appointing authority for misconduct in office, willful neglect of duty, or other conduct evidencing unfitness for the office or for incompetence.

C. 52:17B-9.11 Reimbursement for expenses.

6. No member of the commission shall be compensated for the term of service, but all members shall be entitled to reimbursement for expenses actually incurred in the performance of duties, including expenses of travel outside of the State.

C. 52:17B-9.12 Personnel.

7. The commission may employ the secretarial and clerical personnel it deems necessary. The commission may employ the services of the Attorney General's office which shall represent the commission in any proceeding to which it is a party, and shall render legal advice to the commission upon its request. The commission may contract for the services of other professional, technical and operational personnel and consultants whose assistance is essential to the commission's performance of its responsibilities under this act.

C. 52:17B-9.13 Responsibilities.

8. The Commission on Missing Persons in conjunction with the Missing Persons Unit shall have the general responsibility to:

a. Review information, data, reports, statistics or other materials collected by the Missing Persons Unit necessary to carry out the purposes of this act;

b. Prepare a comprehensive State-action plan relating to the problem of missing persons and unidentified bodies, on behalf of the Governor, to be submitted to the Legislature within two years of the effective date of this act, and to update this plan thereafter on a yearly basis, by March 1;

c. Recommend to the Legislature other legislation that may be necessary to carry out the purposes of this act;

d. Apply for, contract for, receive and expend for its purposes or the purposes of the Missing Persons Unit any grants, gifts or

contributions of money or property from the federal government, or any other source, public or private, subject to the approval of the Attorney General;

e. Perform the other duties that are necessary to carry out the purposes of this act.

C. 52:17B-9.14 Majority to constitute quorum.

9. A majority of the commission shall constitute a quorum for the transaction of any business, the performance of any duty, or for the exercise of any powers.

C. 52:17B-9.15 Powers not limited.

10. Except as expressly provided in this act, nothing herein contained shall limit the powers, rights, duties or responsibilities of various law enforcement agencies of this State, or any of its political subdivisions.

C. 52:17B-9.16 Donations.

11. A monetary donation made available to the State through the Missing Persons Unit or the Commission on Missing Persons which specifies the purchase of items or materials to be used for the purposes of this act or any donation of items or materials which meet the requirements of the Division of State Police, shall be accepted by the Attorney General on behalf of the State and distributed or appropriated for law enforcement and specifically used for the purposes of this act. A monetary donation shall be included in the annual appropriation bill and distributed in the same manner as other appropriations.

12. There is appropriated to the Department of Law and Public Safety from the General Fund $450,000.00 to effectuate the purposes of this act.

13. This act shall take effect on the thirtieth day after enactment.

Approved January 12, 1984.

CHAPTER 468

AN ACT concerning State-owned residential housing and amending R. S. 11:8–4.

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

C. 52:31-23 Residential Housing Management Board.

1. There is established in the Department of the Treasury the Residential Housing Management Board. The board shall consist of the State Treasurer, as chairman, the President of the Civil Service Commission, the Commissioner of Corrections, the Commissioner of Environmental Protection, the Chancellor of Higher Education, the Commissioner of Education, the Commissioner of Human Services and the Commissioner of Community Affairs, or such designee as each member may appoint. The State Treasurer shall assign such employees of the Department of the Treasury to assist the board as he shall deem necessary.

C. 52:31-24 Uniform housing program.

2. The board shall be responsible for the management of all State-owned residential housing and shall establish policies and procedures for an equitable, coordinated and uniform housing program. The board shall have jurisdiction over residential housing located in every State agency available for State employees; except that the board shall have no jurisdiction with respect to and this act shall not apply to armories or military housing in the Department of Defense, State college student housing, housing for State college presidents, housing for the Chancellor of Higher Education, the Commissioner of Education, the Commissioner of Corrections and the superintendents of State correctional facilities and residential housing acquired by the Department of Transportation in the course of acquiring land for highway rights-of-way or for use by any other transportation facilities pursuant to Title 27 of the Revised Statutes and which may be rented temporarily to comply with the requirements of the "Relocation Assistance Act," P. L. 1971, c. 362 (C. 20:4–1 et seq.).

C. 52:31-25 Establishment of policies.

3. The board shall establish policies concerning the following:

a. The necessity and desirability for maintaining State-owned residential housing units and the conditions and purposes under which State agencies shall construct, acquire, continue in use, convert to other use, sell or dispose of the units;

b. The rental rates, utility charges, and maintenance fees;

c. Eligibility standards for occupancy;

d. Procedures for the application and selection of occupants;

e. The necessity and desirability for requiring mandatory occupancy as a condition of employment and the criteria for placing a job title in this category;

f. The respective landlord-tenant rights and responsibilities of an occupant and the State;

g. An appeals procedure by which an aggrieved person may contest any administrative decision regarding housing occupancy, rents, evictions or other matters.

In establishing its policies, the board shall assure that State employees are treated fairly and uniformly where appropriate with recognition that differences in their responsibilities, the nature of their work and the type of housing may on occasion generate rules and procedures unique to those situations.

C. 52:31-26 Survey, inventory.

4. The board shall conduct an annual survey of all housing units and shall maintain an inventory of each unit, including such information as its agency, purpose or reason for acquisition, location, environmental setting, type of unit, size, facilities, physical condition, fair market value, rental rate, utility charges, maintenance fee, name of occupant and, if a State employee, job title, salary and whether occupancy is a mandatory condition of employment. Each agency shall notify the board within 15 days of any change in the status of a unit or occupant.

C. 52:31-27 Annual rate review.

5. The board shall establish and review annually a schedule of housing rental rates, utility charges and maintenance fees.

a. The rental rates shall be based on the fair market rental value of the premises and shall take into account the fact that the housing is located on institutional grounds.

b. All utility charges directly attributable to a State-owned housing unit shall be charged to the occupant, either separately if it is feasible or practicable to do so, or by reflecting these charges in a fair market rental.

c. All maintenance charges customarily paid by tenants shall be paid by tenants occupying State-owned housng.

C. 52:31-28 Sale of unneeded units.

6. With the approval of the cabinet officer in whose department the housing unit is situated and the State House Commission, the board shall order the sale of any employee housing unit located off the grounds of a State institution or facility which it finds unneeded for State use. The terms and conditions of the sale shall be fixed by the State House Commission.

C. 52:31-29 Reduction, waiver of charges.

7. Upon application of an interested cabinet officer, the board may authorize a reasonable reduction or waiver of a rental rate, utility charge or maintenance fee for any of the following reasons: (a) that residency in the State housing unit is a condition of employment; (b) that the housing unit is located on institutional grounds; and (c) that the fair market rental value of the housing is substantially disproportionate to the salary of the employee.

C. 52:31-30 No subletting.

8. No tenant of a State-owned housing unit shall sublet the unit or shall permit additional persons, other than members of the tenant's immediate family, to occupy the unit without the approval of the board. A tenant who becomes ineligible to occupy a unit shall vacate the unit within 30 days, unless granted an extension by the board for reasons of hardship.

C. 52:31-31 Ban on discrimination.

9. No person shall be denied occupancy of a State-owned residential housing unit on account of race, religion, creed, sex, age, political affiliation or marital status.

C. 52:31-32 Advisory committee.

10. The board may create a housing advisory committee, to consist equally of management representatives of State agencies with housing responsibilities, tenants who reside in State-owned housing and representatives of municipalities in which State housing is located.

C. 52:31-33 Residential Property Management Fund.

11. There is created a Residential Property Management Fund to which the receipts derived from rents, charges and fees for residential housing shall be transferred or credited by the Director of the Division of Budget and Accounting. The receipts shall be annually appropriated to the General State Fund, except that an amount not to exceed 5% of the total receipts shall be appropriated annually to the board for the administration of this act.

12. R. S. 11:8-4 is amended to read as follows:

Computation of allowances.

11:8-4. The President of the Civil Service Commission, with the approval of the commission, shall, after consultation with the appointing authorities and their principal assistants, establish for the classified service the method:

a. Of computing the pay of employees employed less than full-time or serving for only a part of a payroll period;

b. For regulating travel, living and sustenance allowance when an employee is on duty away from his regular place of duty or when a new assignment is made;

c. For allowances of employees in attendance upon courts and administrative investigations;

d. For regulating overtime and additional pay therefor and for determining the cash value of meals, uniforms and other allowances to employees.

13. This act shall take effect immediately, but no policy or schedule of rates adopted by the board shall be effective prior to 180 days after enactment.

Approved January 12, 1984.

CHAPTER 469

AN ACT concerning public higher education and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:64-13.1 Definitions.

1. As used in this act:

a. "Job training course" means any course of instruction which will provide the individual with an identifiable job skill and will assist him in gaining reemployment.

b. "Public college" means the State colleges and the New Jersey Institute of Technology.

C. 18A:64-13.2 Tuition-free job training courses.

2. Each public college shall permit a person who has been in the labor market for at least two years and is unemployed or has received a layoff notice as a result of a factory or plant closing to enroll without payment of tuition in a job training course, provided that he is not eligible for any available State or federal student financial aid and that available classroom space permits and that tuition paying students constitute the minimum number required for the course. Nothing herein shall preclude a public

college from requiring a registration fee not to exceed $20.00 per academic term.

C. 18A:64-13.3 Passing grade required.

3. In order to remain eligible for participation in this program, the unemployed worker shall be required to maintain a passing grade in the job training course in which he is enrolled.

C. 18A:64-13.4 Rules, regulations.

4. The Board of Higher Education shall promulgate rules and regulations necessary to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 470

AN ACT concerning county colleges and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:64A-23.1 Job training course.

1. As used in this act, "job training course" means any course of instruction which will provide the individual with an identifiable job skill and will assist him in gaining reemployment.

C. 18A:64A-23.2 County college courses.

2. Each county college shall permit a person who has been in the labor market for at least two years and is unemployed or has received a layoff notice as a result of a factory or plant closing to enroll without payment of tuition in a job training course, provided that he is not eligible for any available State or federal student financial aid and that available classroom space permits and that tuition paying students constitute the minimum number required for the course. Nothing herein shall preclude a county college from requiring a registration fee not to exceed $20.00 per academic term.

C. 18A:64A-23.3 Maintaining eligibility.

3. In order to remain eligible for participation in this program, the unemployed worker shall be required to maintain a passing grade in the job training course in which he is enrolled.

C. 18A:64A-23.4 Rules, regulations.

4. The Board of Higher Education shall promulgate rules and regulations necessary to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 471

AN ACT to encourage the formation of employee stock ownership plans and making an appropriation therefor.

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

C. 52:27H-90 Findings, declarations.

1. (New section) The Legislature finds and declares that:

a. In 1981 the Legislature enacted the "Worker Owned Corporation Study Act" (P. L. 1981, c. 82; C. 34:1B–30 et seq.), which mandated a study to determine the best means to encourage and assist the formulation of employee stock ownership plans for the purpose of averting the closure of places of employment.

b. In March 1982, the Department of Labor, in accordance with that act, issued a report which included a thoughtful analysis and cogent recommendations for legislative action on the issue.

c. The report noted that in certain cases, employee stock ownership plans offer an indispensable vehicle for the retention of employment threatened by the pending closure of business facilities and stated that often there is no alternate viable technique of job maintenance in the case of a complete shutdown.

d. The report also indicated that while State policy should include the encouragement and assistance of employee stock ownership plans, great care should be taken to avoid the waste of public and private resources and the bitter disappointment of the employees that might result from the employee acquisition of an obsolete, overpriced or otherwise undesirable facility.

e. The report recommended that the State also publicize the potential value of employee stock ownership plans as tools to aid the refinancing of presently successful businesses.

f. The public interest will be best served by implementing a State policy to assist employee stock ownership plans which is in accord with the recommendations of the report.

C. 52:27H-91 Commissioner of Commerce.

2. (New section) For the purposes of sections 1 through 7 of this act, "commissioner" means the Commissioner of Commerce and Economic Development.

C. 52:27H-92 Short title.

3. (New section) Sections 1 through 7 of this act shall be known and may be cited as the "Employee Stock Ownership Plan Act."

C. 52:27H-93 Dissemination of information.

4. a. (New section) The commissioner shall take any action which he deems appropriate to disseminate information on the advantages and disadvantages of employee stock ownership plans to employers and employee groups. This may include, but need not be limited to, the publication and distribution of suitable pamphlets, brochures and other literature, and the organization of seminars and other informational meetings on employee stock ownership plans. In conducting these activities, the commissioner may seek the collaboration and assistance of any State department, agency or institution of higher education.

b. The information shall include an explanation of the potential usefulness of employee stock ownership plans for averting the closing of places of employment in certain instances and the use of employee stock ownership plans in the refinancing of successful enterprises.

C. 52:27H-94 Advisory function.

5. a. (New section) The commissioner, upon request, shall advise any employer or employee group as to:

(1) The procedures for establishing an employee stock ownership plan;

(2) The availability of federal, State and local assistance; and

(3) The availability of private sector consultants or associations who are capable of performing a satisfactory analysis of the potential profitability of a proposed employee stock ownership plan and any other relevant studies or surveys.

b. The commissioner may, in his discretion, assist in reviewing and evaluating materials produced by private consultants pursuant to paragraph (3) of subsection a. of this section.

C. 52:27H-95 Cost-benefit analysis.

6. (New section) In the event of the closure or pending closure of a facility which would cause or has caused a significant loss of employment to any municipality the commissioner determines to

be already suffering significant economic distress, he may, upon the request of the municipality and subject to the availability of funds, grant funds to assist in conducting a cost-benefit analysis of the potential profitability of the establishment of an employee stock ownership plan and a study of economic effects of the closure.

C. 52:27H-96 Financial assistance.

7. (New section) The commissioner shall assist in reviewing and evaluating materials from studies for which he has granted funds under the provisions of section 6 of this act. If, following that review and evaluation, the commissioner determines that the purchase of 100% of a business by the employees through an employee stock ownership trust would have a reasonable chance of creating benefits to the public interest greater than the total costs and risks, he may provide whatever assistance he deems appropriate, subject to the availability of funds and to the provisions of federal, State and local law. That assistance may include, but need not be limited to, loan guarantees, direct interest subsidies or below market interest rate loans for the purpose of reducing the cost of financing the purchase.

C. 52:27H-97 Annual report.

8. The commissioner shall annually submit to the Legislature a report concerning the formation of new employee stock ownership trusts and the operation of existing employee stock ownership trusts in this State, and shall include in the report an account of State activity, during the previous year, in connection with these trusts.

This section supersedes the annual reporting requirements previously assigned to the Commissioner of Labor under section 6 of P. L. 1981, c. 82 (C. 34:1B–35).

9. There is appropriated $142,000.00 from the General Fund in order to effectuate the purposes of this act.

10. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 472

AN ACT concerning certain liability insurance coverages and supplementing Title 17 of the Revised Statutes.

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

C. 17:23-16 Statistics on alcohol-related claims.

1. a. Insurers authorized to do business in this State, who issue policies covering liquor law liability for insureds in this State, shall maintain separately statistics on their New Jersey loss experience due to alcohol related claims with respect to those policies for three years.

b. These statistics shall segregate the loss experience for those insureds which have an alcohol breath analyzer machine on their premises from those insureds who do not.

C. 17:23-17 Report to commissioner.

2. Annually, on or before the anniversary of the effective date of this act, the insurers to which section 1 applies shall report that statistical information to the Commissioner of Insurance in the manner which the commissioner may prescribe.

C. 17:23-18 Recommendations.

3. a. The Commissioner of Insurance shall examine the reports required by this act and determine whether the loss experience due to alcohol related claims indicates that liquor law liability coverage is appropriate for rating into subclasses based on the presence and use or absence of alcohol breath analyzer machines on insureds' premises.

b. The commissioner shall issue a report on the examination and determination made in subsection a. of this section and make appropriate recommendations to the Governor and the Legislature within 180 days following the third anniversary of the effective date of this act.

4. This act shall take effect on the 30th day following its enactment.

Approved January 12, 1984.

CHAPTER 473

AN ACT reconstituting the Commission on Individual Liberty and Personal Privacy created by "An act creating a commission to study the matter of personal privacy," approved September 19, 1977 (P. L. 1977, c. 226) and making an appropriation therefor.

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

1. The Commission on Individual Liberty and Personal Privacy created by P. L. 1977, c. 226 is reconstituted with the same powers and duties and with the same number of citizen and ex officio members and such of the legislative members who are members of the House from which appointed. Any vacancy in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. The commission shall report its findings and recommendations to the Governor and the Legislature on or before March 15, 1984 together with any legislative bills it may desire to recommend for adoption by the Legislature.

3. There is appropriated to the commission $25,000.00 for the purposes of this act.

4. This act shall take effect immediately and shall expire at noon on June 30, 1984.

Approved January 12, 1984.

CHAPTER 474

AN ACT concerning the incorporation of certain sewerage districts in townships of this State, providing for the election of commissioners and establishing their powers, and enacting chapter 18 of Title 40A of the New Jersey Statutes.

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

1. TITLE 40A

CHAPTER 18

SEWERAGE DISTRICTS

40A:18–1. Incorporation of sewerage districts.
40A:18–2. Commissioners' elections validated.
40A:18–3. Sewerage commissioners.
40A:18–4. Validation of prior acts, etc.
40A:18–5. Election of commissioners; first election; fixing time and place; notice.
40A:18–6. Qualifications for election as commissioner.
40A:18–7. Nomination of candidates for election as commissioners.
40A:18–8. Nominating petition; form and content; number of signatures; candidate's consent.
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40A:18–1. Incorporation of Sewerage Districts.

In any township of this State in which the governing body in the manner provided by law prior to April 25, 1977, set off and designated by number a sewerage district within the township, and at elections held within the district the voters of the district voted in favor of the construction within the district of a sewer, sewers or sewerage system with appurtenances or a disposal plant or plants and also elected sewerage commissioners, the district is hereby reincorporated and shall be a body corporate of and shall constitute a political subdivision of the State of New Jersey. The district shall be known and designated under the corporate name of "Sewerage District No. ..... of the Township of ....., in the County of .....". The district shall have the same limits, boundaries, territory and number as set forth in the original resolution of the governing body setting off and designating the district or as the boundaries and territory of the district may have been modified, altered or changed by subsequent resolutions of the governing body prior to April 25, 1977.

40A:18–2. Commissioners' Elections Validated.

The elections of all commissioners in sewerage districts described in N. J. S. 40A:18–1 between April 25, 1977 and the effective date of this chapter are hereby validated and made legal, notwithstanding any defect in or lack of authority to elect commissioners at the times of their election.

40A:18–3. Sewerage Commissioners.

The sewerage commissioners now in office in any sewerage district as described in N. J. S. 40A:18–1 are constituted the valid and legally elected commissioners of the sewerage district and shall continue in office until the election of their successors as hereafter provided.

40A:18-4. Validation of Prior Acts, Etc.

Any and all acts and things done by commissioners in office between April 25, 1977 and the effective date of this chapter including but not limited to contracts entered into in behalf of the district for the construction of a sewer or sewers, sewerage system, disposal plant or plants or for the repair, maintenance and operation of any of them; the issuance of bonds, temporary improvement notes, improvement certificates, assessments for benefits, the fixing of rentals or other charges for service and facilities are hereby made legal and validated, notwithstanding any lack of authority in the commissioners to so do.

40A:18-5. Election of Commissioners; First Election; Fixing Time and Place; Notice.

Within 45 days after the effective date of this chapter, the commissioners in office shall fix a day and a time between one o'clock in the afternoon and nine o'clock in the evening prevailing time, and a place within the district where the election of sewerage commissioners shall be held which shall not be more than 90 days after the effective date of this chapter. Notice of the time and place of the election shall be given by advertisement in a newspaper having a general circulation within the district for at least two weeks prior to the time fixed for the election, the advertisement to be made at least once in each week. Copies of the advertisement shall be posted in five of the most public places within the district at least 10 days before the date of the election.

40A:18-6. Qualifications for Election as Commissioner.

A candidate for election as a commissioner of a sewerage district shall be a resident of and a qualified voter within the district.

40A:18-7. Nomination of Candidates for Election as Commissioners.

Candidates for election as commissioners of the sewerage district shall be nominated by petition. The petition shall be addressed to and filed with the clerk of the sewerage district. All petitions and amendments thereto shall be filed no later than 20 days before the date of election.

40A:18–8. Nominating Petition; Form and Content; Number of Signatures; Candidate's Consent.

A petition for the nomination of a candidate for election as a commissioner of the sewerage district shall state that the signers thereof are qualified voters and residents of the sewerage district and requesting that the name of the candidate be placed upon the official ballot to be used at the upcoming election. Each signer to a petition shall add to his signature his residence designated by number and street or contain identification thereof if there is no street number. A petition shall contain the name of only one candidate, but several petitions may nominate the same candidate. A petition or petitions filed in behalf of a candidate shall contain in the aggregate at least 10 signatures. The candidate named in the petition shall endorse thereon his consent to the nomination, and that if elected he will serve as a commissioner of the sewerage district.

40A:18–9. Verification of Nominating Petition.

An affidavit shall be attached to each petition of one or more of the signers that all of the signatures appended thereto were made in his or their presence, and that he or they believe them to be the genuine signatures of the persons whose names they purport to be.

40A:18–10. Examination of Petition.

Within three days after the filing of a petition, the clerk of the sewerage district shall examine the petition and certify the result of his examination to the commissioners of the sewerage district. If he shall certify that the petition is defective, he shall set forth in his certificate the particulars in which the petition is defective and immediately notify the candidate of his findings. Within three days after notification of insufficiency, the petition may be amended by the filing of a supplementary petition signed and verified as provided in the case of an original petition. Within three days after an amended petition is filed, the clerk shall examine the amended petition and certify the result of his examination to the commissioners of the sewerage district. If he shall certify that the amended petition is insufficient, he shall set forth in his certificate the particulars in which it is insufficient and immediately notify the candidate of his findings and no further action shall be taken on the insufficient petition. The finding of insufficiency shall not prevent the filing of a new petition if all of the other provisions relating to the filing of nominating petitions are met.

40A:18–11. Eligibility of Voters.

No later than seven days before an election for sewerage commissioners, the clerk of the sewerage district shall obtain the registry list of the township and the election districts within the sewerage district for the preceding general election to determine the eligibility of voters at the election. A person shall not be permitted to vote at the election unless that person's name appears on the registry list, except that any person who becomes of age or has moved into the sewerage district since the preceding general election and possessing all of the qualifications which would entitle that person to vote in a general election, shall file an application with the clerk of the sewerage district at least two days prior to the election.

40A:18–12. Number of Commissioners to be Elected at the First Election; Vote Required; Term.

At the first election of commissioners following the effective date of this chapter, the voters of the district shall elect five commissioners. The five candidates receiving the highest number of votes cast shall be elected as commissioners of the sewerage district and they shall serve for terms as hereinafter provided.

40A:18–13. Manner of Conducting Elections; Certifying Results.

Prior to the opening of the polls for the election of commissioners, the commissioners then in office shall appoint a judge of elections and two tellers. The vote for the election of commissioners shall be by ballots furnished by the sewerage district which shall list the candidates according to the alphabetical order of their surnames. Immediately after the close of the polls, the judge and tellers shall count the votes and certify the results of the election to the commissioners of the sewerage district.

40A:18–14. Terms of Commissioners.

Within five days after the first election for commissioners following the effective date of this chapter, the elected commissioners shall hold a meeting at which they shall divide themselves by lot into three classes: the term of the first class consisting of two commissioners whose terms shall terminate at the end of one year from the date of their election; the term of the second class consisting of two commissioners whose terms shall terminate at the

end of two years from the date of their election; and the third class consisting of one commissioner whose term shall terminate at the end of three years from the date of his election, so that after the first election two commissioners shall be elected annually and one shall be elected every third year. Except as otherwise provided in this section, commissioners shall hold office for three years and until their successors are elected.

40A:18–15. Subsequent Elections.

All subsequent elections for commissioners of the sewerage district following the first election of commissioners shall be held annually on the same date between the hours of one o'clock in the afternoon and nine o'clock in the evening prevailing time at a place to be designated by the commissioners of the sewerage district.

40A:18–16. Subsequent Elections; Notice.

At least six weeks before the date fixed for the annual election of commissioners, notice of the time and place fixed for the annual election and the closing date for the filing of nominating petitions shall be given by advertisement in a newspaper having a general circulation within the sewerage district, and a further notice shall be published in the same manner at least two weeks prior to the election, the advertisement to be at least once in each week.

40A:18–17. Commissioners; Oath.

The newly elected commissioners shall file their respective oaths to faithfully and impartially perform their duties as commissioners with the township clerk.

40A:18–18. Commissioners; Organization.

Within seven days after each annual election, the commissioners shall meet and organize by the election of one of the commissioners as chairman and the appointment of a clerk who need not be one of the commissioners.

40A:18–19. Commissioners; Compensation.

The commissioners of the sewerage district shall not receive any compensation for the performance of their duties but they may be reimbursed for their actual expenses incurred in the performance of their duties.

40A:18-20. Commissioners; Vacancies.

A vacancy occurring in the office of a commissioner by reason of the death or resignation of a commissioner, or that a commissioner no longer resides within the territorial limits of the sewerage district or for any other reason, shall be filled by a majority vote of the remaining commissioners until the next annual election of commissioners, at which time the vacancy shall be filled by election for the unexpired term only.

40A:18-21. Clerk; Term; Bond.

The clerk of the sewerage district shall be appointed for a term of one year and until his successor is appointed. He shall give bond to the sewerage district for the faithful performance of his duties in an amount as shall be determined by the commissioners by a surety company authorized to do business in New Jersey.

40A:18-22. Clerk; Compensation; Chief Financial Officer of District.

The clerk of the sewerage district may be compensated for his services as the commissioners of the sewerage district shall, by resolution, determine. The clerk shall be the chief financial officer of the district and the custodian of all district funds. The clerk shall not disburse district funds unless authorized to do so by resolution of the commissioners.

40A:18-23. Employment of Advisers, Experts, Officers, Agents and Employees.

The commissioners of a sewerage district may appoint and employ professional and technical advisers and experts, other officers, agents and employees as they may require and determine their qualifications, terms of office or employment, duties and compensation.

40A:18-24. Conflict of Interest.

A commissioner, officer, agent or employee of a sewerage district shall not have or acquire any interest direct or indirect, in the sewerage system or any property included or planned to be included in the sewerage system or in any contract or proposed contract for materials or services to be furnished to or used by the sewerage district.

40A:18-25. Possession of Property; Assumption and Liability for Debts and Contracts.

A sewerage district incorporated under this chapter shall be vested with the title and possession of all the property, real and personal, or other assets of any nature whatsoever and shall assume and shall be liable for the payment of all the debts, contracts and liabilities, including any bonds, notes, improvement certificates or other obligations issued, of its predecessor district which was in existence on April 25, 1977.

40A:18-26. Powers of Sewerage District.

In addition to any other powers conferred upon a sewerage district by this chapter or any other law, a sewerage district is authorized:

a. To sue and be sued;

b. To adopt and have a common seal and alter it at pleasure;

c. To construct, improve, maintain, improve and add to a sewer or sewers, sewerage system with appurtenances and a sewage disposal plant or plants and to provide for the cost thereof;

d. To acquire by purchase, gift, devise or condemnation in the manner provided by the "Eminent Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.), real property or any interest therein necessary or useful for the purposes of the sewerage district and to dispose of the real property or any interest therein no longer necessary for the purposes of the district;

e. To acquire by purchase, gift or devise personal property necessary or useful for the purposes of the sewerage district and to dispose of personal property no longer necessary for the purposes of the district;

f. To enter on any lands, waters or premises for the purpose of making surveys, borings, soundings and examinations for the purposes of the district;

g. To make, amend and enforce bylaws or rules and regulations for the management and regulation of district business and affairs and for the use, maintenance and operation of its sewerage system and any of its other properties;

h. To do and perform any acts and things authorized by this chapter under, through or by means of its own officers, agents and employees or by contracts with other persons;

i. To enter into contracts, execute instruments, and to do and perform all acts or things necessary for the purposes of the district

or to carry out any power expressly given in this chapter, subject to the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11–1 et seq.);

j. To apply for and receive from the Federal Government or any agency thereof, the State or any department or agency thereof grants for and in aid of the planning, designing, purchasing, construction, extension, improvement, enlargement, reconstruction or financing of a sewer or sewers, sewerage system with appurtenances and a sewage disposal plant or plants.

40A:18–27. Maps, Plans and Specifications; Approval.

Before undertaking the construction of a sewer or sewers, sewerage system with appurtenances thereto, a disposal plant or plants or any improvement or addition thereto, the commissioners of the sewerage district shall have detailed maps, plans and specifications thereof prepared. The maps, plans and specifications shall not become effective until they have been submitted to and approved by the Commissioner of the Department of Environmental Protection.

40A:18–28. Bonds; Purposes.

A sewerage district may issue bonds to provide to pay all or any part of the costs for the construction of a sewer or sewers, sewerage system with appurtenances thereto, a disposal plant or plants, or any improvements or additions thereto, including maps, plans and specifications relating thereto, or for the refunding of any bonds issued and outstanding.

40A:18–29. Bonds; Resolution; Interest; Series; Maturity; Privileges; Redemption.

A bond resolution shall be introduced in writing at a meeting of the commissioners of the district and shall be passed upon first reading, which may be by title.

The bond resolution shall be published after first reading together with notice of the introduction thereof and of the date, which shall be at least 10 days after introduction and first reading, and the time and place of further consideration for final passage, which may be at an adjournment of the meeting or another meeting.

The publication shall be at least one week prior to the date for further consideration. At the time and place so advertised, or at any time and place to which the meeting for further consideration

shall from time to time be adjourned, the bond resolution may be read by its title, if,

(1) At least one week prior to the date for further consideration, there shall have been posted, on the bulletin board or other place upon which public notices are customarily posted,

(a) A copy of the bond resolution, and

(b) A notice that copies of the bond resolution will be made available during the week and up to and including the date of the meeting for further consideration to the members of the general public of the district who shall request the copies, naming the place at which the copies will be so made available, and

(2) The copies of the bond resolution shall have been made available accordingly, but otherwise the bond resolution shall be read in full. All persons interested shall then be given an opportunity to be heard.

After the hearing, the commissioners may proceed to amend the bond resolution and thereupon finally adopt or reject it, with or without amendments.

If any amendment is adopted substantially altering matters to be contained in the bond resolution the amended bond resolution shall not be finally adopted until at least one week thereafter and until it shall have been published once at least two days prior to the date for further consideration, together with notice of the date, time and place at which it will be further considered for final adoption. At the time and place so advertised, or at any time and place to which the meeting for further consideration shall from time to time be adjourned, the amended bond resolution may be read by its title, if,

(1) At least one week prior to the date for further consideration, there shall have been posted, on the bulletin board or other place upon which public notices are customarily posted,

(a) A copy of the bond resolution, and

(b) A notice that copies of the bond resolution will be made available during the week and up to and including the date of the meeting for further consideration to the members of the general public of the district who shall request copies, naming the place at which the copies will be so made available, and

(2) The copies of said bond resolution shall have been made available accordingly, but otherwise the bond resolution shall be read in full. All persons interested shall again be given an opportunity to be heard. After the hearing, the commissioners may proceed to reject, finally adopt or further amend the bond ordinance.

A bond resolution shall be finally adopted by the recorded affirmative votes of at least a majority of all commissioners of the district. The bonds may bear interest at a rate or rates, not in excess of that authorized by law, may bear a date or dates, may mature at a time or times not exceeding 30 years from their respective dates, may be payable in a medium of payment, at a place or places, may carry registration privileges, may be subject to terms of redemption with or without premium, may be executed in a manner, may contain terms, conditions and covenants, and may be in form, either coupon or registered as the resolution may provide.

40A:18-29.1. Interim Financing.

A sewerage district, in anticipation of the issuance of bonds, may borrow money and issue negotiable notes if the bond resolution so provides. The notes shall be designated "bond anticipation notes" and shall contain a recital that they are issued in anticipation of the issuance of bonds. The notes may be issued for a period not exceeding one year and may be renewed from time to time for periods not exceeding one year, but all the notes, including the renewals, shall mature and be paid not later than the fifth anniversary of the date of the original notes, except that the notes shall not be renewed beyond the third anniversary date of the original notes unless an amount of the notes, at least equal to the first legally payable installment of the bonds in anticipation of which the notes are issued, is paid and retired on or before the third anniversary date, and if the notes are renewed beyond the fourth anniversary date of the original notes, a like amount is paid or retired on or before the fourth anniversary date from funds other than the proceeds of obligations.

40A:18-30. Bond Resolution; Provisions; Bondholders.

A bond resolution providing for or authorizing the issuance of any bonds may contain provisions, and the sewerage district, in order to secure the payment of the bonds and in addition to its other powers, shall have the authority by provision in the bond resolution to covenant and agree with the bondholders, as to:

a. The custody, security, use, expenditure or application of the proceeds of the bonds;

b. The construction and completion, or improvement of or addition to, the sewer or sewers, sewerage system with appurtenances, disposal plant or plants;

c. The use, regulation, operation, maintenance, insurance or disposition of all or any part of the sewer or sewers, sewerage system with appurtenances, disposal plant or plants, or restrictions on the exercise of the powers of the sewerage district to dispose of, or to limit or regulate the use of all or any part of the sewer or sewers, sewerage system with appurtenances, disposal plant or plants;

d. Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any bonds as obligations as to any liens or security, or the acceleration of maturity of any bonds or obligations;

e. The use and disposition of any moneys of the sewerage district, including revenues derived or to be derived from the operation of all or any part of the sewer or sewers, sewerage system with appurtenances, disposal plant or plants;

f. Pledging, setting aside, depositing or trusteeing all or any part of the revenues or other moneys of the sewerage district to secure the payment of the principal of or interest on the bonds or any other obligations, or the payment of the operation or maintenance of the sewer or sewers, sewerage system with appurtenances, disposal plant or plants, and the powers of any trustee with respect thereto;

g. The setting aside out of the revenues or other moneys of the sewerage districts of reserves, and the source, custody, security, regulation, application and disposition of the reserves;

h. Determination of the revenues of or of the operation and maintenance of the sewer or sewers, sewerage system with appurtenances, disposal plant or plants of the district;

i. The rents, rates, fees or other charges for the use of the services and facilities of the sewerage district, and the fixing, establishment, collection and enforcement thereof, the amount or amounts of the revenues to be produced thereby, and the disposition and application of the amounts charged or collected;

j. The assumption or payment or discharge of any indebtedness, liens or other claims relating to any part of the sewer or sewers, sewerage system with appurtenances, disposal plant or plants or any obligations having or which may have a lien on district revenues;

k. Limitations on the issuance of additional bonds or other obligations or on the incurrence of indebtedness by the sewerage district;

l. Limitations on the powers of the sewerage district to construct, acquire or operate, or permit the construction, acquisition or operation of any structures, facilities or properties which may compete or tend to compete with the district's sewer or sewers, sewer system with appurtenances, disposal plant or plants;

m. Vesting in a trustee or trustees property rights, powers and duties in trust as the sewerage district may determine which may include any or all of the duties of the trustee appointed by the bondholders pursuant to N. J. S. 40A:18–35, and limiting or abrogating the rights of the bondholders to appoint a trustee pursuant to N. J. S. 40A:18–35 or limiting the rights, duties and powers of the trustee;

n. Payment of costs or expenses incident to the enforcement of bonds or of the provisions of the bond resolution or of any covenant or contract with the bondholders;

o. The procedure, if any, by which the terms of any covenant or contract with, or duty to, the bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given or evidenced; or

p. Any other matter or course of conduct which by recital in the bond resolution is declared to further secure the principal of or interest on the bonds.

40A:18–31. Bond Resolution, Etc.; Contract With Bondholders.

The provisions of the bond resolution and all the covenants and agreements shall constitute valid and legally binding contracts between the sewerage district and the bondholders, regardless of the time of the issuance of the bonds, and they shall be enforceable by any bondholder or bondholders by appropriate action or proceeding in any court of competent jurisdiction.

40A:18–32. Notice of Adoption of Bond Resolution; Limitation of Actions Questioning Validity.

The sewerage district may publish a notice in a newspaper having a general circulation within the district stating the date of adoption of the bond resolution, the amount of the bonds authorized to be issued, and also stating that any action or proceeding of any kind questioning the validity of the creation and establishment of the sewerage district, or the validity or proper authorization of

bonds provided for by the bond resolution, or the validity of any covenants, agreements or contracts provided for by the bond resolution shall be commenced in any court of competent jurisdiction within 20 days after the first publication. If an action or proceeding is not commenced within 20 days after publication of the notice, then all residents and owners of real property within the district and users of the district's sewerage system and all other persons whomsoever shall be forever barred from commencing any action in any court, or from pleading any defense to any action or proceeding, questioning the validity of the creation and establishment of the sewerage district, the validity or proper authorization of the bonds, or the validity of any covenants, agreements or contracts, and the bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

40A:18-33. Sale of or Exchange of Bonds.

Bonds may be sold, all at one time or in blocks from time to time, at public or private sale, or if refunding bonds may also be delivered in exchange for the outstanding obligations to be refunded, in a manner as the sewerage district shall, by resolution, determine, and at a price or prices, computed according to standard tables of bond values, as will yield to the purchasers or to the holders of obligations surrendered, income at a rate not exceeding that authorized by law to the maturity dates of the bonds as sold or exchanged on the money paid or the principal amount of the obligations surrendered therefor to the sewerage district.

40A:18-34. Interim Certificates; Temporary Bonds or Other Instruments.

After the sale of any bonds pursuant to this chapter, the sewerage district may authorize the execution and issuance to the purchasers of the bonds, interim certificates therefor or of temporary bonds or other temporary instruments exchangeable for the definitive bonds when they are prepared, executed and ready for delivery. The holders of the interim certificates, temporary bonds or other temporary instruments shall have all the rights and remedies which they would have as holders of the definitive bonds.

40A:18-35. Default in Payment of Principal or Interest on Bonds; Trustee.

If there be a default in the payment of principal or interest on any bonds when due and the default continues for a period of 30 days, or if the sewerage district fails or refuses to comply with the provisions of this chapter or fails or refuses to carry out and perform the terms of any covenant, agreement or contract with any of the bondholders, and the failure or refusal continues for a period of 30 days after written notice to the sewerage district of its existence and nature, the holders of 25% in aggregate principal amount of the bonds of the series then outstanding may appoint a trustee to represent the bondholders of the series for the purposes hereinafter provided by filing an instrument or instruments, proved and acknowledged in the manner as a deed for recording, in the office of the Secretary of State.

40A:18-36. Powers of Trustee.

The trustee may, and upon the request of the holders of 25% in aggregate principal amount of the series then outstanding, shall in his or in the name of the sewerage district:

a. Commence an action or proceeding in a court of competent jurisdiction to enforce all rights of the bondholders, including the right to require the sewerage district to charge and collect service charges adequate to carry out any contract as to or pledge of revenues, and to require the sewerage authority to carry out and perform the terms of any contract with the bondholders or its duties under this chapter;

b. Bring an action upon all or any part of the bonds or interest coupons or claims thereon;

c. Bring an action to require the sewerage district to account as if it was the trustee of an express trust for the bondholders;

d. Bring an action to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

e. Declare all the bonds due and payable, whether or not in advance of maturity, upon 30 days' notice in writing to the sewerage district and, if all defaults shall be made good, then with the consent of 25% of the holders of the principal amount of the bonds then outstanding, annul the declaration and its consequences; and

f. The trustee shall, in addition to the foregoing, have all of the powers necessary or appropriate for the exercise of the functions specifically set forth in this section or incidental to the general representation of the bondholders of the series in the enforcement and protection of their rights.

40A:18-37. Receiver.

The trustee shall, upon the default referred to in N. J. S. 40A:18-35, whether or not all of the bond series have been declared due and payable, be entitled as of right to the appointment of a receiver of the sewerage district. The receiver may take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance or addition to the sewer or sewers, sewerage system with appurtenances, disposal plant or plants and proceed with the acquisition, construction, operation, maintenance, or addition to the sewer or sewers, sewerage system with appurtenances, disposal plant or plants which the sewerage district is under any obligation to do and fix, charge, collect, enforce and receive service charges and all revenues thereafter arising subject to any pledge thereof or contract with the bondholders relating thereto and perform the public duties and carry out the contracts and obligations of the sewerage district in the same manner as the sewerage district might do and under the direction of the court.

40A:18-38. Fees and Expenses of Trustee and Receiver.

In any action or proceeding by the trustee appointed pursuant to N. J. S. 40A:18-35, his fees and expenses and those of a receiver appointed pursuant to N. J. S. 40A:18-37 may be allowed by the court as taxable costs and disbursements and, when so allowed, shall be a first charge upon any service charges or revenues of sewerage district pledged for the payment or security of bonds of the series.

40A:18-39. Personal Liability on Bonds; Not Liability of State or Township.

Neither the commissioners of the sewerage district nor any person executing bonds or other obligations issued pursuant to this chapter shall be personally liable on the bonds or other obligations by reason of their issuance, and they shall not be in any way a debt or liability of the State or township.

40A:18-40. Bonds, etc., Exempt From Taxation; Exception.

All bonds and other obligations issued by a sewerage district pursuant to this chapter are declared to be issued by a political subdivision of this State and for an essential public and govern-

mental purpose and to be a public instrumentality, and the bonds and other obligations, and the interest thereon and the income therefrom, and all service charges, funds, revenues and other moneys pledged or available to secure the payment of the bonds and other obligations, or interest thereon, shall at all times be exempt from taxation, except for transfer inheritance and estate taxes and taxes on transfers by or in contemplation of death.

40A:18–41. Bonds as Legal Investments.

Notwithstanding any other law, the State and all public officers, municipalities, counties, political subdivisions, public bodies and agencies thereof, all banks, bankers, trust companies, savings banks and institutions, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any fund or moneys belonging to them or within their control in any bonds issued pursuant to this chapter, and the bonds shall be authorized security for all public deposits.

40A:18–42. Authority to Establish Rates for Services and Connections.

A sewerage district is authorized to charge and collect rents, rates, fees or other charges (sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, the sewer or sewers, sewerage system or disposal plant or plants of the sewerage district. The service charges may be charged to and collected from any person contracting for the connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the sewer or sewers, sewerage system or disposal plant or plants, or from on or which sewage or other wastes originate or have originated and which have directly or indirectly entered or may enter the sewer or sewers, sewerage system or disposal plant or plants. The owner of the real property shall pay the service charges to the sewerage district at the time when and place where the service charges are due and payable.

40A:18–43. Rates, Fees and Charges for Services to be Uniform; Computation.

Rents, rates, fees and charges, which may be payable periodically, being in the nature of use or service charges, shall, as the sewerage district deems practical and equitable, be uniform throughout the district for the same type, class and amount of use or service of the sewer or sewers, sewerage system, disposal plant or plants. The rents, fees, rates and charges may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use or service of the sewer or sewers, sewerage system or disposal plant or plants or on any combination of those factors. In determining the rents, rates, fees and charges, the sewerage district may also give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal thereof, including chlorine demand, biochemical oxygen demand, concentration of solids and chemical composition. In addition to any periodic service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the sewer or sewers, sewerage system, disposal plants or plants may be imposed upon the person making the connection or upon the owner or occupant of the property so connected. The connection charges shall be uniform within each class of users thereof but the amount thereof shall otherwise be entirely within the discretion of the district so that the combination of the connection fee or tapping fee and the periodic service charges shall meet the requirements of N. J. S. 40A:18–44. In assessing any connection charges, the sewerage district shall give credit in every instance to the owner or occupant of any property wherein or whereon any action or improvement has been taken or effectuated, in accordance with the reasonable specifications as prescribed by the sewerage district, which results in a reduction of the costs actually incurred by the sewerage district in making the connection below the costs actually incurred in making the connection to the property wherein or

whereon no action or improvement has been taken or effectuated. The amount of any credit shall be equal to the percentage difference between the costs actually incurred by the sewerage district in making the connection to a property wherein or whereon an action or improvement has been taken or effectuated, and the average during the preceding year of the costs actually incurred by the sewerage district in making the connections to property wherein or whereon action or improvement has not been taken or effectuated.

40A:18-44. Revising Schedule of Service Charges.

The sewerage district shall, when necessary and from time to time, revise its schedule of service charges which shall comply with the terms of any contract of the sewerage district so that the revenues of the sewerage district will at all times be adequate to pay all expenses of operation and maintenance of the sewer or sewers, sewerage system, disposal plant or plants, including reserves, insurance, extensions and replacements, and to pay the principal of and interest on any bonds punctually and to maintain reserves therefor as may be required by any contract of the sewerage district or as may be determined to be necessary or desirable by the sewerage district.

40A:18-45. Procedure to Revise Schedule of Service Charges.

The schedule of service charges shall be revised by the sewerage district after a public hearing thereon which shall be held by the sewerage district at least 10 days after publication of a notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers having a general circulation within the district. The sewerage district shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of the persons offering the evidence. A transcript of the hearing shall be made and a copy thereof shall be available upon request to anyone at a reasonable fee.

40A:18-46. Filing Schedule of Service Charges; Inspection.

A copy of the schedule of service charges then in effect shall at all times be kept on file at the office of the sewerage district and shall at all reasonable times be open to public inspection.

40A:18–47. Fixing Time and Place for Payment of Service Charges; Advance Payment.

The sewerage district shall fix the time or times when and the place or places where service charges shall be due and payable. The sewerage district may require that service charges shall be paid in advance for a period of not more than one year.

40A:18–48. Unpaid Service Charge; Interest.

If a service charge of the sewerage district with regard to any parcel of real property is not paid when due, interest shall accrue thereon and be due to the sewerage district at the rate of 1½% per month until the service charge, together with interest shall be fully paid to the district.

40A:18–49. Unpaid Service Charge; Lien.

If a service charge of the sewerage district with regard to any parcel of real property owned by any person other than the State or an agency or political subdivision thereof is not paid when due, the service charge or any balance thereof together with all accrued interest thereon, shall be a lien on the parcel. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee or any other person, except the lien of municipal taxes. The lien shall be on a parity with and deemed to be equal to the lien on the parcel of the municipality for taxes due in the same year and not paid when due. The lien shall not affect a subsequent purchaser of the parcel for a valuable consideration without actual notice of the lien unless the sewerage district has filed a statement showing the amount and due date of the unpaid balance and identifying the parcel, which identification may be sufficiently made by reference to the assessment map of the municipality, in the office of the collector or other officer charged with the duty of enforcing municipal liens on real property. The information shown in the statement shall be included in any certificate with respect to the parcel of real property thereafter made by the official of the municipality vested with the power to make official certificates of searches for municipal liens. Whenever the service charge and any subsequent service charge and all accrued interest thereon are paid to the sewerage district, the statement shall be promptly cancelled by the district.

40A:18–50. Fiscal Year.

The fiscal year of a sewerage district shall be the calendar year.

40A:18–51. BUDGET; GENERALLY.

Prior to January 15 of each year the commissioners of the sewerage district shall prepare and adopt a budget for the calendar year. The budget shall be prepared in accordance with established municipal accounting practices and shall estimate the amount required for expenditures of the sewerage district for the calendar year, including the expenses of operation, repair and maintenance and all amounts to be raised during the year for interest and principal on bonds, notes and other obligations issued by the sewerage district. The budget shall also estimate the revenues to be received from rates, rents, rentals and other charges which shall not be greater than the rates, rents, rentals and charges received in cash by the sewerage district during the preceding calendar year, unless prior to the adoption of the budget the sewerage commissioners have increased the rates, rents, rentals or charges to be charged for the facilities of the sewer or sewers, sewerage system, disposal plant or plants of the district during the calendar year, in which event the estimated amount of the rates, rents, rentals and other charges to be received during the calendar year may be a sum consisting of the amounts of the rates, rents, rentals or other charges actually received in cash during the preceding calendar year, together with the amount of the increase in rates, rents, rentals or other charges which would have been received during the previous calendar year at the percentage of collections for the previous calendar year. A certified copy of the budget shall be filed in the office of the township clerk before February 1 of each year.

40A:18–52. BUDGET; INSUFFICIENCY OF ESTIMATED REVENUES.

If the amount of estimated revenues to be received during the calendar year as provided in N. J. S. 40A:18–51 will be insufficient to pay the estimated cost of operation, repair and maintenance and all debt service charges, the sewerage commissioners shall certify the anticipated deficit for the calendar year to the township assessor before February 1 of the calendar year. The township assessor shall assess the amount so certified upon the ratables in the district in the same manner in which township taxes are assessed. The township collector shall collect the assessments and pay them over to the sewerage commissioners for the operation, repair and maintenance of the sewer or sewers, sewerage system, disposal plant or plants and the payment of bonds or obligations issued by the district.

40A:18–53. Budget; Arrears in Payment of Bonds.

If at the time the budget is certified as provided in N. J. S. 40A:18–51, the sewerage district is in arrears in the payment of the principal of and interest on any bonds or other obligations issued by the district, the full amount of the arrearages shall be certified by the sewerage commissioners to the township assessor to be raised by general tax upon all the taxable property within the district as provided in N. J. S. 40A:18–52 during the calendar year.

40A:18–54. Audit of Accounts; Filing.

A sewerage district shall have an annual audit of its accounts to be made by a registered municipal accountant of New Jersey or a certified accountant of New Jersey. The audit shall be completed and filed with the district within four months after the close of the fiscal year and a copy filed in the township clerk's office within five days after the original audit is filed with the district.

40A:18–55. Exemption of District Property From Judgment Lien, Levy or Execution Sale; Exception.

All property of a sewerage district shall be exempt from levy and sale by virtue of an execution, and neither an execution nor other judicial process shall issue against the property of a sewerage district nor shall any judgment against a sewerage district be a charge or a lien upon its property. Nothing in this section shall apply to or limit the rights of any bondholders to pursue any remedy for the enforcement of any pledge or lien given by the sewerage district upon its property or revenues.

40A:18–56. Contracts with Bodies Politic and Subdivisions Outside Territory.

The commissioners of a sewerage district are authorized to enter into a contract with any body politic or political subdivision thereof outside of the district's territory to provide for the use by that body or subdivision of the district's sewer or sewers, sewerage system, disposal plant or plants. The contract shall provide for the period of time for the use and a service charge for the use as may be agreed upon.

40A:18–57. Contracts with Bodies Politic and Subdivisions Outside Territory; Installations, Costs and Expenses.

Any body politic or political subdivision thereof contracting with the commissioners of a sewerage district as provided in N. J. S. 40A:18–56 for the use of the district's sewer or sewers, sewerage system, disposal plant or plants shall, at its expense and with the consent of the body politic owning or controlling the street or streets in or under which the installation is to be made, install its own sewerage pipelines and appurtenances to connect at an agreed point of tie-in with the sewer or sewers, sewerage system, disposal plant or plants of the sewerage district.

40A:18–58. Contracts with Bodies Politic and Subdivisions Outside Territory; Ownership and Maintenance of Tie-in Pipelines.

Title and ownership of the sewerage pipelines and appurtenances installed by a body politic or political subdivision thereof for the purpose of tie-in with the sewerage system and disposal plant of a sewerage district shall remain in the body politic or political subdivision thereof, and the body politic or political subdivision shall be responsible for the upkeep and maintenance of the pipelines and appurtenances.

40A:18–59. Contracts with Bodies Politic and Political Subdivisions Outside Territory; Restriction on Tap-in or Use.

The sewerage pipelines and appurtenances shall not be subject to tap-in or use by any other body politic or political subdivision other than the body politic or political subdivision installing them.

40A:18–60. Assumption of Sewerage District Indebtedness by Township.

If a sewerage district has issued bonds or other obligations to pay for the cost of construction or improvement of a sewer or sewers, sewerage system with appurtenances or a disposal plant or plants, the governing body of the township may, in its discretion, assume and pay the indebtedness evidenced by the bonds or other obligations in the manner as hereinafter provided if the value of the sewer or sewers, sewerage system with appurtenances or disposal plant or plants is not less than the amount of the bonds or other obligations so issued.

40A:18–61. Assumption of Sewerage District Indebtedness by Township; Procedure.

Upon the adoption of a resolution by the sewerage commissioners describing the bonds or other obligations issued by the sewerage district and requesting the governing body of the township to assume payment of the indebtedness evidenced by the bonds or other obligations, the governing body of the township shall first determine that the indebtedness evidenced by the bonds or other obligations was incurred for the construction or improvement of a sewer or sewers, sewerage system with appurtenances, disposal plant or plants in the district and that their value is not less than the amount of the bonds or other obligations, and that the sewer or sewers, sewerage system with appurtenances, disposal plant or plants are so constructed or improved that they may be made a part of an existing or proposed sewerage system constructed by the township. Upon a favorable determination of the foregoing factors, the governing body of the township may, by resolution, assume payment by the township of the indebtedness evidenced by the bonds or other obligations.

40A:18–62. Assumption of Sewerage District Indebtedness by Township; Payment.

If the governing body of the township assumes the payment of any bonds or obligations of the sewerage district, they shall become obligations of and be paid by the township. The governing body of the township may, in its discretion, pay the bonds or other obligations out of the proceeds of any bonds, temporary bonds or notes which may be issued by the township for the acquisition, construction, reconstruction, enlargement or extension of a sewerage system in the township.

40A:18–63. Assumption of Sewerage District Indebtedness by Township; Outstanding Fees, Charges, Etc.; Use of Proceeds.

If the governing body of a township assumes the payment of any bonds or obligations of a sewerage district, all outstanding fees, charges or assessments owing to the sewerage district shall be paid to and collected by the township collector and they shall be applied solely to the payment of the bonds or other obligations of the sewerage district or to the payment of the bonds, temporary bonds or notes, the proceeds of which were used to pay the sewerage district's indebtedness.

40A:18–64. Assumption of Sewerage District Indebtedness by Township; Effect.

If the governing body of a township assumes the payment of any bonds or other obligations of a sewerage district, the terms of office of the sewerage district shall terminate and the sewerage district dissolved. The sewer or sewers, sewerage system with appurtenances, disposal plant or plants shall become the property of the township and deemed to be a part of the township sewerage system.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 475

An Act concerning fire districts and supplementing chapter 14 of Title 40A of the New Jersey Statutes.

Be it enacted *by the Senate and General Assembly of the State of New Jersey:*

C. 40A:14-81.5 Advances for expenses.

1. The governing body of any fire district may, by resolution, provide for and authorize payment of advances to officers and employees of the fire district toward their expenses for authorized official travel and expenses incident thereto. The resolution shall provide for the verification and adjustment of the expenses and advances and the repayment of any excess advance by means of a detailed bill of items or demand and certification or affidavit in the same form as required by a local unit pursuant to N. J. S. 40A:5–6 which shall be submitted within 10 days after the completion of the travel for which an advance was made.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 476

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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 sum is appropriated:

FEDERAL FUNDS

DEPARTMENT OF LAW AND PUBLIC SAFETY

Public Safety and Criminal Justice

12 Law Enforcement

24-1200	Marine Police Operations	$288,743
	Total Appropriation, Law Enforcement	$288,743
Special Purpose:		
	Equipment ($288,743)	
	Total Appropriation, Department of Law and Public Safety	$288,743

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.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 12, 1984.

CHAPTER 477

AN ACT to amend the title of P. L. 1967, c. 81 (C. 55:14J–1 et seq.), as said title was amended by P. L. 1978, c. 122, so that the same shall read "An act to facilitate the construction, rehabilitation and conversion of housing projects in certain areas for families of moderate income by providing for mortgage loans to qualified housing sponsors to be used for such construction, rehabilitation and conversion, providing for exemption of certain housing projects from real property taxation, creating within the Department of Community Affairs a New Jersey Housing Finance Agency and prescribing the powers and duties thereof, authorizing the New Jersey Housing Finance Agency to issue bonds and other obligations and providing for their terms and security thereof and the means to pay such bonds and other obligations and the interest thereon, prescribing penalties for certain violations and making an appropriation", and to amend and supplement the body of said act.

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

1. The title of P. L. 1967, c. 81 (C. 55:14J–1 et seq.), as said title was amended by P. L. 1978, c. 122, is amended to read as follows:

Title amended.

An act to facilitate the construction, rehabilitation and conversion of housing projects in certain areas for families of moderate income by providing for mortgage loans to qualified housing sponsors to be used for such construction, rehabilitation and conversion, providing for exemption of certain housing projects from real property taxation, creating within the Department of Community Affairs a New Jersey Housing Finance Agency and prescribing the powers and duties thereof, authorizing the New Jersey Housing Finance Agency to issue bonds and other obligations and providing for their terms and security thereof and the means to pay such bonds and other obligations and the interest thereon, prescribing penalties for certain violations and making an appropriation.

2. Section 2 of P. L. 1967, c. 81 (C. 55:14J–2) is amended to read as follows:

C. 55:14J-2 Declarations.

2. It is hereby declared that there exists in this State a need for adequate, safe and sanitary dwelling units for many families of moderate income in this State; that a large and significant proportion of the families compelled to relocate by reason of urban renewal, highway construction and other public works programs will be subject to extreme hardship in finding adequate, safe and sanitary housing unless new facilities are constructed and existing housing, where appropriate, is rehabilitated, and such new or rehabilitated housing facilities are made available at a rental level within their means; and that, unless the supply of housing for families of moderate income is increased significantly and expeditiously, a large number of the residents of this State will be compelled to live under unsanitary, overcrowded and unsafe conditions to the detriment of the health, welfare and well-being of these persons and of the whole community of which they are part. It is further declared that the building industry can provide a fully adequate supply of safe and sanitary accommodations at rental or carrying charges which families of moderate income can afford only if a public agency is created to encourage the investment of private capital and stimulate construction and rehabilitation of dwelling units to meet the needs of such families through the use of public financing, public loans and otherwise; that, to accomplish the foregoing, coordination, cooperation and agreement of and among private enterprise, State and local government is essential; that the acquisition of land, the construction, rehabilitation, financing by mortgage or otherwise, management, operation, maintenance and disposition of dwelling units constructed or rehabilitated hereunder, and the real and personal property and other facilities necessary, incidental or appurtenant thereto is a public use for which public moneys may be spent, advanced, loaned or granted; and that the enactment of the provisions hereinafter set forth is in the public interest and is hereby so declared to be such as a matter of legislative determination.

The Legislature further finds, determines and declares that (1) there exist in many parts of this State structures, originally designed and constructed for industrial, commercial or other nonresidential purposes and no longer used, or likely to be used, for such purposes; (2) that many such structures, conveniently located and basically sound in construction, are adaptable to conversion to multiple-dwelling residential use; (3) that such adaptation may permit dwelling units to be provided at much lower per unit rentals

than any new construction; and, therefore, (4) that it is in the public interest that the State, through its established agencies, should encourage such adaptation and conversion.

3. Section 3 of P. L. 1967, c. 81 (C. 55:14J–3) is amended to read as follows:

C. 55:14J-3 Definitions.

3. The following terms wherever used or referred to in this act shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "Act" means this act and the rules and regulations adopted by the agency hereunder.

(b) "Agency" means the New Jersey Housing Finance Agency created by section 4 of this act, or, if said agency shall be abolished by law, the person, board, body or commission succeeding to the powers and duties thereof or to whom such powers and duties shall be given by law.

(c) "Bonds, bond anticipation notes and other obligations" or "bonds, bond anticipation notes or other obligations" means any bonds, notes, debentures or other evidences of financial indebtedness issued by the agency.

(d) "Family" means two 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, however, that 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 purposes of this act; and provided further, that the surviving member of a family whose other members died during occupancy of a housing project shall be considered as a family for purposes of permitting continued occupancy of the dwelling unit occupied by such family.

(e) "Family of moderate income" means a family (1) whose income is too low to compete successfully in the normal rental or mutual housing market, and (2) whose gross aggregate family income does not exceed the limits established under section 10 of this act.

(f) "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, provided, however, 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 family members other than the chief wage earner, or (4) such income as is not received regularly, as the agency by rule or regulation may determine.

(g) "Housing project" or "project" means any work or undertaking, whether new construction or rehabilitation, which is designed for the primary purpose of providing decent, safe and sanitary dwelling units for families of moderate income in need of housing; such undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as, but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such stores, offices, and other nonhousing facilities such as administrative, community, health, recreational, educational and welfare facilities as the agency determines to be necessary, convenient or desirable appurtenances.

(h) "Municipality" means any political subdivision of the State other than a county or a school district.

(i) "Mutual housing" means a housing project operated or to be operated upon completion of construction or rehabilitation exclusively for the benefit of the families of moderate income who are entitled to occupancy by reason of ownership of stock in the qualified housing sponsor, or by reason of ownership of premises in a horizontal property regime pursuant to P. L. 1963, c. 168, provided, however, 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.

(j) "Project cost" means the sum total of all costs incurred in the development 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 anticipated operating deficits during the first 2 years of occupancy, (11) 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.

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 construction or reconstruction of a housing project.

(k) "Qualified housing sponsor" means (1) any housing corporation qualified under the provisions of the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P. L. 1949, c. 184 (C. 55:16–1 et seq.), (2) any urban renewal corporation or association qualified under the provisions of the "Urban Renewal Corporation and Association Law of 1961," P. L. 1961, c. 40 (C. 40:55C–40 et seq.) which has as one of its purposes the construction, rehabilitation or operation of housing projects, (3) any general corporation formed under the provisions of Title 14 of the Revised Statutes or Title 14A of the New Jersey Statutes, which has as one of its purposes the construction, rehabilitation or operation of housing projects, (4) any corporation or association organized not for profit under the provisions of Title 15 of the Revised Statutes or any other law of this State which has as one of its purposes the construction, rehabilitation or operation of housing projects, including any such corporation or association which has entered into a lease with a municipality under the terms of P. L. 1983, c. 335 (C. 55:18–1 et seq.), (5) any horizontal property regime formed under the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.) or any condominium formed under the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1), which has as one of its purposes the construction, rehabilitation or operation of housing projects, and (6) any individual or association approved by the agency as qualified to own, construct, convert, rehabilitate, operate, manage and maintain a housing project.

(l) "Required minimum capital reserve" means the reserve amount required to be maintained in each housing finance fund under the provisions of section 20 of this act.

(m) "Amortized value" means for securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or the discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed from the date of such purchase; and (1) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (2) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

(n) "Projects financed prior to January 1, 1973" means projects on which the agency has made a mortgage loan and financed such loan with the proceeds of bonds issued prior to January 1, 1973.

(o) "Projects financed on or after January 1, 1973" means all agency projects other than projects financed prior to January 1, 1973.

(p) "Conversion" means any work or undertaking whereby a structure or structures not originally designed and constructed for housing purposes shall be converted into a "housing project" within the meaning of this act.

4. Section 5 of P. L. 1967, c. 81 (C. 55:14J–5) is amended to read as follows:

C. 55:14J-5 Financing.

5. (a) The agency in order to encourage the construction, rehabilitation and conversion of safe and adequate housing for families of moderate income of this State, is hereby authorized and empowered to finance, by mortgage loans or otherwise, the construction or rehabilitation of housing projects in this State, to make temporary loans or advances in anticipation of permanent loans and to issue bonds, bond anticipation notes and other obligations of the agency payable solely from the revenues or other funds of the agency and to otherwise assist with housing projects as provided in this act.

(b) Bonds, bond anticipation notes and other obligations issued under the provisions of this act shall not be deemed to constitute a debt or liability of this State or of any political subdivision thereof other than the agency created hereunder or to be a pledge of the faith and credit of this State or any such political subdivision but such bonds, unless refunded by bonds and other obligations of the agency, shall be payable solely from funds pledged or avail-

able for their payment as authorized herein. All bonds shall contain on the face thereof a statement to the effect that the agency is obligated to pay the same or the interest thereon only from the revenues or other funds of the agency and that neither this State nor any political subdivision thereof is obligated to pay the same or the interest thereon and that neither the faith and credit nor the taxing power of this State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act and nothing in this act shall be construed to authorize the agency to incur indebtedness or liability on behalf of or payable by this State or any political subdivision thereof.

5. Section 6 of P. L. 1967, c. 81 (C. 55:14J–6) is amended to read as follows:

C. 55:14J-6 Powers of agency.

6. (a) The agency, for the purpose of carrying out the purposes of this act, may:

(1) Accept from qualified housing sponsors applications for loans;

(2) Enter into agreements with qualified housing sponsors for permanent loans and temporary loans or advances in anticipation of such permanent loans for the construction, rehabilitation or conversion of housing projects; and

(3) Make permanent loans and temporary loans or advances in anticipation of such permanent loans to qualified housing sponsors under the provisions of this act.

(b) No application for a loan for the construction, rehabilitation or conversion of a housing project to be located in any municipality shall be processed unless there is already filed with the secretary of the agency a certified copy of a resolution adopted by said municipality reciting that there is a need for moderate income housing projects in said municipality.

6. Section 8 of P. L. 1967, c. 81 (C. 55:14J–8) is amended to read as follows:

C. 55:14J-8 Priority.

8. In considering any application for a loan, the agency shall give first priority to application for loans for the construction, rehabilitation or conversion of housing projects which will be a

part of or constructed in connection with an urban renewal program, and also shall give consideration to:

(a) The comparative need of the area to be served by the proposed project for housing for families of moderate income;

(b) The ability of the applicant to construct, operate, manage and maintain the proposed housing project;

(c) The existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project;

(d) The availability of adequate parks, recreational areas, utilities, schools, transportation and parking;

(e) The availability of adequate, accessible places of employment; and

(f) Where applicable, the eligibility of the applicant to make payments to the municipality in which the housing project is located in lieu of local property taxes.

7. (New section) a. The agency shall, within 180 days from the effective date of this act, take steps to effectuate and assist conversions, within the meaning of the act, by initiating contact with, and providing advice and relevant services to, potential qualified housing sponsors which are, or may become, developers of conversions within the meaning of the act and, as such, eligible for loans and other assistance under the terms of the act.

b. The agency shall within 24 months of the effective date of this act report to the Legislature upon its success in implementing this amendatory and supplementary act and its recommendations for any changes in the legislative authorization relative to the purposes of this act.

8. (New section) If prior to the enactment of this amendatory and supplementary act the act which it amends and supplements shall have been repealed, or if the agency shall have been abolished or transferred to, merged into, or consolidated with any other agency of State government, the agency or its lawful successor shall carry out the duties and functions imposed by the terms of this amendatory and supplementary act.

9. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 478

AN ACT concerning the "tax sale law" and amending R. S. 54:5–38.

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

1. R. S. 54:5–38 is amended to read as follows:

Fee part of tax lien.

54:5–38. The officer conducting a tax sale shall collect and pay into the treasury of the municipality a fee for all costs incurred by the municipality in holding the sale. The amount of the fee so paid shall be 2% of the existing lien as stated in R. S. 54:5–19 and R. S. 54:5–20, but not less than $15.00 and not more than $100.00 for each parcel sold. The fee shall form part of the tax lien and be paid by the purchaser at the tax sale. If a tax lien on a specific parcel is not sold at a sale, the fee for the sale shall be added to the amount due to the municipality and shall form part of the lien and be paid by a purchaser at a subsequent tax sale.

2. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 479

AN ACT concerning antique cannons and amending sections 2C:39–1, 2C:39–5, 2C:39–6, 2C:58–3 and 2C:58–7 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:39–1 is amended to read as follows:

Definitions.

2C:39–1. Definitions. The following definitions apply to this chapter and to chapter 58:

a. "Antique firearm" means any firearm and "antique cannon" means a destructive device defined in paragraph (3) of subsection c. of this section, if the firearm or destructive device as the case

may be, is incapable of being fired or discharged, or which does not fire fixed ammunition regardless of date of manufacture, or was manufactured before 1898 for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.

b. "Deface" means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial number or any other distinguishing identification mark or number on any firearm.

c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than 60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.

d. "Dispose of" means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.

e. "Explosive" means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopoeia.

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or

by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.

h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom.

j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.

k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic

cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

q. "Superintendent" means the Superintendent of the State Police.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; and (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

2. N. J. S. 2C:39–3 is amended to read as follows:

Prohibited weapons and devices.

2C:39–3. Prohibited Weapons and Devices. a. Destructive devices. Any person who knowingly has in his possession any destructive device is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who knowingly has in his possession any sawed-off shotgun is guilty of a crime of the third degree.

c. Silencers. Any person who knowingly has in his possession any firearm silencer is guilty of a crime of the fourth degree.

d. Defaced firearms. Any person who knowingly has in his possession any firearm which has been defaced, except an antique firearm, is guilty of a crime of the fourth degree.

e. Certain weapons. Any person who knowingly has in his possession any gravity knife, switchblade knife, dagger, dirk, stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus or similar leather band studded with metal filings or razor blades imbedded in wood, without any explainable lawful purpose, is guilty of a crime of the fourth degree.

f. Dum-dum or body armor penetrating bullets. (1) Any person, other than a law enforcement officer or persons engaged in activities pursuant to 2C:39–6f., who knowingly has in his possession any hollow nose or dum-dum bullet, or (2) any person, other than a collector of firearms or ammunition as curios or relics as defined in Title 18, United States Code, Section 921 (a) (13) and has in his possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco and Firearms, who knowingly has in his possession any body armor breaching or penetrating ammunition, which means: (a) ammunition primarily designed for use in a handgun, and (b) which is comprised of a bullet whose core or jacket, if the jacket is thicker than .025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and (c) is therefore capable of breaching or penetrating body armor, is guilty of a crime of the fourth degree. For purposes of this section, a collector may possess not more than three examples of each distinctive variation of the ammunition described above. A distinctive variation includes a different head stamp, composition, design, or color.

g. Exceptions. (1) Nothing in this section shall apply to any member of the Armed Forces of the United States or the National

Guard, or except as otherwise provided, by any law enforcement officer while actually on duty or traveling to or from an authorized place of duty, provided that his possession of the prohibited weapon or device has been duly authorized under the applicable laws, regulations or military or law enforcement orders, or to the possession of any weapon or device by a law enforcement officer who has confiscated, seized or otherwise taken possession of said weapon or device as evidence of the commission of a crime or because he believed it to be possessed illegally by the person from whom it was taken, provided that said law enforcement officer promptly notifies his superiors of his possession of such prohibited weapon or device.

(2) Nothing in subsection f. (1) shall be construed to prevent a person from keeping such ammunition at his dwelling, premises or other land owned or possessed by him, or from carrying such ammunition from the place of purchase to said dwelling or land, nor shall subsection f. (1) be construed to prevent any licensed retail or wholesale firearms dealer from possessing such ammunition at its licensed premises, provided that the seller of any such ammunition shall maintain a record of the name, age and place of residence of any purchaser who is not a licensed dealer, together with the date of sale and quantity of ammunition sold.

(3) Nothing in paragraph (2) of subsection f. shall be construed to prevent any licensed retail or wholesale firearms dealer from possessing that ammunition at its licensed premises for sale or disposition to another licensed dealer, the Armed Forces of the United States or the National Guard, or to a law enforcement agency, provided that the seller maintains a record of any sale or disposition to a law enforcement agency. The record shall include the name of the purchasing agency, together with written authorization of the chief of police or highest ranking official of the agency, the name and rank of the purchasing law enforcement officer, if applicable, and the date, time and amount of ammunition sold or otherwise disposed. A copy of this record shall be forwarded by the seller to the Superintendent of the Division of State Police within 48 hours of the sale or disposition.

(4) Nothing in subsection a. of this section shall be construed to apply to antique cannons as exempted in subsection d. of N. J. S. 2C:39–6.

3. N. J. S. 2C:39–6 is amended to read as follows:

Exemptions.

2C:39–6. Exemptions. a. Section 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, a motor vehicle inspector;

(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, inspectors and investigators of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, 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 such a 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 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, or any special policeman authorized to carry a revolver or other similar weapons while off duty within the municipality where he is employed, as provided in N. J. S. 40A:14–146, or a special policeman or airport

security officer appointed by the governing body of any county or municipality, except as provided in this paragraph, 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; or

(8) A paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time to an arson investigation unit created pursuant to section 1 of P. L. 1981, c. 409 (C. 40A:14–7.1), while engaged in the actual performance of arson investigation duties and when specifically authorized by the governing body to carry weapons.

b. Subsections a., b. and c. of section 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 any such weapon is carried in the manner specified in subsection g. of this section.

c. Subsections b. and c. of section 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 or a railway policeman, while in the actual performance of his official duties and while going to or from his place of duty, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6–4.2 et seq.) or any 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) A full-time member of the marine patrol force or a special marine patrolman authorized to carry such a weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(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; or

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives.

d. (1) Subsections c. and d. of section 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 demon-

stration 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 of such 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 of such and that the transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of section 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 section 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 such 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 such 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 of the firearms to the public or to the members of such organization or club, provided, however, that not less than 30 days prior to such exhibition or display, notice of such 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 subsection b. (2), e. or f. (1) or (3) 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 section 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 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.

i. Nothing in subsection d. of 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.

4. N. J. S. 2C:58–3 is amended to read as follows:

Purchase of firearms.

2C:58–3. Purchase of Firearms. a. Permit to purchase a handgun. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase, or otherwise acquire a handgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a handgun as provided by this section.

b. Firearms purchaser identification card. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire an antique cannon or a rifle or shotgun, other than an antique rifle or shotgun, unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first exhibits said card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a

written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of subsection c. of this section and shall contain his name, address and firearms purchaser identification card number or dealer's registration number. The said certification shall be retained by the seller, as provided in section 2C:58–2a., or, in the case of a person who is not a dealer, it may be filed with the chief of police of the municipality in which he resides or with the superintendent.

c. Who may obtain. No person of good character and good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase a handgun or a firearms purchaser identification card, except as hereinafter set forth. No handgun purchase permit or firearms purchaser identification card shall be issued:

(1) To any person who has been convicted of a crime, whether or not armed with or possessing a weapon at the time of such offense;

(2) To any drug dependent person as defined in section 2 of P. L. 1970, c. 226 (C. 24:21–2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently an habitual drunkard;

(3) To any person who suffers from a physical defect or disease which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic unless any of the foregoing persons produces a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in such a manner that would interfere with or handicap him in the handling of firearms; to any person who knowingly falsifies any information on the application form for a handgun purchase permit or firearms purchaser identification card;

(4) To any person under the age of 18 years; or

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare.

d. Issuance. The chief of police of an organized full-time police department of the municipality where the applicant resides or the superintendent, in all other cases, shall upon application, issue to any person qualified under the provisions of subsection c. of this

section a permit to purchase a handgun or a firearms purchaser identification card.

Any person aggrieved by the denial of a permit or identification card may request a hearing in the Superior Court of the county in which he resides if he is a resident of New Jersey or in the Superior Court of the county in which his application was filed if he is a nonresident. The request for a hearing shall be made in writing within 30 days of the denial of the application for a permit or identification card. The applicant shall serve a copy of his request for a hearing upon the chief of police of the municipality in which he resides, if he is a resident of New Jersey, and upon the superintendent in all cases. The hearing shall be held and a record made thereof within 30 days of the receipt of the application for such hearing by the judge of the Superior Court. No formal pleading and no filing fee shall be required as a preliminary to such hearing. Appeals from the results of such hearing shall be in accordance with law.

e. Applications. Applications for permits to purchase a handgun and for firearms purchaser identification cards shall be in the form prescribed by the superintendent and shall set forth the name, residence, place of business, age, date of birth, occupation, sex and physical description, including distinguishing physical characteristics, if any, of the applicant, and shall state whether the applicant is a citizen, whether he is an alcoholic, habitual drunkard, drug dependent person as defined in section 2 of P. L. 1970, c. 226 (C. 24:21–2), whether he has ever been confined or committed to a mental institution or hospital for treatment or observation of a mental or psychiatric condition on a temporary, interim or permanent basis, giving the name and location of the institution or hospital and the dates of such confinement or commitment, whether he has been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an inpatient or outpatient basis for any mental or psychitaric condition, giving the name and location of the doctor, psychiatrist, hospital or institution and the dates of such occurrence, whether he presently or ever has been a member of any organization which advocates or approves the commission of acts of force and violence to overthrow the Government of the United States or of this State, or which seeks to deny others their rights under the Constitution of either the United States or the State of New Jersey, whether he has ever been convicted of a crime or disorderly persons offense, and such other information as the superintendent shall deem necessary for

the proper enforcement of this chapter. For the purpose of complying with this subsection, the applicant shall waive any statutory or other right of confidentiality relating to institutional confinement. The application shall be signed by the applicant and shall contain as references the names and addresses of two reputable citizens personally acquainted with him.

Application blanks shall be obtainable from the superintendent, from any other officer authorized to grant such permit or identification card, and from licensed retail dealers.

The chief police officer or the superintendent shall obtain the fingerprints of the applicant and shall have them compared with any and all records of fingerprints in the municipality and county in which the applicant resides and also the records of the State Bureau of Identification and the Federal Bureau of Investigation, provided that an applicant for a handgun purchase permit who possesses a valid firearms purchaser identification card, or who has previously obtained a handgun purchase permit from the same licensing authority for which he was previously fingerprinted, and who provides other reasonably satisfactory proof of his identity, need not be fingerprinted again; however, the chief police officer or the superintendent shall proceed to investigate the application to determine whether or not the applicant has become subject to any of the disabilities set forth in this chapter.

f. Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of $2.00, or the application for the firearms purchaser identification card together with a fee of $5.00, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 30 days from the date of receipt of the application for residents of this State and within 45 days for nonresident applicants. A permit to purchase a handgun shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. A firearms purchaser identification card shall be valid until such time as the holder becomes subject to any of the disabilities set forth in subsection c. of this section, whereupon the card shall be void and shall be returned within five days by the holder to the superintendent, who shall then advise the licensing authority. Failure of the holder to return the firearms purchaser

identification card to the superintendent within the said five days shall be an offense under section 2C:39–10a. Any firearms purchaser identification card may be revoked by the Superior Court of the county wherein the card was issued, after hearing upon notice, upon a finding that the holder thereof no longer qualifies for the issuance of such permit. The county prosecutor of any county, the chief police officer of any municipality or any citizen may apply to such court at any time for the revocation of such card.

There shall be no conditions or requirements added to the form or content of the application, or required by the licensing authority for the issuance of a permit or identification card, other than those that are specifically set forth in this chapter.

g. Disposition of fees. All fees for permits shall be paid to the State Treasury if the permit is issued by the superintendent, to the municipality if issued by the chief of police, and to the county treasurer if issued by the judge of the Superior Court.

h. Form of permit; quadruplicate; disposition of copies. The permit shall be in the form prescribed by the superintendent and shall be issued to the applicant in quadruplicate. Prior to the time he receives the handgun from the seller, the applicant shall deliver to the seller the permit in quadruplicate and the seller shall complete all of the information required on the form. Within five days of the date of the sale, the seller shall forward the original copy to the superintendent and the second copy to the chief of police of the municipality in which the purchaser resides, except that in a municipality having no chief of police, such copy shall be forwarded to the superintendent. The third copy shall then be returned to the purchaser with the pistol or revolver and the fourth copy shall be kept by the seller as a permanent record.

i. Restriction on number of firearms person may purchase. Only one handgun shall be purchased or delivered on each permit, but a person shall not be restricted as to the number of rifles or shotguns he may purchase, provided he possesses a valid firearms purchaser identification card and provided further that he signs the certification required in subsection b. of this section for each transaction.

j. Firearms passing to heirs or legatees. Notwithstanding any other provision of this section concerning the transfer, receipt or acquisition of a firearm, a permit to purchase or a firearms purchaser identification card shall not be required for the passing of a firearm upon the death of an owner thereof to his heir or legatee, whether the same be by testamentary bequest or by the laws of

intestacy. The person who shall so receive or acquire said firearm shall, however, be subject to all other provisions of this chapter. If the heir or legatee of such firearm does not qualify to possess or carry it, he may retain ownership of the firearm for the purpose of sale for a period not exceeding 180 days, or for such further limited period as may be approved by the chief law enforcement officer of the municipality in which the heir or legatee resides or the superintendent, provided that such firearm is in the custody of the chief law enforcement officer of the municipality or the superintendent during such period.

k. Sawed-off shotguns. Nothing in this section shall be construed to authorize the purchase or possession of any sawed-off shotgun.

l. Nothing in this section and in N. J. S. 2C:58–2 shall apply to the sale or purchase of a visual distress signalling device approved by the United States Coast Guard, solely for possession on a private or commercial aircraft or any boat; provided, however, that no person under the age of 18 years shall purchase nor shall any person sell to a person under the age of 18 years such a visual distress signalling device.

5. N. J. S. 2C:58–7 is amended to read as follows:

Persons possessing explosives or destructive devices to notify police.

2C:58–7. Persons Possessing Explosives or Destructive Devices to Notify Police. a. Any person who becomes the possessor of any explosive, destructive device, or ammunition therefor, which is or may be loaded or otherwise dangerous, except such as is possessed for any lawful commercial or other purpose in connection with which the use of explosives is authorized or as is authorized in subsection d. of N. J. S. 2C:39–6, shall within 15 days notify the police authorities of the municipality in which he resides or the State Police that the same is in his possession and shall present the same to them for inspection.

b. When any such ammunition, explosive or destructive device is presented for inspection it shall be inspected to ascertain whether or not it is loaded or of a dangerous character, and if it is found to be loaded or of dangerous character, it shall be destroyed or be unloaded or so processed as to remove its dangerous character before being returned to the possessor.

c. Any police officer having reasonable cause to believe that any person is possessed of any such ammunition, explosive, or destructive device shall investigate, under a proper search warrant when

necessary, and shall seize the same for the purpose of inspection, unloading, processing or destruction, as provided in this section, and the same shall not be returned to the possessor thereof until it has been unloaded or so processed.

6. This act shall take effect immediately.

Approved January 12, 1984.

CHAPTER 480

AN ACT concerning certain unauthorized acts at nuclear electric generating plants, and supplementing chapter 17 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:17-7 Release of radiation.

1. The provisions of N. J. S. 2C:17–2 to the contrary notwithstanding, any person who purposely or knowingly damages or tampers with any machinery, device, or equipment at a nuclear electric generating plant with the intent to cause or threaten to cause an unauthorized release of radiation commits a crime of the third degree, and may be sentenced to an extended term of imprisonment as set forth in paragraph (4) of subsection a. of N. J. S. 2C:43–7, notwithstanding the provisions of N. J. S. 2C:44–3.

C. 2C:17-8 Death due to exposure.

2. Any person who purposely or knowingly damages or tampers with any machinery, device, or equipment at a nuclear electric generating plant which results in the death of another due to exposure to radiation commits a crime of the first degree, and may be sentenced to an extended term of imprisonment as set forth in paragraph (2) of subsection a. of N. J. S. 2C:43–7, notwithstanding the provisions of N. J. S. 2C:44–3.

C. 2C:17-9 Injury due to exposure.

3. Any person who purposely or knowingly damages or tampers with any machinery, device, or equipment at a nuclear electric generating plant which results in the injury of another due to exposure to radiation commits a crime of the second degree, and

may be sentenced to an extended term of imprisonment as set forth in paragraph (3) of subsection a. of N. J. S. 2C:43–7, notwithstanding the provisions of N. J. S. 2C:44–3.

4. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 481

AN ACT to provide for the reimbursement for nursing services under medical service corporation contracts, and supplementing P. L. 1940, c. 74 (C. 17:48A–1 et seq.).

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

C. 17:48A-35 Reimbursement for nursing services.

1. Notwithstanding any other provision of P. L. 1940, c. 74 (C. 17:48A–1 et seq.), benefits shall not be denied to any eligible individual for eligible services when the services are performed or rendered to those individuals by a registered professional nurse, within the scope of the nurse's practice, and the nurse is not being paid a salary by a health care provider for the services so performed. The benefits may be payable subject to deductible or coinsurance provisions, and a contract providing such benefits may contain a limitation on the number of benefit days payable under the contract.

This act shall exclude salaried services which are already reimbursed and shall not be construed to affect or impair hospital procedures for billing in-hospital nursing care. The practice of nursing shall be deemed to be within the provisions of P. L. 1940, c. 74 (C. 17:48A–1 et seq.) and duly registered professional nurses shall have those privileges and benefits in the scope of their practice as are afforded thereunder to licensed physicians and surgeons in the scope of their practice.

2. This act shall take effect 90 days following its enactment.

Approved January 17, 1984.

CHAPTER 482

AN ACT concerning the designation of certain State purchases and construction contracts as small business set-asides and supplementing Title 52 of the Revised Statutes.

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

C. 52:32-17 Short title.

1. This act shall be known and may be cited as the "Small Business Set-Aside Act."

C. 52:32-18 Declaration.

2. The Legislature declares that the existence of a strong and healthy free enterprise system is directly related to the well-being and competitive strength of small business concerns and to the opportunity for small business to have free entry into business, to grow and to expand; and finds that the State must ensure that a fair proportion of the State's total purchases and contracts for construction, property and services is placed with small business concerns.

C. 52:32-19 Definitions.

3. As used in this act:

a. "Contracting agency" means the State or any board, commission, committee, authority or agency of the State.

b. "Chief" means the Chief of the Office of Small Business Assistance.

c. "Department" means the Department of Commerce and Economic Development.

d. "Office" means the Office of Small Business Assistance in the Department of Commerce and Economic Development.

e. "Small business" means a business which has its principal place of business in the State, is independently owned and operated and meets all other qualifications as may be established in accordance with P. L. 1981, c. 283 (C. 52:27H–21.1 et seq.).

f. "Small business set-aside contract" means (1) a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids are invited and accepted only from small businesses, or (2) a portion of a contract when that portion has been so designated.

New Jersey State Library

C. 52:32-20 Small business set-aside contract.

4. Notwithstanding the provisions of any State bidding or public contracts laws to the contrary, contracting agencies, in consultation with the office, shall designate a contract, or a portion thereof, for goods, equipment, construction or services to be awarded by a contracting agency as a small business set-aside contract, whenever there is a reasonable expectation that bids may be obtained from at least three qualified small businesses capable of furnishing the desired goods, equipment, construction or services at a fair and reasonable price. The designation shall be made prior to the advertisement for bids.

C. 52:32-21 Goal of 15%.

5. There is established the goal that contracting agencies set aside at least 15% of their contracts for small businesses. This goal may be attained by the direct designation of prime contracts for small business or, in the case of a prime contract not directly designated for small business, by requiring that a portion of such a prime contract be subcontracted to a small business. Each contracting agency shall make a good faith effort to attain the goal established in this section.

C. 52:32-22 Dispute over appropriateness.

6. If the chief and the contracting agency disagree as to whether the small business set-aside is appropriate for a contract or a portion of a contract, the dispute shall, within 7 days, be submitted to the State Treasurer for final determination.

C. 52:32-23 Advertisement for bids.

7. The advertisement for small business bids shall indicate the invitation to bid as a small business set-aside. The advertisement shall be in such newspaper or newspapers as will best give notice thereof to small business bidders and shall be sufficiently in advance of the purchase or contract to promote competitive bidding among small businesses. The newspaper or newspapers in which the advertisement shall appear shall be selected by the contracting agency in consultation with the office. The advertisement shall designate the time and place at which sealed proposals shall be received and publicly opened and read, the amount of the cash or certified check, if any, which shall accompany each bid and such other items as the office may deem proper. The advertisement shall be made pursuant to the procedure set forth in the law governing State contracts, where this act is inconsistent with that law.

C. 52:32-24 Regulations on qualifications.

8. The department may establish reasonable regulations appropriate for controlling the qualifications of prospective small business bidders according to the financial ability and experience of the bidders and the capital and equipment available to them pursuant to and reasonably related to the class or category of work to be performed or materials and supplies to be furnished or hired in the performance of any subcontract, and may require each bidder to furnish a statement thereof. No qualification rating of any bidder shall be influenced by his race, creed, color, national origin, ancestry, age, marital status or sex, nor shall undue preferences be created.

C. 52:32-25 Bidding restricted.

9. When a contract or portion thereof has been designated as a small business set-aside, invitations for bids shall be confined to small businesses and bids from other bidders shall be rejected. The purchase, contract or expenditure of funds shall be awarded pursuant to section 7 of P. L. 1954, c. 48 (C. 52:34–12) among the small businesses, considering formality with specifications and terms, in accordance with regulations published by the department. The award shall be made with reasonable promptness by the contracting agency with written notice to the office.

C. 52:32-26 Set-aside cancellation.

10. If the contracting agency determines that the acceptance of the lowest responsible bid will result in the payment of an unreasonable price, the contracting agency shall reject all bids and withdraw the designation of small business set-aside contract. Small businesses shall be notified in writing of the small business set-aside cancellation, the reasons for the rejection and the State's intent to resolicit bids on an unrestricted basis. The canceled solicitation shall not be counted as a set-aside for the purpose of attaining established set-aside goals.

C. 52:32-27 Annual report.

11. Each contracting agency shall submit an annual report to the office according to the schedule announced by the office. This report shall include the following information:

a. The total dollar value and number of set-aside contracts awarded to small businesses, and the percentage of the total State procurements by the contracting agency the figure of total dollar value and the number of set-asides reflects;

b. The types and sizes of businesses receiving set-aside awards and the nature of the purchases and contracts; and

c. The efforts made to publicize and promote the program.

The office shall receive and analyze the reports submitted by the contracting agencies and, utilizing this data, submit an annual report to the Commissioner of the Department of Commerce and Economic Development and the Governor showing the progress being made toward the objectives and goals of this act during the preceding fiscal year.

C. 52:32-28 Bidders' lists.

12. The office shall monitor the development of bidders' lists in each contracting department or agency within State government and shall provide guidance and expertise in the compilation and qualification of bidders for the bidders' lists. All bidders shall meet the qualifications as "small business" as established in accordance with the Small Business Size Standards for Procurement of the New Jersey Office of Small Business Assistance in the Department of Commerce and Economic Development. The office shall review the lists annually with each contracting department to determine which of those businesses continue to qualify as small businesses. The department shall establish a procedure whereby the designation of a business as a small business may be challenged by a third party. The procedure shall include proper notice and a hearing for all parties concerned before the bid is awarded.

C. 52:32-29 Consultations.

13. The department and office shall consult regularly with representatives of the contracting industry for the purpose of implementing the provisions of this act. These consultations shall take place no less than once every six months.

C. 52:32-30 Penalties for incorrect information.

14. A business which has been classified as a small business on the basis of incorrect information supplied by it and which has been awarded a contract to which it would not otherwise have been entitled under this act shall:

a. Pay to the State any difference between the contract amount and what the State's cost would have been if the contract had not been awarded in accordance with the provisions of this act;

b. In addition to the amount due under subsection a., be assessed a penalty in an amount of not more than 10% of the amount of the contract involved; and

c. Be ineligible to transact any business with the State for a period of not less than 3 months and not more than 24 months.

All payments to the State pursuant to subsection a. of this section shall be deposited in the fund out of which the contract involved was awarded. All payments to the State pursuant to subsection b. of this section shall be deposited in the General State Fund.

C. 52:32-31 Regulations.

15. The Department of the Treasury shall develop such other regulations as may be necessary to interpret and implement all provisions of this act, including rules governing the determination of which type or class of contracts is covered by this act.

16. This act shall take effect 180 days after enactment.

Approved January 17, 1984.

CHAPTER 483

AN ACT to amend "An act providing for the regulation and licensing of mortgage bankers and mortgage brokers by the Commissioner of Banking, defining the powers and duties of the commissioner in connection therewith, and prescribing penalties for violations thereof and making an appropriation therefor," approved February 4, 1981 (P. L. 1981, c. 18).

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

1. Section 14 of P. L. 1981, c. 18 (C. 17:11B–14) is amended to read as follows:

C. 17:11B-14 Regulation of mortgage lenders.

14. a. No person or licensee shall advertise, print, display, publish, distribute, telecast or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, televised or broadcast, in any manner, any statement or representation with regard to the rates, terms or conditions pertaining to the making, negotiating, or sale of loans, which is false, misleading or deceptive. No person who is not licensed under this act or not exempt under section 3 of this act shall use the word "mortgage" or similar words in any advertising, signs, letterheads, cards, or like matter which tend to represent that he arranges real estate mortgage loans. No person licensed under this act shall be granted a license in a

name containing such words as "insured," "bonded," "guaranteed," "secured" and the like.

b. No person or licensee shall, in connection with or incidental to the making of a mortgage loan, require or permit the mortgage instrument or bond or note to be signed by a party to the transaction if the instrument contains any blank spaces to be filled in after it has been signed, except blank spaces relating to recording.

c. No person or licensee shall charge or exact directly or indirectly from the mortgagor or any other person fees, commissions or charges determined to be excessive in accordance with subsection b. of section 13 of this act.

d. No person not licensed or not exempt from licensure under this act shall receive any commission, bonus or fee in connection with arranging or originating a mortgage loan for a borrower, except that a mortgage solicitor can receive such commission, bonus, or fee from his employer.

e. No person or licensee shall pay any commission, bonus or fee to any person not licensed or not exempt under the provisions of this act in connection with arranging for or originating a mortgage loan for a borrower, except that a mortgage solicitor may be paid such bonus, commission, or fee by his employer.

f. No person shall obtain or attempt to obtain a license by fraud or misrepresentation.

g. No person or licensee shall misrepresent, circumvent, or conceal the nature of any material particular of any transaction to which he is a party.

h. No person or licensee shall fail to disburse funds in accordance with his agreements, unless otherwise ordered by the commissioner or a court of this State or of the United States.

i. No person or licensee shall fail without good cause to account or deliver to any person any personal property, money, fund, deposit, check, draft, mortgage, document or thing of value, which is not his property, or which he is not in law or equity entitled to retain under the circumstances, at the time which has been agreed upon, or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery.

j. No person or licensee shall fail to place in escrow, immediately upon receipt, any money, fund, deposit, check or draft entrusted to him by any person dealing with him as a mortgage banker or mortgage broker, in a manner approved by the commissioner, or

to deposit the funds in a trust or escrow account maintained by him with a financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, wherein the funds shall be kept until the disbursement thereof is properly authorized.

k. No person licensed under this act shall change the address of his place of business without notice to the commissioner.

l. No person or licensee shall fail to present a certified or cashier's check or to arrange an electronic fund transfer for the proceeds of the loan to the purchaser, acting on his own behalf, or the attorney for the purchaser at a reasonable time and place prior to the time of the mortgage closing transaction. This subsection shall not prevent a person or licensee from utilizing any method of payment which is agreed upon by the person or licensee and the closing agent or any other means of payment which is ethically permissible; nor shall it prevent the person or licensee from assessing a reasonable charge as set forth by regulation by the Commissioner of Banking to reflect the additional cost to the person or licensee for the issuance of a certified or cashier's check, an electronic fund transfer, or any other means of payment which is ethically permissible. Such reasonable charge shall be fully disclosed at or prior to the issuance of the loan commitment.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 484

AN ACT to amend "An act concerning subsidized adoption of certain children and supplementing 'An act concerning the care, custody, guardianship, maintenance and supervision of dependent and neglected children, promoting home life therefor, providing for the financing thereof, and repealing certain statutes relating thereto,' approved May 31, 1951 (P. L. 1951, c. 138)," approved April 12, 1973 (P. L. 1973, c. 81).

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

1. Section 2 of P. L. 1973, c. 81 (C. 30:4C–46) is amended to read as follows:

C. 30:4C-46 Adoption subsidy program.

2. The Division of Youth and Family Services shall make payments to adoptive parents on behalf of a child placed for adoption by the division whenever:

a. The child because of physical or mental condition, race, age, or membership in a sibling group, or for any other reason falls into the category of a child hard to place for adoption;

b. The adoptive family is capable of providing the permanent family relationships needed by the child; and

c. Except in situations involving adoption by a child's foster parent, there has been a reasonable effort to place the child in an adoptive setting without providing a subsidy.

Payments shall be made on behalf of a child placed for adoption by the Division of Youth and Family Services, except that whenever a child who would otherwise be eligible for subsidy payment is in the care of an approved New Jersey adoption agency pursuant to P. L. 1977, c. 367 (C. 9:3–37 et seq.) a child shall, upon application by the agency and satisfaction of the regular requirements of the adoption subsidy program, be approved for participation in the adoption subsidy program. In any case the division may approve payment in subsidization of adoption for a child without legal transfer of care or custody of the child to the division. The division shall adopt regulations for administration of this program with respect to these children, except that all children are evaluated for eligibility in the same manner as children already under the care, custody or guardianship of the division.

2. Section 3 of P. L. 1973, c. 81 (C. 30:4C–47) is amended to read as follows:

C. 30:4C-47 Costs included.

3. Payments in subsidization of adoption shall include but are not limited to the maintenance costs, medical and surgical expenses, and other costs incidental to the care, training and education of the child. Such payments may not exceed the cost of providing comparable assistance in foster care and shall not be made after the adoptive child become 18 years of age, except that payments not to exceed 80% of the costs shall be made until the child becomes 21 years of age when it is determined by the Division of Youth and Family Services that the needs of the child cannot be adequately met without the payments.

3. Section 4 of P. L. 1973, c. 81 (C. 30:4C–48) is amended to read as follows:

C. 30:4C-48 Qualification for payments.

4. Qualification for payments in subsidization of adoption shall be determined and approved by the Division of Youth and Family Services prior to the completion of the adoption proceeding, and may be redetermined annually thereafter. No payments shall be made for any child who the division has determined was brought into this State for the sole purpose of qualifying for an adoption subsidy pursuant to P. L. 1973, c. 81 (C. 30:4C–45 et seq.).

4. Section 5 of P. L. 1973, c. 81 (C. 30:4C–49) is amended to read as follows:

C. 30:4C-49 Rules, regulations.

5. The Division of Youth and Family Services shall make all necessary rules and regulations for administering the program for payments in subsidization of adoptions.

5. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 485

AN ACT concerning the civil rights and responsibilities of certain persons owning dogs, amending R. S. 48:3–33, P. L. 1941, c. 151, P. L. 1945, c. 169, P. L. 1971, c. 130, P. L. 1977, c. 456 and P. L. 1980, c. 46.

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

1. R. S. 48:3–33 is amended to read as follows:

Handicapped permitted dogs on buses.

48:3–33. Any blind person, accompanied by a dog, known and described as a "seeing-eye dog," any deaf person, accompanied by a dog, known and described as a "hearing ear dog," any handicapped person, accompanied by a dog, known and described as a "service dog," or any blind, handicapped or deaf person accompanied by a guide or service dog trained by a recognized training agency or school, when riding on any bus or other public utility, as

defined in R. S. 48:2–13, engaged in transportation of passengers, may keep such animal in his or her immediate custody. The Board of Public Utilities shall prescribe rules and regulations concerning such custody.

2. Section 3 of P. L. 1941, c. 151 (C. 4:19–15.3) is amended to read as follows:

C. 4:19-15.3 License fees; exemptions.

3. The person applying for the license and registration tag shall pay the fee fixed or authorized to be fixed in section 12 of this act, and the sum of $1.00 for a one-year registration tag or $3.00 for a three-year registration tag for each dog; and for each renewal, the fee for the license and for the registration tag shall be the same as for the original license and tag; and said licenses, registration tags and renewals thereof shall expire no later than June 30 in the year stated on the license; except that this expiration date shall not require a municipality to alter its schedule for administering rabies inoculations to any dog to be licensed and registered; nor shall this expiration date require a municipality to alter its schedule for renewing licenses and registration tags, provided that the registration period precedes June 30.

Only one license and registration tag shall be required in any licensing year for any dog owned in New Jersey, and such license and tag shall be accepted by all municipalities as evidence of compliance with this section.

Dogs used as guides for blind persons and commonly known as "seeing-eye" dogs, dogs used to assist handicapped persons and commonly known as "service dogs," or dogs used to assist deaf persons and commonly known as "hearing ear" dogs shall be licensed and registered as other dogs hereinabove provided for, except that the owner or keeper of such dog shall not be required to pay any fee therefor.

License forms and uniform official metal registration tags designed by the State Department of Health shall be furnished by the municipality and shall be numbered serially and shall bear the year of issuance and the name of the municipality.

3. Section 5 of P. L. 1945, c. 169 (C. 10:5–5) is amended to read as follows:

C. 10:5-5 Definitions.

5. As used in this act, unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of this act.

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of this act, and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

f. "Employee" does not include any individual employed by his parents, spouse or child, or in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by this act.

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by this act.

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with

goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post-secondary school from using in good faith criteria other than race, creed, color, national origin or ancestry, in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P. L. 1949, c. 300, P. L. 1941, c. 213, P. L. 1944, c. 169, P. L. 1949, c. 303, P. L. 1938, c. 19, P. L. 1938, c. 20, P. L. 1946, c. 52, and P. L. 1949, c. 184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the Federal Government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as

his residence or the household of his family at the time of such rental; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by him as his residence or the household of his family at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesman" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts

to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Handicapped" means suffering from physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or from any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of the blind, handicapped or deaf as reputable and competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which

is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that he is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to a handicapped person's requirements including, but not limited to, minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items.

4. Section 1 of P. L. 1971, c. 130 (C. 10:5–29) is amended to read as follows:

C. 10:5-29 Use of public facilities.

1. Any handicapped, blind or deaf person accompanied by a service or guide dog trained by a recognized training agency or school is entitled, with his dog, to the full and equal enjoyment, advantages, facilities and privileges of all public facilities, subject only to the following conditions:

a. A handicapped, blind or deaf person, if accompanied by a service or guide dog, shall keep such dog in his immediate custody at all times;

b. A handicapped, blind or deaf person accompanied by a service or guide dog shall not be charged any extra fee or payment for admission to or use of any public facility;

c. A handicapped, blind or deaf person who has a service or guide dog in his possession shall be liable for any damages done to the premises of a public facility by such dog.

d. (Deleted by amendment; P. L. 1981, c. 391.)

5. Section 3 of P. L. 1977, c. 456 (C. 10:5–29.1) is amended to read as follows:

C. 10:5-29.1 Employment discrimination unlawful.

3. Unless it can be clearly shown that a person's handicap, blindness or deafness would prevent such person from performing a particular job, it is an unlawful employment practice to deny to an otherwise qualified handicapped, blind or deaf person the opportunity to obtain or maintain employment, or to advance in position in his job, solely because such person is handicapped, blind or deaf or because such person is accompanied by a service or guide dog.

6. Section 4 of P. L. 1977, c. 456 (C. 10:5–29.2) is amended to read as follows:

C. 10:5-29.2 Housing discrimination prohibited.

4. A handicapped, blind or deaf person is entitled to rent, lease or purchase, as other members of the general public, all housing

accommodations offered for rent, lease, or compensation in this State, subject to the conditions and limitations established by law and applicable alike to all persons. Nothing in this section shall require any person renting, leasing or providing for compensation real property, to modify such property in any way to provide a higher degree of care for a handicapped, blind or deaf person than for any other person. A handicapped, blind or deaf person who has a service or guide dog, or who obtains a service or guide dog, shall be entitled to full and equal access to all housing accommodations and shall not be required to pay extra compensation for such service or guide dog, but shall be liable for any damages done to the premises by such dog. Any provision in any lease or rental agreement prohibiting maintenance of a pet or pets on or in the premises shall not be applicable to a service or guide dog owned by a handicapped, blind or deaf tenant.

7. Section 5 of P. L. 1977, c. 456 (C. 10:5–29.3) is amended to read as follows:

C. 10:5-29.3 Rights, responsibilities of trainer.

5. A service or guide dog trainer, while engaged in the actual training process and activities of service dogs or guide dogs, shall have the same rights and privileges with respect to access to public facilities, and the same responsibilities as are applicable to a handicapped, blind or deaf person.

8. Section 9 of P. L. 1980, c. 46 (C. 10:5–29.6) is amended to read as follows:

C. 10:5-29.6 Same rights, restrictions for handicapped.

9. Whenever the law accords rights and privileges to or imposes conditions and restrictions upon blind persons with respect to their use of dogs to countervail their handicap, and known and described as "seeing eye" dogs, those rights, privileges, conditions and restrictions shall also apply to handicapped or deaf persons with respect to their use of dogs to countervail their handicap, and known and described as either "service dogs" or "hearing ear" dogs.

9. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 486

AN ACT establishing a library network, supplementing Title 18A of the New Jersey Statutes and making an appropriation.

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

C. 18A:73-35a Short title.

1. This act shall be known and may be cited as the "Library Network Law."

C. 18A:73-35b Findings, declarations.

2. The Legislature finds and declares that promoting cooperation among the various types of libraries in New Jersey will provide this State's residents with full and equal access to library materials and programs not currently available within their communities; that increased cooperation and access will help control the cost of maintaining local libraries, while providing for improved services; that establishing a library network can best be accomplished by assisting libraries to form cooperatives on a regional basis and by having the Division of the State Library, Archives and History promote, coordinate and fund such cooperative efforts.

C. 18A:73-35c Definitions.

3. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Education;

b. "Division" means the Division of the State Library, Archives and History in the Department of Education;

c. "Library" means any library eligible for advisory service from the division as provided in subsection d. of section 20 of P. L. 1969, c. 158 (C. 18A:73–35); any county audiovisual aids center established pursuant to N. J. S. 18A:51–1 et seq.; and any educational improvement center established pursuant to P. L. 1978, c. 58 (C. 18A:6–95 et seq.);

d. "Library region" means a geographic area designated by the State Librarian pursuant to this act within which libraries may establish a regional library cooperative;

e. "Library network" means all libraries in all regional library cooperatives, the State Library, and any library providing services to other libraries; and

f. "Regional library cooperative" means a membership organization of libraries within a library region which has agreed to provide and receive cooperative library services.

C. 18A:73-35d Library network supervision.

4. In addition to the duties prescribed in section 20 of P. L. 1969, c. 158 (C. 18A:73–35) the division shall establish, organize, supervise and fund the library network. To effectuate the purposes of this act, the division shall: a. establish library regions to encompass all of the State's territory; b. provide for the creation, structure, funding, and governance of a regional library cooperative for each library region; c. enter into contracts with any library or service providing agency to provide cooperative library services to any members of the library network; and d. determine the kinds of cooperative services to be provided and received by members of the network.

C. 18A:73-35e Cooperative services.

5. Any library eligible for participation in the library network is authorized to enter into agreements with other such libraries to provide and receive cooperative library services. Libraries entering into an agreement pursuant to this act shall form an organization which may incorporate as a nonprofit corporation for the purposes of providing and receiving cooperative services.

C. 18A:73-33.1 Annual report.

6. a. In addition to the duties prescribed in section 18 of P. L. 1969, c. 158 (C. 18A:73–33), the State Librarian shall on or before October 31 of each year prepare an annual report on the activities of the library network for the preceding year. The report shall be transmitted to the commissioner who, upon his approval of the report, shall transmit it to the State Board of Education, and to the Chairman of the Education Committee of each House of the Legislature. The report shall set forth a complete operating and financial statement covering the library network's operation during the preceding year. The report shall also contain such information as may be necessary to provide an adequate description of the measures taken in the previous year to implement the plan for the library network submitted pursuant to subsection b. of this section, the performance of the library network in accordance with that plan, and an explanation of any changes or additions made in or to that plan during that year.

b. The first report submitted pursuant to subsection a. of this section shall contain a plan for the establishment of the library

network; the designation of library regions; the structure, organization, and governance of regional library cooperatives; the designation of libraries to provide cooperative library services to the library network; and a proposed budget for the first year of the library network's operations.

C. 18A:73-31.1 Advice, recommendations.

7. In addition to the duties prescribed in section 16 of P. L. 1969, c. 158 (C. 18A:73–31) the advisory council shall give advice and make recommendations regarding the policies, operations, and funding of the library network.

C. 18A:73-35f State funding restriction.

8. To provide an efficient and effective library network in accordance with objectives of this act, no regional library cooperative or any library with which the division contracts to provide cooperative services to the library network shall participate in any apportionment of State funds pursuant to this act unless it operates in compliance with the rules and regulations which have been, or may be, prescribed by law or promulgated by the division and approved by the commissioner and the State Board of Education.

C. 18A:73-35g Budget estimates.

9. On or before November 15 in each year, the State Librarian, with the approval of the commissioner, shall estimate the amount necessary to be appropriated to carry out the provisions of this act for the succeeding fiscal year and shall determine for budget purposes the amount estimated to be payable to each regional library cooperative or library with which the division contracts to provide cooperative service to the library network for that year. The State Librarian shall make such determination for budget purposes upon the basis of appropriations for library network purposes made by the Legislature in the current calendar year.

On or before September 15 of each succeeding year, the State Librarian shall make a final determination of the payments to be made under this act.

C. 18A:73-35h Payments.

10. The sums payable pursuant to this act shall be payable on October 1 following the final determination in each year. Payments shall be made by the State Treasurer upon certificate of the commissioner and warrant of the Director of the Division of Budget and Accounting. Payment shall be made to the receiving officer designated by each regional library cooperative and each

library with which the division contracts to provide cooperative service to the library network.

C. 18A:73-35i Rules, regulations.

11. The division may, with the approval of the commissioner and the State Board of Education, promulgate pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), such rules and regulations as it deems necessary to effectuate the purposes of this act.

C. 18A:73-35j Appropriation.

12. There shall be appropriated in the first fiscal year following the receipt by the Legislature of the first annual report and in each fiscal year thereafter following the receipt by the Legislature of each subsequent annual report required pursuant to section 6 of this act, such sums as may be necessary for the operation of the library network. If the sums appropriated at any time are insufficient to carry out in full the provisions of this act, the commissioner, with the approval of the State Board of Education, shall allocate such sums on a pro rata basis. A sum not to exceed 1% of such total or supplemental appropriation for the purposes of this act may be allocated for the administrative cost thereof.

13. There is appropriated $125,000.00 to the Department of Education from the General Fund to implement the provisions of this act.

14. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 487

AN ACT concerning State funds for libraries, amending N. J. S. 18A:74–3 and supplementing chapter 74 of Title 18A of the New Jersey Statutes.

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

1. N. J. S. 18A:74–3 is amended to read as follows:

Per capita aid.

18A:74–3. State funds shall be provided annually as follows:

a. Each municipality or county that supports, in whole or in part, library service from municipal or county tax sources pursuant to chapter 33 or 54 of Title 40 of the Revised Statutes shall qualify for one of the following:

(1) $0.25 per capita if its annual expenditure for library services is less than ⅕ mill per dollar upon the equalized valuation;

(2) $0.50 per capita if its annual expenditure for library services is more than ⅕ mill, but less than ¼ mill per dollar upon equalized valuation;

(3) $0.75 per capita if its annual expenditure for library services is more than ¼ mill, but less than ⅓ mill per dollar upon equalized valuation;

(4) $1.00 per capita if its annual expenditure for library services is more than ⅓ mill, but less than ½ mill per dollar upon equalized valuation;

(5) $1.25 per capita if its annual expenditure for library services is more than ½ mill per dollar upon equalized valuation;

provided, however, that payments hereunder to a municipality or county shall not be less than the amount which such municipality or county received in State library aid in the year preceding July 1, 1967, except that in no case shall payments under this section exceed one-half of the annual expenditure for library services by the municipality or the county, as the case may be.

b. For those municipalities which provide tax support for both a local library and a county library, the per capita aid provided for in subsection a. of this section shall be determined as follows: the total expenditure for library service pursuant to chapters 33 and 54 of Title 40 of the Revised Statutes shall be used to determine the scale of per capita aid. In counties in which the free county library has been reorganized pursuant to P. L. 1977, c. 300 (C. 40:33–15 et seq.), the total payments shall be made to the municipality. In those counties which have established county libraries pursuant to P. L. 1963, c. 46 (C. 40:33–5.1), the payment to the municipality and the county shall be made according to section 2 of this amendatory and supplementary act. In all other counties the payment to the municipality and to the county, respectively, shall be apportioned in the same ratio as each expenditure bears to the total expenditure.

C. 18A:74-3.1 Counties with libraries.

2. (New section) In those counties which have established county libraries pursuant to the provisions of P. L. 1963, c. 46 (C. 40:33–5.1), the apportionment of per capita aid shall be as follows:

a. Each municipality which provides tax support for a local library shall qualify for per capita aid based on the formula in subsection a. of N. J. S. 18A:74–3. This aid shall be paid to the governing body of the municipality.

b. Each county shall qualify for per capita aid based on the tax support provided by each municipality within the county for the county library pursuant to the formula in subsection a. of N. J. S. 18A:74–3. This aid shall be paid to the treasurer of the county.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 488

AN ACT requiring restaurants to display posters illustrating choke prevention techniques and making an appropriation.

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

C. 26:3E-1 Restaurant defined.

1. As used in this act "restaurant" means any facility or part thereof in which food is prepared and provided or served for consumption on the premises but shall not include mobile food establishments or any temporary food establishment which operates at a fixed location for a limited period of time in connection with a fair, carnival, public exhibition or similar transitory gathering or charitable fund-raising event.

C. 26:3E-2 Posters, pamphlets.

2. The proprietor, or in the case of a public or nonprofit restaurant, the manager or administrator of a restaurant shall:

a. Ensure that posters prepared by the State Department of Health which illustrate choke prevention techniques are prominently displayed in food preparation and service areas of the restaurant; and

b. Have pamphlets illustrating choke prevention techniques available for free distribution to customers or patrons of the restaurant.

C. 26:3E-3 Preparation by Department of Health.

3. The Department of Health shall prepare instructional posters and pamphlets which illustrate choke prevention techniques such as the "Heimlich Maneuver" and distribute the posters and pamphlets to local boards of health for distribution to restaurants.

C. 26:3E-4 No obligation imposed.

4. Except as otherwise provided by law, no person shall be obligated to remove or assist in removing or attempting to remove food which may become lodged in a person's throat.

C. 26:3E-5 Penalty for violation.

5. Any restaurant proprietor, or in the case of a public or nonprofit restaurant, manager or administrator who violates the provisions of this act shall be subject to a penalty of not less than $50.00 or more than $100.00 to be sued for and recovered in a civil action commenced by the State in a summary proceeding in the Superior Court pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

C. 26:3E-6 Regulations.

6. The Commissioner of Health shall promulgate all necessary regulations to carry out this act.

7. There is appropriated to the Department of Health $20,000.00 from the General Fund for the purposes of this act.

8. This act shall take effect 120 days following enactment.

Approved January 17, 1984.

CHAPTER 489

AN ACT concerning limited partnerships, revising parts of the statutory law, and enacting an additional chapter to be compiled in Title 42 of the Revised Statutes.

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

UNIFORM LIMITED PARTNERSHIP LAW

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ARTICLE 1. IN GENERAL

C. 42:2A-1 Short title.

1. Short title. This chapter may be cited as the "Uniform Limited Partnership Law (1976)".

Source: R. S. 42:2–1.

C. 42:2A-2 Rules of construction.

2. Rules of construction. a. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

b. This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

c. This chapter shall not be so construed as to impair the obligations of any contract existing on the effective date of this chapter, nor to affect any action or proceedings begun or right accrued before that date.

Source: R. S. 42:2–2.

C. 42:2A-3 When Uniform Partnership Law applicable.

3. When Uniform Partnership Law applicable. In any case not provided for in this chapter, the provisions of the "Uniform Partnership Law" (R. S. 42:1–1 et seq.) shall govern.

Source: New.

C. 42:2A-4 Existing limited partnerships brought under this chapter.

4. Existing limited partnerships brought under this chapter.

a. A limited partnership formed under any statute of this State prior to the effective date of this chapter may become a limited partnership under this chapter by complying with the provisions of sections 13 and 14, provided the certificate sets forth:

(1) The amount of the original contribution of each limited partner, and the time when the contribution was made, and

(2) That the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

b. A limited partnership formed under any statute of this State prior to the effective date of this chapter shall be governed by the provisions of this chapter, except that the partnership shall be deemed to have complied with the provisions in sections 6 and 13 of this chapter and the partnership shall be deemed to be formed on the date set by the provisions of the statute under which it was formed.

Source: R. S. 42:2–4.

C. 42:2A-5 Definitions.

5. Definitions. As used in this chapter, unless the context otherwise requires:

a. "Certificate of limited partnership" means the certificate referred to in section 13, and the certificate as amended.

b. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

c. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in section 39.

d. "Foreign limited partnership" means a partnership formed under the laws of any state other than this State and having as partners one or more general partners and one or more limited partners.

e. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

f. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement and named in the certificate of limited partnership as a limited partner.

g. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners.

h. "Partner" means a limited or general partner.

i. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

j. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

k. "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

l. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Source: New.

C. 42:2A-6 Name of limited partnership.

6. Name of limited partnership. a. The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain without abbreviation the words "limited partnership";

(2) May not contain the name of a limited partner unless it is also the name of a general partner or the corporate name of a corporate general partner, or the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) May not contain any word or phrase indicating or implying that it is organized other than for a purpose stated in its certificate of limited partnership;

(4) Shall not be the same as, or confusingly similar to, the name of any domestic limited partnership including a limited partnership name set forth in a certificate of limited partnership filed in the office of the Secretary of State whose effective date is subsequent to

the date of filing, as authorized by section 14 of this chapter, or of any foreign limited partnership authorized to transact business in this State or any limited partnership name reserved or registered under this chapter, or the name of any profit or nonprofit corporation on file with the Secretary of State, unless the written consent of the other domestic or foreign limited partnership or holder of a reserved or registered name to the adoption of its name or a confusingly similar name is filed in the office of the Secretary of State with the certificate of limited partnership or with the application for an original or amended certificate of authority to transact business in this State or, in lieu of the consent, there is filed a certified copy of a final judgment of a court of competent jurisdiction establishing the prior rght of the limited partnership to the use of the name in this State;

(5) Shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by any other statute of this State, unless the restrictions have been complied with.

b. This section shall not require any domestic limited partnership organized prior to the effective date of this chapter to change its name in accordance with this section, if the name is otherwise lawful on the effective date of this chapter, and a limited partnership shall not change its limited partnership name on or after the effective date of this chapter to a name which is not available for limited partnership use under this section.

c. If the name of a foreign limited partnership is not available for use in this State because of paragraph (4) of subsection a., the limited partnership may be authorized to transact business in this State under a fictitious name which is available for a limited partnership use under this section, by filing in the office of the Secretary of State with its application for an original or amended certificate of authority a certificate of its general partner adopting the fictitious name for use in transacting business in this State.

d. The limited partnership name of a domestic limited partnership whose certificate of limited partnership has been cancelled and any name confusingly similar to the name of a domestic limited partnership which has been terminated shall not be available for limited partnership use for two years after the effective time of cancellation or termination, unless, within the two-year period, the written consent of the dissolved limited partnership to the adoption of its name, or a confusingly similar name, is filed in the office of

the Secretary of State with the certificate of limited partnership if another domestic limited partnership or with the application of a foreign limited partnership for an original or amended certificate of authority to transact business in this State.

e. The filing in the office of the Secretary of State of the certificate of limited partnership of a domestic limited partnership or the issuance by the Secretary of State of a certificate to a foreign limited partnership authorizing it to transact business in this State shall not preclude an action by this State to enjoin a violation of this section or an action by any person adversely affected to enjoin the violation or the use of a limited partnership name in violation of the rights of that person, whether on principles of unfair competition or otherwise, and the court may grant any other appropriate relief in the action.

Source: R. S. 2:2–9; N. J. S. 14A:2–2.

C. 42:2A-7 Reservation of name.

7. Reservation of name. a. The exclusive right to the use of a limited partnership name may be reserved by:

(1) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(2) Any domestic limited partnership or any foreign limited partnership registered in this State which, in either case, intends to adopt that name;

(3) Any foreign limited partnership intending to register in this State and adopt that name; and

(4) Any person intending to organize a foreign limited partnership and intending to have it register in this State and adopt that name.

b. The reservation shall be made by filing with the Secretary of State an application, executed by the applicant, to reserve a specified name or the first name available for limited partnership use among not more than three specified names. If the Secretary of State finds that the name is available for use by a domestic or foreign limited partnership, he shall reserve the name for the exclusive use of the applicant for a period of 120 days from the date of the application and shall issue a certificate of reservation.

c. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

d. Any foreign limited partnership may register its partnership name under this chapter, provided its partnership name is available for use under section 6 of this chapter by filing an application for registration executed by a general partner setting forth name of the foreign limited partnership, the state and date of its formation, a brief statement of the business in which it is engaged, and the address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, the address of the principal office of the foreign limited partnership.
Source: New.

C. 42:2A-8 Registered office and registered agent.

8. Registered office and registered agent. a. Every domestic and foreign limited partnership shall continuously maintain in this State a registered office, and a registered agent having a business office identical with the registered office.

b. All the records required by section 9 to be maintained shall be kept at the registered office.

c. The registered agent shall be an agent for service of process upon the limited partnership, and shall be an individual resident of this State, a domestic corporation or a foreign corporation authorized to do business in this State.
Source: New.

C. 42:2A-9 Records to be kept and maintained at the registered office.

9. Records to be kept and maintained at the registered office. Every limited partnership shall keep and maintain at its registered office the following:

a. A current list of the full name and last known business address or home address of each partner set forth in alphabetical order;

b. A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;

c. Copies of the limited partnership's federal, State and local income tax returns and reports, if any, for the three most recent years; and

d. Copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the three most recent years.

The records set forth in this section shall be subject to inspection and copying at the reasonable request, and at the expense, of any

partner during ordinary business hours.
Source: New.

C. 42:2A-10 What business authorized.

10. What business authorized. A limited partnership may carry on any business which a partnership without limited partners may carry on.
Source: R. S. 42:2–7.

C. 42:2A-11 Business transactions of partner with partnership.

11. Business transactions of partner with partnership. Except as provided in the partnership agreement, a partner may lend money to and transact business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.
Source: R. S. 42:2–17.

C. 42:2A-12 Nature of partnership interest.

12. Nature of partnership interest. A partnership interest is personal property.
Source: R. S. 42:2–22.

C. 42:2A-13 County clerk to transmit documents to Secretary of State.

12.1. County clerk to transmit documents to Secretary of State. Within 90 days after this section becomes effective, each county clerk shall transmit to the Secretary of State copies in the manner prescribed by the Secretary of State, of all limited partnership certificates and amendments thereto, and all certificates of termination or cancellation of limited partnerships filed in his office prior to the effective date of this chapter.
Source: New.

Article 2. Formation of Limited Partnership

C. 42:2A-14 Certificate of limited partnership.

13. Certificate of limited partnership. Two or more persons desiring to form a limited partnership shall execute a certificate of limited partnership which shall be filed in the office of the Secretary of State and shall set forth:

a. The name of the limited partnership;

b. The general character of its business;

c. The address, including the actual location as well as postal designation, if different, of the registered office and the name and address of the registered agent for service of process required to be maintained by section 8;

d. The name and the business address or place of residence of each partner (specifying separately the general partners and limited partners);

e. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future;

f. The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

g. Any power of a limited partner to grant the right to become a limited partner to an assignee of any part of his partnership interest, and the terms and conditions of the power;

h. If agreed upon, the time at which or the events on the happening of which a partner may terminate his membership in the limited partnership and the amount of, or the method of determining, the distribution to which he may be entitled respecting his partnership interest, and the terms and conditions of the termination and distribution;

i. Any right of a partner to receive distributions of property, including cash from the limited partnership;

j. Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution;

k. Any time at which or events upon the happening of which the limited partnership is to be dissolved and its affairs wound up;

l. Any right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner; and

m. Any other matters the partners determine to include therein.

Source: R. S. 42:2–6; 42:2–8.

C. 42:2A-15 Time when partnership formed.

14. Time when partnership formed. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Secretary of State or at any later time specified in the certificate of limited partnership not later than 30 days of the date of filing if, in either case, there has been substantial compliance with the requirements of section 13.

Source: R. S. 42:2–6.

C. 42:2A-16 Amendment to certificate.

15. Amendment to certificate. A certificate of limited partnership is amended by the filing of a written certificate of amendment thereto in the office of the Secretary of State which shall set forth:

a. The name of the limited partnership;

b. The date of filing of the original certificate;

c. The amendment or amendments to the certificate of limited partnership; and

d. The amendment or amendments shall take effect upon filing of the certificate of amendment in the office of the Secretary of State or at any time specified in the certificate of amendment not later than 30 days of the date of filing.

Source: R. S. 42:2–29 amended 1953, c. 40, s. 4.

C. 42:2A-17 When amendment to certificate required.

16. When amendment to certificate required. An amendment to a certificate of limited partnership shall be filed within 30 days when:

a. There is a change in the name of the partnership;

b. There is a change in the amount or character of the contribution of any partner or in any partner's obligation to make a contribution;

c. There is the admission of a new partner or the withdrawal of a partner;

d. There is a change in the character of the business of the partnership;

e. There is a continuation of the partnership business under section 50 after the withdrawal of a general partner;

f. There is a change in the time as stated in the certificate for dissolution of the partnership or for the return of a contribution;

g. There is a time fixed for dissolution of the partnership or the return of a contribution, no time therefor having been specified in the certificate;

h. There is a false or erroneous statement in the certificate or that any arrangements or other facts described in the certificate have changed making the certificate inaccurate in any respect, provided, however, an amendment to show a change of address of a limited partner need be filed only once every 12 months; and

i. The general partners determine to amend the partnership agreement for any purpose but only to the extent the general partners may amend the partnership agreement.

A partner shall not incur any liability if an amendment to a certificate of limited partnership reflecting the occurrence of any event referred to in this section is filed within the 30-day period specified herein.

Source: R. S. 42:2–28.

C. 42:2A-18 Cancellation of certificate.

17. Cancellation of certificate. A certificate of limited partnership shall be cancelled upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. The certificate of cancellation shall be filed in the office of the Secretary of State and shall set forth:

a. The name of the limited partnership;

b. The date of filing of its certificate of limited partnership;

c. The reason for filing the certificate of cancellation;

d. The effective date (which shall be a date certain) of cancellation if it is not to be effective upon the filing of the certificate; and

e. Any other information the general partners filing the certificate determine.

Source: R. S. 42:2–28.

C. 42:2A-19 Execution of certificate.

18. Execution of certificate. Each certificate required by this article to be filed in the office of the Secretary of State shall be executed in the following manner:

a. An original certificate of limited partnership must be signed by all partners named therein;

b. A certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new partner or whose contribution is described as having been increased;

c. A certificate of cancellation must be signed by all general partners;

d. Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission, or increased contribution, of a partner must specifically describe the admission or increase; and

e. The execution of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Source: R. S. 42:2–6; 42:2–29 amended 1953, c. 40, s. 4.

C. 42:2A-20 Amendment or cancellation by judicial act.

19. Amendment or cancellation by judicial act. If a person required to execute a certificate of amendment or cancellation fails or refuses to do so, any other partner, and any assignee of a partnership interest, who is adversely affected by the failure or refusal, may file a complaint in the Superior Court, for an order or judgment to direct the amendment or cancellation. The court may proceed in the action in a summary manner or otherwise. If the court finds that the amendment or cancellation is proper and that any person so designated has failed or refused to execute the certificate, a copy of the order or judgment shall serve as the required certificate.

A certified copy of the order or judgment setting forth the amendment or cancellation shall be filed in the office of the Secretary of State.

Source: R. S. 42:2–29 amended 1953, c. 40, s. 4.

C. 42:2A-21 Filing in office of Secretary of State; effect of filing.

20. Filing in office of Secretary of State; effect of filing. a. Two signed copies of the certificate of limited partnership and of any certificates of amendment or cancellation or any order or judgment of amendment or cancellation shall be delivered to the Secretary of State. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law he shall:

(1) Endorse on each duplicate original the word "Filed" and the day, month and year of the filing thereof;

(2) File one duplicate original in his office; and

(3) Return the other duplicate original to the person who filed it or his representative.

b. Upon the filing of a certificate of amendment or an order or judgment of amendment in the office of the Secretary of State, the certificate of limited partnership shall be amended as set forth therein, and upon the effective date of either a certificate of cancellation or an order or judgment of cancellation, the certificate of limited partnership is canceled.

Source: R. S. 42:2–6; 42: 2–29 amended 1953, c. 40, s. 4.

C. 42:2A-22 Liability for false statement in certificate.

21. Liability for false statement in certificate. If any certificate of limited partnership or certificate of amendment or cancellation

contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

a. Any person who executed the certificate, or caused another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

b. Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect, within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a complaint for its cancellation or amendment under section 19.

Source: R. S. 42:2–10.

C. 42:2A-23 Notice.

22. Notice. The fact that a certificate of limited partnership or any amendment thereto is on file in the office of the Secretary of State is notice that the partnership is a limited partnership and the persons designated therein as limited partners are limited partners, but it is not notice of any other fact not set forth in the certificate or amendment thereto.

Source: New.

C. 42:2A-24 Delivery of certificates to limited partners.

23. Delivery of certificates to limited partners. Upon the return of a certificate marked "Filed" by the Secretary of State as provided in section 20, the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and any other certificate to each limited partner unless the partnership agreement provides otherwise.

Source: New.

Article 3. Limited Partners

C. 42:2A-25 Admission of additional limited partners.

24. Admission of additional limited partners. After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

a. In the case of a person acquiring a partnership interest directly from the limited partnership, upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; or

b. In the case of an assignee of a partnership interest of a partner who has the power, as provided in section 48, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

In each case under this section, the person acquiring the partnership interest becomes a limited partner only upon amendment of the certificate of limited partnership reflecting that fact.
Source: R. S. 42:2–12; 42:2–23.

C. 42:2A-26 Voting.

25. Voting. Subject to section 26 the partnership agreement may grant to all or a specified group of the limited partners the right to vote, on a per capita or other basis, upon such matters as set forth in the partnership agreement.

Source: New.

C. 42:2A-27 Liability to third parties.

26. Liability to third parties. a. Except as provided in subsection d., a limited partner is not liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, he is liable only to persons who transact business with the limited partnership with actual knowledge of, and reliance on, his participation in control.

b. A limited partner does not participate in the control of the business within the meaning of subsection a. solely by doing one or more of the following:

(1) Being a contractor for or an agent or employee of the limited partnership or of a general partner;

(2) Consulting with and advising a general partner with respect to the business of the limited partnership;

(3) Acting as surety for the limited partnership;

(4) Approving or disapproving an amendment to the partnership agreement;

(5) Voting on one or more of the following matters:

(a) The dissolution and winding up of the limited partnership;

(b) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all the assets of the limited partnership other than in the ordinary course of its business;

(c) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

(d) A change in the nature of the business; or

(e) The removal of a general partner;

(6) Serving as an officer, director or shareholder of a corporate general partner; or

(7) Approving or disapproving matters related to the business of the partnership as shall be stated in the certificate and partnership agreement.

c. The enumeration in subsection b. does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the business of the limited partnership.

d. A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by subsection a. (2) of section 6, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

Source: R. S. 42:2–9; 42:2–11.

C. 42:2A-28 Person erroneously believing himself a limited partner.

27. Person erroneously believing himself a limited partner.

a. Except as provided in subsection b., a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, he:

(1) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(2) Withdraws from future equity participation in the enterprise by executing and filing in the office of the Secretary of State a certificate declaring withdrawal under this section.

b. A person who makes a contribution of the kind described in subsection a. is liable as a general partner to any third party who transacts business with the enterprise:

(1) Before the person withdraws and an appropriate certificate is filed to show the withdrawal; or

(2) Before an appropriate certificate is filed to show his status as a limited partner and, in the case of an amendment, after expiration of the 30-day period for filing an amendment relating to the person as a limited partner under section 16, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

Source: R. S. 42:2–15.

C. 42:2A-29 Right to information.

28. Right to information. A limited partner has the right to:

a. Inspect and copy any of the partnership records required to be maintained by section 9;

b. Obtain from the general partners from time to time upon reasonable demand true and full information regarding the state of the business and financial condition of the limited partnership;

c. Receive promptly after becoming available, a copy of the limited partnership's federal, State and local income tax returns for each year; and

d. Other information regarding the affairs of the limited partnership as is just and reasonable.

Source: R. S. 42:2–14 amended 1953, c. 40, s. 3.

Article 4. General Partners

C. 42:2A-30 Admission of additional general partners.

29. Admission of additional general partners. After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each partner.

Source: R. S. 42:2–13.

C. 42:2A-31 Events of withdrawal of a general partner.

30. Events of withdrawal of a general partner. Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

a. The general partner withdraws from the limited partnership as provided in section 39;

b. The general partner ceases to be a member of the limited partnership as provided in section 46;

c. The general partner is removed as a general partner in accordance with the partnership agreement;

d. Unless otherwise provided in the certificate of limited partnership, the general partner: (1) makes an assignment for the benefit of creditors; (2) files a voluntary petition in bankruptcy; (3) is adjudicated a bankrupt or insolvent; (4) files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation; (5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding set forth in (4) above; or (6) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties;

e. Unless otherwise provided in the certificate of limited partnership, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without his consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated;

f. In the case of a general partner who is a natural person his death or the entry by a court of competent jurisdiction of a judgment adjudicating him incompetent to manage his person or estate;

g. In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of new trustee);

h. In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

i. In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

j. In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

Source: R. S. 42:2–24.

C. 42:2A-32 General powers and liabilities.

31. General powers and liabilities. a. Except as expressely provided in this chapter, a general partner of a limited partnership is subject to the restrictions of a partner in a partnership without limited partners and except as provided in this chapter or in the partnership agreement has the rights and powers of a partner in a partnership without limited partners.

b. Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this chapter or the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

Source: R. S. 42:2–13.

C. 42:2A-33 Contributions by general partner; profits and losses; distributions.

32. Contributions by general partner; profits and losses; distributions. A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

Source: R. S. 42:2–16.

C. 42:2A-34 Voting.

33. Voting. The partnership agreement may grant to all or certain identified general partners the right to vote (on a per capita or any other basis), separately or with all or any class of the limited partners, on any matter.

Source: New.

Article 5. Finance

C. 42:2A-35 Form of contribution by partners.

34. Form of contribution by partners. The contribution of a partner may be in cash, property, or services rendered, or a

promissory note or other obligation to contribute cash or property or to perform services.

Source: R. S. 42:2–8.

C. 42:2A-36 Liability of partner for contribution.

35. Liability of partner for contribution. a. Except as provided in the certificate of limited partnership, a partner or the personal representative of his estate is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services. If a partner does not make the required contribution of property or services, he or the personal representative of his estate is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the certificate of limited partnership, of the stated contribution that has not been made.

b. Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, or whose claim arises, after the filing of the certificate of limited partnership or an amendment thereto which, in either case, reflects the obligation, and before the amendment or cancellation thereof to reflect the compromise, may enforce the original obligation.

Source: R. S. 42:2–21.

C. 42:2A-37 Sharing of profits and losses.

36. Sharing of profits and losses. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the value (as stated in the certificate of limited partnership) of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

Source: R. S. 42:2–19.

C. 42:2A-38 Sharing of distributions.

37. Sharing of distributions. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does

not so provide, distributions shall be made on the basis of the value (as stated in the certificate of limited partnership) of the contributions made by each partner to the extent they have been received by the partnership and have not been returned.

Source: New.

ARTICLE 6. DISTRIBUTIONS AND WITHDRAWALS

C. 42:2A-39 Interim distributions.

38. Interim distributions. Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof:

a. To the extent and at the times or upon the happening of the events specified in the partnership agreement; and

b. If any distribution constitutes a return of any part of his contribution, to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.

Source: New.

C. 42:2A-40 Withdrawal of general partner.

39. Withdrawal of general partner. A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him.

Source: New.

C. 42:2A-41 Withdrawal of limited partner.

40. Withdrawal of limited partner. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in the certificate of limited partnership and in accordance with the partnership agreement. If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at his address on the books of the limited partnership at its office in this State.

Source: R. S. 42:2–20.

C. 42:2A-42 Distribution upon withdrawal.

41. Distribution upon withdrawal. Except as provided in this article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he is entitled under the partnership agreement and, if not otherwise provided in the agreement, he is entitled to receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal, based upon his right to share in distributions from the limited partnership.

Source: New.

C. 42:2A-43 Distribution in cash or kind.

42. Distribution in cash or kind. Except as provided in the certificate of limited partnership, a partner, regardless of the nature of his contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distribution from the limited partnership.

Source: R. S. 42:2–20.

C. 42:2A-44 Right to distribution.

43. Right to distribution. At the time a partner becomes entitled to receive a distribution, he has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

Source: R. S. 42:2–20.

C. 42:2A-45 Limitations on distribution.

44. Limitations on distribution. A partner may not receive a distribution from a limited partnership to the extent that, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests, exceed the fair value of the partnership assets.

Source: R. S. 42:2–20.

C. 42:2A-46 Liability upon return of contribution.

45. Liability upon return of contribution. a. If a limited partner has received the return of any part of his contribution without violation of the partnership agreement or this chapter, he is

liable to the limited partnership for a period of one year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

b. If a limited partner has received the return of any part of his contribution in violation of the partnership agreement or this chapter, he is liable to the limited partnership for a period of six years thereafter for the amount of the contribution wrongfully returned.

c. If a general partner has received the return of any part of his contribution without violation of the partnership agreement or this chapter, he is liable, until the termination of the applicable statute of limitations, to the limited partnership for the amount of the returned contribution, but only to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

d. If a general partner has received the return of any part of his contribution in violation of the partnership agreement or this chapter, he is liable, until the termination of the applicable statute of limitations, to the limited partnership for the amount of the contribution wrongfully returned.

e. A general or limited partner receives a return of his contribution to the extent that a distribution to him reduces his share of the fair value of the net assets of the limited partnership below the value (as set forth in the certificate of limited partnership) of his contribution which has not been distributed to him.

Source: R. S. 42:2–21.

Article 7. Assignment of Partnership Interests

C. 42:2A-47 Assignment of partnership interest; rights of assignee.

46. Assignment of partnership interest; rights of assignee. Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the partnership agreement, a

partner ceases to be a partner upon assignment of all his partnership interest.

Source: R. S. 42:2–23.

C. 42:2A-48 Rights of judgment creditor of a partner.

47. Rights of judgment creditor of a partner. On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner 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 partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

Source: R. S. 42:2–26.

C. 42:2A-49 Right of assignee to become limited partner; rights, restrictions and liabilities.

48. Right of assignee to become limited partner; rights, restrictions and liabilities. a. An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that the assignor gives the assignee that right in accordance with authority described in the certificate of limited partnership or all other partners consent.

b. An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of his assignor to make and return contributions as provided in article 6. However, the assignee is not obligated for liabilities unknown to the assignee at the time he became a limited partner and which could not be ascertained from the certificate of limited partnership.

c. If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under sections 21 and 35.

Source: R. S. 42:2–23.

C. 42:2A-50 Power of personal representative of deceased or incompetent person; representative or successor of corporation, trust or other entity.

49. Power of personal representative of deceased or incompetent person; representative or successor of corporation, trust or other entity. If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's executor, administrator,

guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling his estate or administering his property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

Source: R. S. 42:2–25.

Article 8. Dissolution

C. 42:2A-51 Dissolution.

50. Dissolution. A limited partnership is dissolved and its affairs shall be wound up upon the happening of any of the following:

a. At the time fixed in or upon the happening of events specified in the certificate of limited partnership;

b. The written consent of all partners;

c. An event of withdrawal of a general partner unless at the time there is at least one other general partner and the certificate of limited partnership permits the business of the limited partnership to be carried on by the remaining general partner or partners and that partner or partners do so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal, if, within 90 days after the withdrawal, all remaining partners agree in writing to continue the business of the limited partnership and to the appointment of one or more additional general partners if necessary or desired;

d. The entry of an order or judgment of dissolution under section 51.

Source: R. S. 42:2–13; 42:2–24.

C. 42:2A-52 Judicial dissolution.

51. Judicial dissolution. On application by or for a partner the Superior Court may order dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement.

Source: New.

C. 42:2A-53 Right to wind up partnership affairs.

52. Right to wind up partnership affairs. Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs; but the

Superior Court may wind up the limited partnership's affairs upon application of any partner, his legal representative, or assignee.
Source: New.

C. 42:2A-54 Distribution of assets.

53. Distribution of assets. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

a. To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under section 38 or 41;

b. Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under section 38 or 41;

c. Except as provided in the partnership agreement, to limited partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the limited partners share in distributions; and

d. Except as provided in the partnership agreement, to general partners first for return of their contributions and secondly respecting their partnership interests, in proportions in which the general partners share in distributions.
Source: R. S. 42:2–27.

Article 9. Foreign Limited Partnerships

C. 42:2A-55 Law governing.

54. Law governing. The laws of the state under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and a foreign limited partnership may not be denied a certificate of authority to transact business in this State by reason of any difference between those laws and the laws of this State.
Source: New.

C. 42:2A-56 Name of foreign limited partnership.

55. Name of foreign limited partnership. A foreign limited partnership may not apply for a certificate of authority to transact business in this State under any name that does not include without abbreviation the words "limited partnership," or the name used by any profit or nonprofit corporation, or the name used or reserved by a domestic or foreign limited partnership.
Source: New.

C. 42:2A-57 Application for certificate of authority to transact business.

56. Application for certificate of authority to transact business. Before transacting business in this State, a foreign limited partnership shall file in the office of the Secretary of State an application signed and sworn to by a general partner setting forth:

a. The name of the foreign limited partnership and, if different, the name under which it proposes to transact business in this State;

b. The name and business address of each partner (specifying separately the general partners and limited partners);

c. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future;

d. The state and date of its formation;

e. The general character of the business it proposes to transact in this State;

f. The name and address, including the actual location as well as the postal designation, if different, of the agent for service of process on the foreign limited partnership whom the foreign limited partnership designates who must be an individual resident of this State, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this State;

g. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under subsection d. or, if appointed, the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence; and

h. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership.

i. If the Secretary of State finds that the application conforms to law and the requisite fees have been paid, he shall issue to the foreign limited partnership a certificate of authority to transact business in this State.

Source: New.

C. 42:2A-58 Changes in and amendments to application for certificate.

57. Changes in and amendments to application for certificate. If any statement in the application of a foreign limited partnership for a certificate of authority to transact business in this State was false when made or any arrangements or other facts described have

changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the Secretary of State a certificate, signed and sworn to by a general partner, correcting the statement.

Source: New.

C. 42:2A-59 Cancellation of certificate of authority to do business in the State.

58. Cancellation of certificate of authority to do business in the State. A foreign limited partnership may cancel its certificate of authority to transact business in this State by filing with the Secretary of State a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to claims arising out of the transaction of business in this State. The Secretary of State shall cancel the certificate of authority of a foreign limited partnership when the certificate in the state of organization of the foreign limited partnership is cancelled.

Source: New.

C. 42:2A-60 Transacting business without certificate of authority.

59. Transacting business without certificate of authority. a. A foreign limited partnership transacting business in this State may not maintain an action in any court of this State until it has obtained a certificate of authority to transact business in this State.

b. The failure of a foreign limited partnership to obtain a certificate of authority to transact business in this State does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action in any court of this State.

c. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without having obtained a certificate of authority to transact business.

d. A foreign limited partnership, by transacting business in this State without having obtained a certificate of authority to transact business, appoints the Secretary of State as its agent for service of process with respect to claims arising out of the transaction of business in this State.

e. A foreign limited partnership which transacts business in this State without a certificate of authority to transact business shall forfeit to the State a penalty of not less than $200.00, nor more

than $1,000.00 for each calendar year, not more than five years prior thereto, in which it shall have transacted business in this State without the certificate. The penalty shall be recovered with costs in an action prosecuted by the Attorney General. The court may proceed in the action in a summary manner or otherwise.

Source: New.

C. 42:2A-61 Injunction against foreign limited partnership.

60. Injunction against foreign limited partnership. a. The Attorney General may bring an action in the Superior Court in the name of the State to enjoin a foreign limited partnership from transacting of business in this State:

(1) Without having first obtained a certificate of authority to transact business pursuant to this article;

(2) Of a character not set forth in its application for a certificate of authority to transact business or for an amended certificate; or

(3) After its certificate of authority to transact business in this State has been surrendered; or

(4) After it is dissolved or its authority or existence is otherwise terminated or canceled in the jurisdiction of its organization.

b. The provisions of this section shall not exclude any other ground provided by law for injunctive relief against a foreign limited partnership to restrain it from the exercise of any franchise or the transaction of any business within this State.

c. The Superior Court may proceed in the action in a summary manner or otherwise.

Source: New.

Article 10. Derivative Actions By Limited Partners

C. 42:2A-62 Right of action.

61. Right of action. A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

Source: New.

C. 42:2A-63 Proper plaintiff.

62. Proper plaintiff. In a derivative action by a limited partner, he shall be a limited partner at the time of bringing the action and

have been a limited partner at the time of the transaction of which he complains or his status as a limited partner had devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

Source: New.

C. 42:2A-64 Pleading.

63. Pleading. In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

Source: New.

C. 42:2A-65 Security for expenses.

63.1. Security for expenses. Unless the contributions of or allocable to plaintiff or plaintiffs to partnership property amount to 5% or more of the contributions of all limited partners, in their status as limited partners, or the contributions of or allocable to the plaintiff or plaintiffs have a fair value in excess of twenty-five thousand dollars, the limited partnership in whose right such action is brought shall be entitled at any stage of the proceedings before final judgment to require the plaintiff or plaintiffs to give security for the reasonable expenses, including attorney's fees, which may be incurred by it in connection with the action.

Source: New.

C. 42:2A-66 Expenses.

64. Expenses. If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise or settlement of an action, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct him to remit to the limited partnership the remainder of the proceeds received by him.

Source: New.

C. 42:2A-67 Indemnification of general partner.

64.1. Indemnification of general partner. a. A domestic limited partnership may indemnify any general partner made a party to an action in the right of a limited partnership to procure a judgment in its favor by reason of the fact that he was a general partner in the limited partnership, against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him in connection with the defense of the action, or in connection with an

appeal therein if the general partner acted in good faith and in a manner the general partner reasonably believed to be in or not opposed to the best interests of the limited partnership. However, in the proceedings no indemnification shall be provided in respect of any claim, issue or matter as to which the general partner shall have been adjudged to be liable for the negligence or misconduct, unless and only to the extent that the Superior Court or the court in which the proceeding was brought shall determine upon application that despite the adjudication of liability, but in view of all circumstances of the case, the general partner is fairly and reasonably entitled to indemnity for the expenses as the Superior Court or any other court shall deem proper.

b. The indemnification authorized under subsection a. of this section shall in no case include:

(1) Amounts paid in settling or otherwise disposing of a threatened action, or pending action with or without court approval; or

(2) Expenses incurred in defending a threatened action, or pending action which is settled or otherwise disposed of without court approval.

c. No indemnification shall be made under this section in any circumstances where it appears that indemnification would be inconsistent with a provision of the certificate of limited partnership, partnership agreement or other proper partnership action, in effect at the time of accrual of the alleged cause of action asserted in the threatened or pending action in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification.

Source: N. J. S. 14A:3–5.

Article 11. Miscellaneous

C. 42:2A-68 Filing fees of the Secretary of State.

65. Filing fees of the Secretary of State. On filing any certificate or other papers relative to limited partnerships in the office of the Secretary of State, there shall be paid to the Secretary of State, filing fees, in addition to any applicable recording fees:

a. Filing an application to reserve a specified limited partnership name and issuing a certificate of reservation $25.00

If application is for the first name available for limited partnership use among not more than three specified names	30.00
b. Filing a notice of transfer of a reserved limited partnership name	25.00
c. Filing original certificate of limited partnership	50.00
d. Filing a certificate of amendment to the certificate of limited partnership, including any number of amendments	50.00
e. Filing certificate of cancellation	35.00
f. Filing order or judgment amending certificate of limited partnership or cancellation	35.00
g. Filing application by a foreign limited partnership to transact business in this State and issuing a certificate of authority	175.00
h. Filing application by a foreign limited partnership for amended certificate to transact business in this State and issuing an amended certificate of authority	50.00
i. Filing annual report	15.00

Source: New.

C. 42:2A-69 Annual report to Secretary of State by domestic limited partnership.

66. Annual report to Secretary of State by domestic limited partnership.

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 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. Any domestic limited partnership on the inactive list may return to active status by:

1. Paying to the Secretary of State double the amount of the current report fee for each year an annual report was not filed. Years prior to becoming inactive and years subsequent to being declared inactive shall be included in calculating this fee;

2. Filing a current annual report; and

3. Submitting a certificate of amendment adopting a name which complies with paragraph (4) of subsection a. of section 6 of this chapter, if the name of the inactive limited partnership does not comply with paragraph (4) of subsection a. of section 6.

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.

Source: New.

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 payment to the Secretary of State double the amount of the current annual report fee for each year an annual report was not filed. Years prior to revocation and years after revocation shall be included in calculating this fee, and by filing a current annual report. 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.

e. 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.

Source: New.

C. 42:2A-71 Rules and regulations.

68. Rules and regulations. The Secretary of State shall have full authority to promulgate and adopt rules and regulations to implement the filing and reporting obligations created under the provisions of this act.

Source: New.

C. 42:2A-72 Exemption from filing business name certificates.

69. Exemption from filing business name certificates. Any limited partnership formed under this chapter or R. S. 42:2–1 et seq., or any foreign limited partnership authorized to transact business in this

State, shall be exempt from the filing requirements of R. S. 56:1–1 et seq.

Source: New.

70. Effective date. This act shall take effect January 1, 1985 except as to section 12.1 which shall take effect immediately.

Approved January 17, 1984.

Title 42. Partnerships and Partnership Associations

Uniform Limited Partnerships

Schedule of Allocation of Source Material

Source Sections		Revised Sections
R. S. 42:2–1		1
R. S. 42:2–2		2
R. S. 42:2–4		4
R. S. 42:2–6		13 14 18 20
R. S. 42:2–7		10
R. S. 42:2–8		13 34
R. S. 42:2–9		6 26
R. S. 42:2–10		21
R. S. 42:2–11		26
R. S. 42:2–12		24
R. S. 42:2–13		29 31 32 50
R. S. 42:2–14	As am. L. 1953, c. 40, s. 3	28
R. S. 42:2–15		27
R. S. 42:2–17		11
R. S. 42:2–19		36
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Source Sections		Revised Sections
R. S. 42:2–21		35, 45
R. S. 42:2–22		12
R. S. 42:2–23		24, 46, 48
R. S. 42:2–24		30, 50
R. S. 42:2–25		49
R. S. 42:2–26		47
R. S. 42:2–27		53
R. S. 42:2–28		17
R. S. 42:2–29	As am. L. 1953, c. 40, s. 4	18, 19, 20

Title 42. Partnerships and Partnership Associations

Uniform Limited Partnerships

Treatment of Source Material

Revised Section	Source	Treatment of Source
1	R. S. 42:2–1	No change.
2	R. S. 42:2–2	Editorial.
3		New; derived from section 1105 of ULPA (1976).
4	R. S. 42:2–4	Editorial.
5		New; definitions derived from section 101 of ULPA (1976).
6	R. S. 42:2–9, N. J. S. 14A:2–2	Revised section derived from sources and section 102 of ULPA (1976).
7		New; revised section adapted from section 103 of ULPA (1976).
8		New; revised section adapted from section 104 of ULPA (1976).
9		New; revised section adapted from section 105 of ULPA (1976).

Revised Section	Source	Treatment of Source
10	R. S. 42:2–7	No change.
11	R. S. 42:2–17	Revised section derived from source and section 107 of ULPA (1976).
12	R. S. 42:2–22	No change.
12.1		New; requires county clerk to transmit documents to Secretary of State.
13	R. S. 42:2–6 R. S. 42:2–8	Revised section derived from sources and section 201 of ULPA (1976).
14	R. S. 42:2–6	Revised section derived from source and section 201 of ULPA (1976).
15	R. S. 42:2–29	Revised section derived from source and section 202 of ULPA (1976).
16	R. S. 42:2–28	Revised section derived from source and section 202 of ULPA (1976).
17	R. S. 42:2–28	Revised section derived from source and section 203 of ULPA (1976).
18	R. S. 42:2–6 R. S. 42:2–29	Revised section derived from sources and section 204 of ULPA (1976).
19	R. S. 42:2–29	Revised section derived from source and section 205 of ULPA (1976).
20	R. S. 42:2–6 R. S. 42:2–29	Revised section derived from sources and section 206 of ULPA (1976).
21	R. S. 42:2–10	Revised section derived from source and section 207 of ULPA (1976).
22		New; adapted from section 208 of ULPA (1976).
23		New; adapted from section 209 of ULPA (1976).

Revised Section	Source	Treatment of Source
24	R. S. 42:2–12 R. S. 42:2–23	Revised section derived from sources and section 301 of ULPA (1976).
25		New; adapted from section 302 of ULPA (1976).
26	R. S. 42:2–9 R. S. 42:2–11	Revised section derived from sources and section 303 of ULPA (1976).
27	R. S. 42:2–15	Revised section derived from source and section 304 of ULPA (1976).
28	R. S. 42:2–14	Revised section derived from source and section 305 of ULPA (1976).
29	R. S. 42:2–13	Revised section derived from source and section 401 of ULPA (1976).
30	R. S. 42:2–24	Revised section derived from source and section 402 of ULPA (1976).
31	R. S. 42:2–13	(Revised section derived from source and section 403 of ULPA (1976).
32	R. S. 42:2–13	Revised section derived from source and section 404 of ULPA (1976).
33		New; adapted from section 405 of ULPA (1976).
34	R. S. 42:2–8	Revised section derived from source and section 501 of ULPA (1976).
35	R. S. 42:2–21	Revised section derived from source and section 502 of ULPA (1976).
36	R. S. 42:2–19	Revised section derived from source and section 503 of ULPA (1976).
37		New; adapted from section 504 of ULPA (1976).

Revised Section	Source	Treatment of Source
38		New; adapted from section 601 of ULPA (1976).
39		New; adapted from section 602 of ULPA (1976).
40	R. S. 42:2–20	Revised section derived from source and section 603 of ULPA (1976).
41		New; adapted from section 604 of ULPA (1976).
42	R. S. 42:2–20	Revised section derived from source and section 605 of ULPA (1976).
43	R. S. 42:2–20	Revised section derived from source and section 606 of ULPA (1976).
44	R. S. 42:2–20	Revised section derived from source and section 607 of ULPA (1976).
45	R. S. 42:2–21	Revised section derived from source and section 608 of ULPA (1976).
46	R. S. 42:2–23	Revised section derived from source and section 702 of ULPA (1976).
47	R. S. 42:2–26	Revised section derived from source and section 703 of ULPA (1976).
48	R. S. 42:2–23	Revised section derived from source and section 704 of ULPA (1976).
49	R. S. 42:2–25	Revised section derived from source and section 705 of ULPA (1976).
50	R. S. 42:2–13 R. S. 42:2–24	Revised section derived from sources and section 801 of ULPA (1976).
51		New; adapted from section 802 of ULPA (1976).
52		New; adapted from section 803 of ULPA (1976).

Revised Section	Source	Treatment of Source
53	R. S. 42:2–27	Revised section derived from source and section 804 of ULPA (1976).
54		New; adapted from section 901 of ULPA (1976).
55		New; adapted from section 904 of ULPA (1976).
56		New; adapted from sections 902 and 903 of ULPA (1976).
57		New; adapted from section 905 of ULPA (1976).
58		New; adapted from section 906 of ULPA (1976).
59		New; adapted from section 907 of ULPA (1976) and NJS 14A:13–11 (Corporations, General).
60		New; adapted from section 908 of ULPA (1976) and NJS 14A:13–12 (Corporations, General).
61		New; adapted from section 1001 of ULPA (1976).
62		New; adapted from section 1002 of ULPA (1976).
63		New; adapted from section 1003 of ULPA (1976).
63.1		New; security for expenses in derivative action.
64		New; adapted from section 1004 of ULPA (1976).
64.1	N. J. S. 14A:3-5	New; adapted from source.
65		New; filing fees.
66		New; filing annual report by domestic limited partnership.
67		New; filing annual report by foreign limited partnership.
68		New; authorizes Secretary of State to promulgate rules and regulations.
69		New; exempts limited partnerships from filing business name certificates.

CHAPTER 490

AN ACT concerning corporate names and amending N. J. S. 14A:2–2 and supplementing Title 14A of the New Jersey Statutes.

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

1. N. J. S. 14A:2–2 is amended to read as follows:

Corporate names.

14A:2–2. (1) The corporate name of a domestic corporation or of a foreign corporation authorized to transact business in this State

(a) Shall not contain any word or phrase, or abbreviation or derivative thereof, which indicates or implies that it is organized for any purpose other than one or more of the purposes permitted by its certificate of incorporation;

(b) Shall not be the same as, or confusingly similar to, the corporate name of any domestic corporation, including a corporate name set forth in a certificate of incorporation filed in the office of the Secretary of State whose effective date is subsequent to the date of filing, as authorized by subsection 14A:2–7 (2), or of any foreign corporation authorized to transact business in this State or any nonprofit corporation organized pursuant to the provisions of Title 15 of the Revised Statutes or any corporate name reserved or registered under this act, unless the written consent of such other domestic or foreign corporation or nonprofit corporation or holder of a reserved or registered name to the adoption of its name or a confusingly similar name is filed in the office of the Secretary of State with the certificate of incorporation or with the application for an original or amended certificate of authority to transact business in this State or, in lieu of such consent, there is filed a certified copy of a final judgment of a court of competent jurisdiction establishing the prior right of the corporation to the use of such name in this State; and

(c) Shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by any other statute of this State, unless any such restrictions have been complied with.

(2) This section

(a) Shall not require any domestic corporation organized prior

to the effective date of this act or any foreign corporation authorized to transact business in this State prior to the effective date of this act to change its corporate name in order to comply with this section, if such name is otherwise lawful on the effective date of this act. No such corporation shall change its corporate name on or after the effective date of this act to a name which is not available for corporate use under this section; and

(b) Shall not prevent a domestic corporation with which another corporation, domestic or foreign, is merged, or which is formed by the reorganization or consolidation of one or more other domestic or foreign corporations or upon a sale, lease or other disposition to, or exchange with, a domestic corporation of all or substantially all the assets of another corporation, domestic or foreign, including its name, from having the same corporate name as any of such corporations if at the time such other corporation was organized under the laws of, or is authorized to transact business in, this State.

(3) If the name of a foreign corporation is not available for use in this State because of the prohibitions of subsection 14A:2–2(1), such corporation may be authorized to transact business in this State under a fictitious name which is available for corporate use under this section. Such corporation shall file in the office of the Secretary of State with its application for an original or amended certificate of authority a resolution of its board adopting such fictitious name for use in transacting business in this State.

(4) The corporate name of a domestic corporation or nonprofit corporation which has been dissolved and any name confusingly similar to the name of a domestic corporation or nonprofit corporation which has been dissolved shall not be available for corporate use for 2 years after the effective time of dissolution, unless, within such 2 year period, the written consent of such dissolved corporation to the adoption of its name, or a confusingly similar name, is filed in the office of the Secretary of State with the certificate of incorporation of another domestic corporation or with the application of a foreign corporation for an original or amended certificate of authority to transact business in this State.

(5) The filing in the office of the Secretary of State of the certificate of incorporation of a domestic corporation or the issuance by the Secretary of State of a certificate to a foreign corporation authorizing it to transact business in this State shall not preclude an action by this State to enjoin a violation of this section or an action by any person adversely affected to enjoin such violation

or the use of a corporate name in violation of the rights of such person, whether on principles of unfair competition or otherwise. The court in any such action may grant any other appropriate relief.

C. 14A:2-2c Previously organized corporations.

2. (New section) This amendatory and supplementary act shall not require any domestic corporation organized prior to the effective date of this act or any foreign corporation authorized to transact business in this State prior to the effective date of this act or any nonprofit corporation organized pursuant to Title 15 of the Revised Statutes prior to the effective date of this act to change its corporate name in order to comply with this act, if such name is otherwise lawful on the effective date of this act. No corporation shall change its corporate name on or after the effective date to a name which is not available for use under this act.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 491

AN ACT providing for the establishment of certain pension credit in the Public Employees' Retirement System of New Jersey and supplementing P. L. 1954, c. 84 (C. 43:15A–1 et seq.).

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

1. As used in this act:

a. "Local pension fund" means any pension fund established under article 2 of chapter 66 of Title 18A of the New Jersey Statutes, provided that pension fund is not supported in whole or in part by the State and is applicable to more than one political subdivision.

b. "Local public employer" means any municipality, school district, board of education or other employer of employees participating in a local pension fund.

2. Any person enrolled as a member in both a local pension fund and the retirement system who, not more than 6 months prior to

the holding of a referendum under the provisions of P. L. 1980, c. 86 (C. 43:22-2 et al.), became an inactive member of the local pension fund for any reason other than retirement or dismissal for cause shall be eligible to receive credit in the retirement system for any period of service with a local public employer for which credit has been established in the local pension fund and which was rendered prior to his enrollment in the retirement system. The member shall submit to the retirement system an application to receive such credit within 90 days following the effective date of this act. The application shall be made in a form satisfactory to the retirement system and shall include a waiver of all rights and benefits arising from the credit established in the local pension fund as the result of service rendered prior to his enrollment in the retirement system. Upon receipt of that application and waiver, the retirement system shall transmit a copy thereof to the local pension fund.

3. a. Within 30 days following receipt of a copy of an application and waiver transmitted as provided by section 2 of this act, the local pension fund shall determine the amount of contribution payments to it which were deducted from the salary of the member with respect to the period of his service to any local public employer prior to his enrollment in the retirement system and shall remit that amount, without interest, to the retirement system. The retirement system shall then enter the sum so remitted to it to the credit of the employee in the annuity savings fund.

b. Within 60 days following receipt of a copy of an application and waiver transmitted as provided by section 2 of this act, the local pension fund shall determine the pro rata part of all contribution payments to it by local public employers which was applicable to the member during that period of his service with any such employer which was rendered prior to his enrollment in the retirement system and shall remit that amount to the retirement system. The retirement system shall then enter the sum so remitted to it to the credit of the employer of the member in the contingent reserve fund.

c. Within 30 days following receipt of the sum remitted to it under subsection b. of this section, the retirement system shall determine:

(1) The amount, if any, by which the sum remitted to it under subsection a. of this section is exceeded by the cumulative total of the contributions which would have been required to be paid into

the annuity savings fund during the period of the member's service with a local public employer prior to becoming a member of the retirement system if he had been enrolled therein during that period;

(2) The total amount of regular interest which would have been allowed in the annuity savings fund with respect to the contribution payments designated in subsection a. of this section if those payments had been made thereto;

(3) The amount, if any, by which the sum remitted to it under subsection b. of this section is exceeded by the cumulative total of the contributions which would have been required to be paid into the contingent reserve fund during the period of the member's service with a local public employer prior to becoming a member of the retirement system if he had been enrolled therein during that period; and

(4) The total amount of regular interest which would have been allowed in the contingent reserve fund with respect to the contribution payments designated in subsection b. of this section if those payments had been made thereto.

The retirement system shall certify separately to the member the total of the amounts under (1) and (2) and the total of the amounts under (3) and (4). The totals so certified, along with any other payments which may be required under this act, shall be payable by the member to the retirement system for deposit into the annuity savings fund, the contingent reserve fund, or such fund as shall be determined by the Division of Pensions. Neither the State nor the employer of a member who applies to purchase credit under the provisions of this act shall be liable for any payment to the retirement system on behalf of the member for the purchase of the credit. If, upon retirement, the member's payment for purchase of credit for service during a period of inactivity as defined in section 2 of this act is insufficient to provide for the additional retirement benefit attributable to the service, the difference may be assessed to the member, or a pro rata credit may be granted based on service purchased prior to the date of retirement, at the election of the member. The member's obligation under this subsection may be satisfied by lump sum payment or by regular monthly installments as the employee may elect, subject to rules and regulations as may be promulgated by the Division of Pensions, but if the employee elects to make installment payments on the obligation, the entire amount of those payments shall be deposited in the contingent

reserve fund until the entire obligation with respect to that fund is satisfied. Full pension credit for the period of service for which payment is being made by the employee shall be given upon the payment of at least one-half of the total obligation and the completion of one year of membership following the certification to the member of his obligation and the making of payments hereunder, except that in the case of retirement pursuant to section 38, subsection b. of section 41, section 48 or section 61 of P. L. 1954, c. 84 (C. 43:15A–38, 43:15A–41b., 43:15A–48 and 43:15A–61), the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of the member's obligation.

4. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 492

AN ACT concerning the regulation and licensing of child care centers serving children under the age of six and providing nonresidential, less-than-24-hour care, repealing chapter 70 of Title 18A of the New Jersey Statutes and making an appropriation.

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

C. 30:5B-1 Short title.

1. This act shall be known and may be cited as the "Child Care Center Licensing Act."

C. 30:5B-2 Findings.

2. The Legislature finds that it is in the public interest to license and regulate child care programs and facilities in order to insure the continuous growth and development of children. The Legislature further finds that comprehensive child care programs are of value to the health, safety, education, physical and intellectual growth and general well-being of the children served and that the programs strengthen and supplement the family unit. The Legislature further finds that child care programs provide places for preventive health measures, early detection of illnesses and handicaps and development of special talents and interests. The Legis-

lature further finds the State and parents have a responsibility in the education of children and that the role of the teacher is essential to the continuous development of children. The Legislature further finds that experience indicates that the development of child care centers should be encouraged, whether publicly or privately supported, to provide a full range of services benefiting the child, parent and community and that there is a great need for expansion of existing centers and for the establishment of additional centers.

C. 30:5B-3 Definitions.

3. As used in this act:

a. "Child" means any person under the age of six.

b. "Child care center" or "center" means any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day. This term shall include, but shall not be limited to such programs as private nonsectarian child care centers, day care centers, drop-in centers, day nursery schools, nighttime centers, infant-toddler programs, school-age programs, play schools, boarding schools, employment related centers, cooperative child care centers, child care centers which have already received approval by the Department of Human Services prior to the enactment of this act into law, and kindergartens that are not an integral part of an elementary educational institution or system. This term shall not include:

(1) Foster homes, group homes and other types of in-home residential facilities, and children's institutions, whether public or private, providing care on a 24-hour basis;

(2) All programs operated by a public school district and private schools which are run solely for educational purposes. This exclusion shall apply to kindergartens, prekindergarten programs which are an integral part of an elementary educational institution or system, or a child care center which is an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth;

(3) Centers or special classes operated primarily for religious instruction or for the temporary care of children while persons responsible for such children are attending religious services;

(4) Special activities programs for children, including athletics, hobbies, art, music, dance, and craft instruction, which are supervised by an adult, agency or institution;

(5) Youth camps required to be licensed under the "New Jersey Youth Camp Safety Act," P. L. 1973, c. 375 (C. 26:12–1 et seq.); and

(6) Day training centers operated by the Division of Mental Retardation within the Department of Human Services.

c. "Commissioner" means the Commissioner of the Department of Human Services.

d. "Department" means the Department of Human Services.

e. "Parent" means a natural or adoptive parent, guardian, or any other person having responsibility for, or custody of, a child.

f. "Person" means any individual, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

g. "Sponsor" means any person owning or operating a child care center.

C. 30:5B-4 Licensing of child care centers.

4. No person shall conduct, maintain or operate a child care center unless a license has been obtained from the department pursuant to the terms of this act. A separate license shall be obtained for each location. The license shall be posted and displayed by the sponsor at all times in a prominent location within the center. No license issued pursuant to this act shall be transferable. A change in the sponsor of a licensed child care center shall require notification to the department within 14 calendar days and reapplication for licensure.

C. 30:5B-5 Rules, regulations.

5. a. The department shall have responsibility and authority to license and inspect child care centers. The commissioner shall promulgate rules and regulations for the operation and maintenance of child care centers which shall prescribe standards governing the safety and adequacy of the physical plant or facilities; the education, health, safety, general well-being and physical and intellectual development of the children; the quality and quantity of food served; the number of staff and the qualifications of each staff member; the implementation of a developmental or age-appropriate program; the maintenance and confidentiality of records and furnishing of required information; the transportation of children; and the administration of the center. The commissioner shall also promulgate rules and regulations for license application, issuance, renewal, expiration, denial, suspension and revocation. In developing, revising or amending such rules and regulations, the

commissioner shall consult with the advisory council created pursuant to section 14 of this act, and with other appropriate administrative officers and agencies, including the Departments of Health, Education and Labor, the Division of Motor Vehicles and the State Fire Marshal giving due weight to their recommendations. The rules and regulations promulgated pursuant to this act shall be adopted and amended in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

b. The department shall conduct an on-site facility inspection and shall evaluate the program of the child care center to determine whether the center complies with the provisions of this act.

c. Any rule or regulation involving physical examination, immunization or medical treatment shall include an appropriate exemption for any child whose parent or parents object thereto on the ground that it conflicts with the tenets and practices of a recognized church or religious denomination of which the parent or child is an adherent or member.

d. The department shall have the authority to inspect and examine the physical plant or facilities of a child care center and to inspect all documents, records, files or other data maintained pursuant to this act during normal operating hours and without prior notice.

e. The department shall request the appropriate State and local fire, health and building officials to conduct examinations and inspections to determine compliance with State and local ordinances, codes and regulations by a child care center. The inspections shall be conducted and the results reported to the department within 60 days after the request.

f. Nothing in this act shall be interpreted to permit the adoption of any code or standard which exceeds the standards established pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.).

C. 30:5B-6 License application; issuance.

6. a. Any person operating a child care center on the effective date of this act or desiring to operate a child care center shall make application in the manner and on the forms prescribed by the commissioner. The license application form shall include, but shall not be limited to, the following information: the name and address of the child care center, its sponsor, the staff, the qualifications of the staff members, each member of the board of directors of the corporation, the child care center operator if different from the

sponsor, a description of the center's premises, facilities and programs, the number and age of children to be enrolled in the center and the hours of its operation.

b. If a child care center meets the requirements of this act and of the rules and regulations promulgated hereunder, the department shall issue a license to the center. A license shall be valid for a period of three years and may be renewed at the end of that period, subject to continued compliance with the provisions of this act.

C. 30:5B-7 Temporary license.

7. If the department determines that, although in substantial compliance, a child care center does not meet all the applicable provisions of this act and the rules and regulations promulgated hereunder, but that the extent of the center's deviation from legal requirements is not deemed hazardous to the education, health, safety, general well-being, and physical and intellectual development of the children, the department may issue a temporary license which may be issued for a period up to six months. The department may renew the temporary license as often as it deems necessary, but no child care center may operate with a temporary license for more than a total of 18 months.

C. 30:5B-8 Minimum fee.

8. The commissioner shall establish a minimum fee to be paid by each child care center at the time of application for a license and at every renewal of a license.

C. 30:5B-9 Denial, suspension, revocation, nonrenewal.

9. The department may deny, suspend, revoke or refuse to renew a license for good cause, including, but not limited to:

a. Failure of a child care center or its sponsor to comply with the provisions of this act;

b. Violation of the terms and conditions of a license by a child care center or its sponsor;

c. Use of fraud or misrepresentation by a child care center or its sponsor in obtaining a license or in the subsequent operation of the center;

d. Refusal by a center or its sponsor to furnish the department with required files, reports or records;

e. Refusal by a center or its sponsor to permit an inspection by an authorized representative of the department during normal operating hours;

f. Any conduct, engaged in or permitted, which adversely affects or presents a serious hazard to the education, health, safety and general well-being and physical and intellectual development of a child attending the child care center, or which otherwise demonstrates unfitness to operate a child care center; or

g. Failure to provide a developmental or age-appropriate program that meets the physical, social, emotional and cognitive needs of the children in the center as set forth by regulation.

C. 30:5B-10 Notice, hearing.

10. a. The department, before denying, suspending, revoking or refusing to renew a license, shall give notice to the sponsor personally, or by certified or registered mail to the last known address of the sponsor with return receipt requested. The notice shall afford the sponsor with an opportunity to be heard. The hearing shall take place within 60 days from the issuance or mailing of the notice and shall be conducted in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

b. If the center's license is suspended or revoked, the parent of a child in the center shall receive notice thereof personally and in writing, by the center's sponsor or operator.

C. 30:5B-11 Injunctive relief.

11. The commissioner is authorized to institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of a child care center whenever the commissioner determines that:

a. There is an imminent danger or hazard that threatens the health and safety of children in the center;

b. The center or its sponsor has repeatedly violated the provisions of this act; or

c. A child care center has opened or is operating without a license or without complying with the provisions of this act.

The commissioner may, in addition, request such other relief as is deemed necessary. In any such action the court may proceed in a summary manner.

C. 30:5B-12 Judicial review.

12. Any person aggrieved by a final decision of the commissioner is entitled to seek judicial review in the Appellate Division of the Superior Court. All petitions for review shall be filed in accordance with the rules of the court.

C. 30:5B-13 Crime of fourth degree.

13. Any person who operates or assists in the operation of a child care center which does not have a license or temporary license, or who has used fraud or misrepresentation in obtaining a license or in the subsequent operation of a center, or who offers, advertises or provides any service not authorized by a valid license or who violates any other provision of this act shall be guilty of a crime of the fourth degree.

C. 30:5B-14 Advisory council.

14. a. The Director of the Division of Youth and Family Services in the Department of Human Services and the Director of the Division on Women in the Department of Community Affairs shall establish and designate an advisory council which shall consist of at least 15 individuals who have experience, training or other interest in child care issues. To the extent possible, the directors shall designate members of existing councils or task forces heretofore established on child care in New Jersey as the advisory council.

b. The advosory council shall:

(1) Review rules and regulations or proposed revisions to existing rules and regulations governing the licensing of child care centers;

(2) Review proposed statutory amendments governing the licensing of child care centers and make recommendations to the commissioner;

(3) Advise the commissioner on the administration of the licensing responsibilities under this act;

(4) Advise the commissioner on the needs, priorities, programs, and policies relating to child care throughout the State;

(5) Study and recommend alternative resources for child care; and

(6) Facilitate employment related child care through information and technical assistance.

c. The advisory council may accept from any governmental department or agency, public or private body or any other source grants or contributions to be used in carrying out its responsibilities under this act.

C. 30:5B-15 Annual report.

15. The advisory council shall prepare and submit to the Senate Institutions, Health and Welfare Committee and General Assem-

bly Corrections, Health and Human Services Committee an annual report of its findings and recommendations.

16. There is appropriated from the General State Fund to the department the sum of $100,000.00 to implement the child care center licensing provisions of this act and the sum of $25,000.00 to the advisory council to implement its responsibilities under this act.

Repealer.

17. Chapter 70 of Title 18A of the New Jersey Statutes is repealed, except that:

a. Any child care center previously exempt from licensure under N. J. S. 18A:70–1 et seq. and covered by the provisions of this act shall be required to apply for a license within 90 days after the effective date of this act; and

b. Any license issued pursuant to N. J. S. 18A:70–1 et seq. shall remain in effect until its date of expiration, for purposes of which N. J. S. 18A:70–1 et seq. and rules and regulations promulgated thereunder shall remain in effect.

c. A child care center operating on the effective date of this act which is exempt from the licensing provisions of N. J. S. 18A:70–1 et seq. because it is operated by an aid society of a properly organized and accredited church shall be required to comply with physical facility and life/safety requirements of the department's regulations (N. J. A. C. 10:122–5.1 to 10:122–5.4). The department shall issue a certificate of approval to those centers meeting those requirements. A center so certified hereafter shall be exempt from the other rules and regulations for the operation and maintenance of child care centers promulgated pursuant to section 5 of this act. Nothing in this act shall prevent a center exempted under this subsection from securing a regular license on a voluntary basis.

18. This act shall take effect 120 days after the date of enactment.

Approved January 17, 1984.

CHAPTER 493

AN ACT concerning driver's licenses for hearing-impaired persons and supplementing Title 39 of the Revised Statutes.

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

C. 39:3-11a Drivers' licenses for hearing-impaired.

1. Upon application by any person with a hearing loss of a pure tone average of 41 dB or greater, verified by an otorhinolaryngologist (ENT) or by an audiologist clinically certified by the American Speech, Language, and Hearing Association, the Director of the Division of Motor Vehicles shall issue to the applicant a special driver's license bearing either the international symbol of the deaf or a numerical code designating hearing-impairment, whichever shall be specified by the applicant. The design of the special driver's license shall be approved by the Director of the Division of Motor Vehicles. No fee over and above the required fee for a driver's license shall be imposed for the special driver's license.

C. 39:3-11b Rules, regulations.

2. Pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), the Director of the Division of Motor Vehicles shall promulgate rules and regulations to effectuate the purposes of this act.

3. This act shall take effect on the one hundred and eighty-first day following enactment.

Approved January 17, 1984.

CHAPTER 494

AN ACT concerning offenses against the family, children and incompetents and amending N. J. S. 2C:24–4.

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

1. N. J. S. 2C:24–4 is amended to read as follows:

Endangering welfare of children.

2C:24–4. Endangering Welfare of Children. a. Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child, who engages in sexual conduct which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child as defined in R. S. 9:6–1, R. S. 9:6–3 and P. L. 1974, c. 119, s. 1 (C. 9:6–8.21) is guilty of a crime of the third degree. Any other person who engages in conduct or who causes harm as described in this subsection to a child under the age of 16 is guilty of a crime of the fourth degree.

b. As used in this subsection:

(1) "Child" shall mean any person under 16 years of age.

(2) "Prohibited sexual act" means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or

(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus; or

(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction.

(3) Any person, including any parent, guardian, or other person legally charged with the care or custody of a child, who causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner or may be part of an exhibition or performance is guilty of a crime of the second degree.

(4) Any person who photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act is guilty of a crime of the second degree.

(5) Any person who knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer any photograph, film, video tape or any other repro-

duction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the second degree.

(6) For the purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 16 in any photograph or film shall be rebuttably presumed to be under the age of 16.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 495

AN ACT concerning oaths, affirmations and affidavits and amending R. S. 41:2–1.

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

1. R. S. 41:2–1 is amended to read as follows:

Officers empowered to take oaths.

41:2–1. All oaths, affirmations and affidavits required to be made or taken by law of this State, or necessary or proper to be made, taken or used in any court of this State, or for any lawful purpose whatever, may be made and taken before any one of the following officers:

The Chief Justice of the Supreme Court or any of the justices or judges of courts of record of this State;

Masters of the Superior Court;

Municipal judges;

Mayors or aldermen of cities, towns or boroughs or commissioners of commission governed municipalities;

Surrogates, registers of deeds and mortgages, county clerks and their deputies;

Municipal clerks and clerks of boards of chosen freeholders;

Members of boards of chosen freeholders;

Clerks of all courts;

Notaries public;

Commissioners of deeds;

Members of the State Legislature;

Attorneys-at-law and counsellors-at-law of this State.

This section shall not apply to official oaths required to be made or taken by any of the officers of this State, nor to oaths or affidavits required to be made and taken in open court.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 496

AN ACT to amend and supplement the "State Uniform Construction Code Act," approved October 7, 1975 (P. L. 1975, c. 217).

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

1. Section 3 of P. L. 1975, c. 217 (C. 52:27D–121) is amended to read as follows:

C. 52:27D-121 Definitions.

3. Definitions. As used in this act unless the context clearly indicates otherwise:

"Building" means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of occupancy" means the certificate provided for in section 15 of this act indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code and any ordinance implementing said code.

"Commissioner" means the Commissioner of Community Affairs.

"Code" means the State Uniform Construction Code.

"Construction" means the construction, erection, reconstruction,

alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

"Construction board of appeals" means the board provided for in section 9 of this act.

"Department" means the Department of Community Affairs.

"Enforcing agency" means the municipal construction official and subcode officials provided for in section 8 of this act and assistants thereto.

"Equipment" means plumbing, heating, electrical, ventilating, air conditioning, refrigerating and fire prevention equipment, and elevators, dumbwaiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Manufactured home" or "mobile home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub. L. 93–383 (42 U. S. C. § 5401 et seq.) and the standards promulgated by the commissioner pursuant to P. L. 1975, c. 217 (C. 52:27D–119 et seq.).

"Municipality" means any city, borough, town, township or village.

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

"Premanufactured system" means an assembly of materials or products that is intended to comprise all or part of a building or structure and that is assembled off site by a repetitive process under circumstances intended to insure uniformity of quality and material content.

''Public school facility'' means any building, or any part thereof of a school, under college grade, owned and operated by a local, regional, or county school district.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

"Stop construction order" means the order provided for in section 14 of this act.

"State Uniform Construction Code" means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

''Structure'' means a combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above, or below the surface of a parcel of land; provided, the word ''structure'' shall be construed when used herein as though followed by the words ''or part or parts thereof and all equipment therein'' unless the context clearly requires a different meaning.

2. Section 5 of P. L. 1975, c. 217 (C. 52:27D–123) is amended to read as follows:

C. 52:27D-123 Adoption of a State Uniform Construction Code.

5. Adoption of a State Uniform Construction Code.

a. The commissioner shall after public hearing pursuant to section 4 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–4) adopt a State Uniform Construction Code for the

purpose of regulating the structural design, construction, maintenance and use of buildings or structures to be erected and alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of buildings or structures already erected. Prior to the adoption of said code, the commissioner shall consult with the code advisory board and other departments, divisions, bureaus, boards, councils or other agencies of State Government heretofore authorized to establish or administer construction regulations.

Such prior consultations with departments, divisions, bureaus, boards, councils, or other agencies of State Government shall include but not be limited to consultation with the Commissioner of Health and the Public Health Council prior to adoption of a plumbing subcode pursuant to subsection b. of this section. Said code shall include any code, rule or regulation incorporated therein by reference.

b. The code shall be divided into subcodes which may be adopted individually by the commissioner as he may from time to time consider appropriate. Said subcodes shall include but not be limited to a building code, a plumbing code, an electrical code, an energy code, a fire prevention code, a manufactured or mobile home code and mechanical code.

These subcodes shall be adoptions of the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, provided that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of this act. The initial adoption of a model code or standard as a subcode shall constitute adoption of any subsequent revisions or amendments thereto.

The commissioner shall be authorized to adopt a barrier free subcode or to supplement or revise any model code adopted hereunder, for the purpose of insuring that adequate and sufficient features are available in buildings or structures so as to make them accessible to and usable by the physically handicapped.

c. Any municipality through its construction official, and any State agency or political subdivision of the State may submit an application recommending to the commissioner that a State sponsored code change proposal be adopted. Such application shall contain such technical justification and shall be submitted in

accordance with such rules of procedure as the commissioner may deem appropriate, except that whenever the State Board of Education shall determine that enhancements to the code are essential to the maintenance of a thorough and efficient system of education, the enhancements shall be made part of the code; provided that the amendments do not result in standards that fall below the adopted subcodes. The Commissioner of the Department of Education shall consult with the Commissioner of the Department of Community Affairs prior to publishing the intent of the State Board to adopt any amendments to the Uniform Construction Code. Upon adoption of any amendments by the State Board of Education they shall be transmitted forthwith to the Commissioner of the Department of Community Affairs who shall publish and incorporate the amendments as part of the Uniform Construction Code and the amendments shall be enforceable as if they had been adopted by the commissioner.

At least 45 days prior to the final date for the submission of amendments or code change proposals to the National Model Code Adoption Agency, the code of which has been adopted as a subcode under this act, the commissioner shall hold a public hearing in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), at which testimony on any application recommending a State sponsored code change proposal will be heard.

The commissioner shall maintain a file of such applications, which shall be made available to the public upon request and upon payment of a fee to cover the cost of copying and mailing.

After public hearing, the code advisory board shall review any such applications and testimony and shall within 20 days of such hearing present its own recommendations to the commissioner.

The commissioner may adopt, reject or return such recommendations to the code advisory board for further deliberation. If adopted, any such proposal shall be presented to the subsequent meeting of the National Model Code Agency by the commissioner or by persons designated by the commissioner as a State sponsored code change proposal. Nothing herein, however, shall limit the right of any municipality, the department, or any other person from presenting amendments to the National Model Code Agency on its own initiative.

The commissioner may adopt further rules and regulations pursuant to this subsection and may modify the procedures herein

described when a model code change hearing has been scheduled so as not to permit adequate time to meet such procedures.

d. (Deleted by amendment, P. L. 1983, c. 496).

3. Section 11 of P. L. 1975, c. 217 (C. 52:27D–129) is amended to read as follows:

C. 52:27D-129 State buildings and buildings of interstate agencies.

11. State buildings and buildings of interstate agencies. a. Notwithstanding any other provision of P. L. 1975, c. 217 (C. 52:27D–119 et seq.), the Department of Community Affairs shall have exclusive authority to administer and enforce the code in regard to buildings and structures owned by the State, and any of its departments, divisions, bureaus, boards, councils, authorities or other agencies; provided, however, that the Division of Building and Construction in the Department of the Treasury shall have authority to conduct field inspections for the purpose of enforcing the code in buildings built under its supervision. The Division of Building and Construction shall be authorized to review plans and undertake construction if the Department of Community Affairs cannot approve plans within the 20 day period provided for in P. L. 1975, c. 217. The Division of Building and Construction shall carry out any review or inspection responsibilities with persons certified by the Commissioner of the Department of Community Affairs pursuant to the provisions of P. L. 1975, c. 217. The Department of Community Affairs shall have ultimate responsibility for insuring that all buildings conform to the requirements of the code.

b. Construction, alteration, renovation, rehabilitation, repair, removal or demolition of any building or structure situated wholly within New Jersey by or for an agency created by an interstate compact to which the State of New Jersey is a party shall be subject to the provisions of the code; provided that such interstate agency shall have exclusive authority to administer and enforce the code in regard to such buildings and structures.

4. Section 12 of P. L. 1975, c. 217 (C. 52:27D–130) is amended to read as follows:

C. 52:27D-130 Permit required for construction or alteration of buildings and structures; application therefor; required contents of application; issuance, effect and duration of permits; certain public school facilities.

12. Permit required for construction or alteration of buildings and structures; application therefor; required contents of application; issuance, effect and duration of permits; certain public

school facilities. Except as otherwise provided by this act or in the code, before construction or alteration of any building or structure, the owner, or his agent, engineer or architect, shall submit an application in writing, including signed and sealed drawings and specifications, to the enforcing agency as defined in this act. The application shall be in accordance with regulations established by the commissioner and on a form prescribed by the commissioner and shall be accompanied by payment of the fee to be established by the municipal governing body by ordinance in accordance with standards established by the commissioner. The application for a construction permit shall be filed with the enforcing agency and shall be a public record; and no application for a construction permit shall be removed from the custody of the enforcing agency after a construction permit has been issued. Nothing contained in this paragraph shall be interpreted as preventing the imposition of requirements in the code, for additional permits for particular kinds of work, including but not limited to plumbing, electrical, elevator, fire prevention equipment or boiler installation or repair work, or in other defined situations.

No permit shall be issued for a public school facility which requires the approval of the Department of Education unless the plans have been first approved by the Department of Education. Approval by the Department of Education shall only be required when a review for educational adequacy is necessary. Requirements determining when a review for educational adequacy is necessary shall be established jointly by the Department of Community Affairs and the Department of Education within 180 days of the effective date of this act. The standards shall thereafter be adopted as part of the Uniform Construction Code regulations by the Department of Community Affairs. The Department of Education when approving plans shall be responsible for insuring that the plans conform to the requirements of the code as well as for insuring that they provide for an educationally adequate facility. In carrying out its responsibility pursuant to the provisions of this section the Department of Education shall employ persons licensed by the Commissioner of the Department of Community Affairs for the type and level of plans being reviewed.

C. 52:27D-123.1 Existing buildings.

5. (New section) Any law or regulation to the contrary notwithstanding, the structure, design, construction, maintenance and use of all buildings or structures to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal, or demolition

of all buildings or structures already erected shall be regulated pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.).

6. This act shall take effect on the ninety-first day following enactment.

Approved January 17, 1984.

CHAPTER 497

AN ACT concerning motor vehicle special learners' permits and amending P. L. 1977, c. 25.

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

1. Section 6 of P. L. 1977, c. 25 (C. 39:3–13.2a) is amended to read as follows:

C. 39:3-13.2a Special learner's permit.

6. Any person to whom a special learner's permit has been issued pursuant to section 1 of P. L. 1950, c. 127 (C. 39:3–13.1), upon successful completion of a behind-the-wheel driving course conducted by a licensed drivers' school or of a public, parochial or private school driving education course, shall be entitled to retain the special learner's permit in his own possession. Such person may operate a motor vehicle of the class for which a basic driver's license is required during the hours between sunrise and sunset while in the company and under the control of a licensed motor vehicle driver of this State who has had at least three years' experience as a licensed motor vehicle driver. Such special permit shall be valid for 90 days after such person's seventeenth birthday or until the completion of the road test portion of his license examination, whichever period is shorter; provided, however, that a special permit issued to a handicapped person, as determined by the Division of Motor Vehicles after consultation with the Department of Education, shall be valid for nine months after such person's seventeenth birthday or until the completion of the road test portion of his license examination, whichever period is shorter.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 498

AN ACT concerning judges of the Superior Court in certain counties, amending N. J. S. 2A:2–1 and P. L. 1983, c. 405.

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

1. N. J. S. 2A:2–1 is amended to read as follows:

Superior Court judges.

2A:2–1. a. The Superior Court shall consist of not less than 323 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	7
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	26
Gloucester	8
Hudson	14
Hunterdon	2
Mercer	8
Middlesex	16
Monmouth	12
Morris	11
Ocean	8
Passaic	14
Salem	2
Somerset	5
Sussex	3
Union	14
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. Section 11 of P. L. 1983, c. 405 (C. 2A:2-1.3) is amended to read as follows:

C. 2A:2-1.3 County responsibility for salaries.

11. a. Each county shall be responsible for 50% of the cost of the salary of the judges of the juvenile and domestic relations courts or family court and county district courts transferred pursuant to this act until December 31, 1984.

b. In any county where the required number of judges set forth in N. J. S. 2A:2-1b. is increased after January 17, 1984 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 100% of the cost of the salary of any judge who has been assigned in the first year following the date of increase; 75% in the second year; 50% in the third year; 25% in the fourth year; and in the fifth year, the State shall be responsible for the entire cost of the salary of any judge so assigned.

c. In any county where the required number of judges set forth in N. J. S. 2A:2-1b. is increased after December 31, 1983 but before January 18, 1984 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 50% of the cost of the salary of any judge so assigned until December 31, 1984.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 499

AN ACT appropriating a portion of the revenues received in repayment of loans from the "Water Supply Fund" created pursuant to the "Water Supply Bond Act of 1981," P. L. 1981, c. 261, and directing the Department of Environmental Protection to utilize funds previously appropriated from the "Water Conservation Fund" created pursuant to the "Water Conservation Bond Act," P. L. 1969, c. 127, for the purpose of providing loans for the construction and extension of water supply facilities to replace contaminated private wells, and providing procedures for the expenditure of these funds.

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 revenues received in repayment of loans made from the "Water Supply Fund" created pursuant to "The Water Supply Bond Act of 1981," P. L. 1981, c. 261 by P. L. 1982, c. 131 for the high priority rehabilitation and consolidation of inadequate water supply systems, a sum equal to 20% of the annual loan repayments, but not to exceed $13,000,000.00, for the purpose of providing low-interest loans for the construction of new water supply facilities or the extension of existing water supply facilities to replace contaminated private wells.

2. The Department of Environmental Protection is directed to utilize from the revenues received in repayment of loans from the "Water Conservation Fund" created pursuant to the "Water Conservation Bond Act," P. L. 1969, c. 127, and thereafter appropriated pursuant to section 5 of P. L. 1975, c. 158, the sum of $2,000,000.00 for the purpose of providing low-interest loans for the construction of new water supply facilities or for the extension of existing water supply facilities to replace contaminated private wells.

3. The Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), shall adopt rules and regulations establishing procedures for reviewing applications for loans made pursuant to this act, and for the expenditure of the funds made available by this act.

4. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 500

AN ACT to repeal "An act to authorize municipalities to enter into contract for certain purposes and to appropriate funds and to borrow money and issue negotiable notes for said purposes, and supplementing chapter 50 of Title 40 of the Revised Statutes," approved May 18, 1956 (P. L. 1956, c. 48).

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

Repealer.

1. P. L. 1956, c. 48 (C. 40:50–9 to C. 40:50–13 inclusive) is repealed.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 501

AN ACT concerning the State amusement games license fees and amending P. L. 1961, c. 103.

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

1. Section 5 of P. L. 1961, c. 103 (C. 5:8–125) is amended to read as follows:

C. 5:8-125 Amusement games license fees.

5. As a condition of granting a State license to any such association, where the said association is itself to operate an amusement game or amusement games, the association shall pay an annual fee of $50.00 per game; except that, any association which is nonprofit shall be exempt from payment of any State license fee if the proceeds from the games are used for charitable purposes. Where the operator of the game at an agricultural fair and exhibition conducted under the auspices of such an association is to be a person holding a concession to operate at the fair and exhibition from the association holding the same, such operator shall pay for the State license an annual fee of $50.00 for each game to be operated at the fair and exhibition, but if said operator is a licensee under the "Amusement Games Licensing Law" and has paid the annual fee of $250.00 for a State license, he shall not be required to pay the said fee of $50.00 for each game to be operated unless he operates more than five games, in which case he shall pay for the State license an additional annual fee of $50.00 for each game in excess of five.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 502

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management

02-8020	Housing Services	$4,000,000
	Total Appropriation, Community Resource Management	$4,000,000

State Aid and Grants:
Energy conservation improvement grants to New Jersey Local Public Housing Authorities ..... ($4,000,000)

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.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 503

AN ACT concerning the solemnization of marriages and amending R. S. 37:1–13.

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

1. R. S. 37:1–13 is amended to read as follows:

Solemnization of marriages.

37:1–13. Each judge of a federal district court, United States magistrate, judge of a county district court, judge of a municipal court, judge of the superior court, judge of a tax court and any mayor, or chairman of any township committee or village president of this State, and every minister of every religion, and judges of the juvenile and domestic relations courts or family courts in counties in which such courts are or may be established, are hereby authorized to solemnize marriage between such persons as may lawfully enter into the matrimonial relation; and every religious society, institution or organization in this State may join together in marriage such persons according to the rules and customs of the society, institution or organization.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 504

AN ACT requiring the procurement of a New Jersey Waterfowl Stamp as a precondition to the hunting of waterfowl; creating a New Jersey Waterfowl Stamp Account as a permanent and dedicated account within the "hunters' and anglers' license fund" to be funded through the sale of any New Jersey Waterfowl Stamp, or any reproduction, replica or other utilization of the design of the New Jersey Waterfowl Stamp for the purpose of the acquisition, protection, maintenance, improvement and enhancement of the State's waterfowl habitat; establishing a New Jersey Migratory Waterfowl Advisory Committee; providing a

penalty for violations of the act; and supplementing chapter 3 of Title 23 of the Revised Statutes.

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

C. 23:3-75 Short title.

1. This act shall be known and may be cited as the "New Jersey Waterfowl Stamp Act."

C. 23:3-76 Waterfowl Stamp.

2. a. No person over the age of 16 shall at any time hunt, pursue, kill, take, possess, or attempt to take with a firearm, bow and arrow, or any other method any ducks, geese, brant, or other waterfowl without procuring a New Jersey Waterfowl Stamp, as hereinafter provided, in addition to any other licenses or permits required under Title 23 of the Revised Statutes.

b. The stamp issued pursuant to this act shall be designated the New Jersey Waterfowl Stamp, shall be required to be in the possession of any person engaged in hunting, pursuing, killing, taking, possessing, or attempting to take with a firearm, bow and arrow, or any other method any ducks, geese, brant, or other waterfowl, and shall be exhibited upon the request of any conservation officer, deputy conservation officer, or other law enforcement official.

C. 23:3-77 Procurement; fee.

3. The New Jersey Waterfowl Stamp shall be procured from the Division of Fish, Game and Wildlife, or from other designated agents deemed qualified by the Division of Fish, Game and Wildlife. The annual fee for the New Jersey Waterfowl Stamp shall be $5.00 for persons without a valid New Jersey resident's firearm hunting or bow and arrow license, and $2.50 for persons possessing a valid New Jersey resident's firearm hunting or bow and arrow license. A New Jersey Waterfowl Stamp shall not be valid unless it is in the possession of the licensee and contains the signature of the licensee written in ink across the face of the stamp. All New Jersey Waterfowl Stamps shall expire on June 30 of each year, unless otherwise prescribed in the State Fish and Game Code.

C. 23:3-78 Rules, regulations.

4. The Division of Fish, Game and Wildlife shall determine the final design and form of the New Jersey Waterfowl Stamp based on the recommendations of the New Jersey Migratory Waterfowl Advisory Committee created pursuant to section 7 of this act. The

Division of Fish, Game and Wildlife shall retain reproduction and distribution rights to the design of any New Jersey Waterfowl Stamp issued. The Division of Fish, Game and Wildlife is authorized to adopt, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), any rules and regulations necessary to administer the provisions of this act, including, but not limited to, the creation, design, administration, sale, distribution, and establishment of prices for any reproduction, replica, or other utilization of the design of any New Jersey Waterfowl Stamp issued.

C. 23:3-79 Dedicated account.

5. There is established within the "hunters' and anglers' license fund" referred to in R. S. 23:3–11 and R. S. 23:3–12, a separate and dedicated account to be known as the New Jersey Waterfowl Stamp Account. The New Jersey Waterfowl Stamp Account shall be credited with all revenues received by the Division of Fish, Game and Wildlife from the sale of New Jersey Waterfowl Stamps, and all revenues received by the Division of Fish, Game and Wildlife from the sale of any reproduction, replica, or other utilization of the design of the New Jersey Waterfowl Stamp. Moneys in the account shall be utilized by the Commissioner of the Department of Environmental Protection, after consultation with the New Jersey Migratory Waterfowl Advisory Committee, only for funding the acquisition, protection, maintenance, improvement, and enhancement of waterfowl habitat and associated wetlands, including but not limited to wetlands, tributaries, marsh fringe areas, and access sites for public use of waterfowl habitat areas. The Department of Environmental Protection may, upon the recommendation of the New Jersey Migratory Waterfowl Advisory Committee, allocate a percentage of the annual revenue from the New Jersey Waterfowl Stamp Account to qualified nonprofit organizations in North America for utilization in their waterfowl habitat programs, provided that direct benefits to New Jersey waterfowl protection and preservation efforts can be clearly demonstrated. The New Jersey Waterfowl Stamp Account shall be kept separate and apart from all other funds and accounts, and shall be disbursed by the State Treasurer to the Department of Environmental Protection only for the purposes identified in this section.

C. 23:3-80 Penalties.

6. Any person violating any provision of this act shall be liable to a penalty of not less than $25.00 nor more than $1,000.00 for each

offense, to be collected in a civil action by a summary proceeding under "the penalty enforcement law," N. J. S. 2A:58–1 et seq. If any violation of the act is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The Department of Environmental Protection is authorized to compromise and settle any claim for a penalty under this section in any amount which, in the discretion of the Department of Environmental Protection, may appear appropriate and equitable under the circumstances.

C. 23:3-81 Advisory committee.

7. a. There is established in the Division of Fish, Game and Wildlife a New Jersey Migratory Waterfowl Advisory Committee. The committee shall comprise nine members as follows: two members of the Fish and Game Council to be appointed by its chairman; one representative of the Natural Areas Council; one representative of Ducks Unlimited, Inc.; one representative of the New Jersey Waterfowlers Association; one representative of the Nature Conservancy; one representative from the New Jersey Audubon Society; one representative of the New Jersey Federation of Sportsmen's Clubs; and one public member appointed by the Commissioner of the Department of Environmental Protection. A chairman shall be elected from the membership of the committee. Members shall serve for terms of three years, without compensation, but shall be reimbursed for actual expenses necessarily incurred in the performance of their official duties.

b. The committee shall advise the Division of Fish, Game and Wildlife with respect to the creation, design, administration, sale, distribution, and other matters related to the New Jersey Waterfowl Stamp, and the reproduction, replica, or other utilization of its design. The committee shall also submit written recommendations to the Commissioner of the Department of Environmental Protection with respect to the utilization of revenues in the New Jersey Waterfowl Stamp Account, including the advisability of allocating a percentage of the proceeds therefrom to particular qualified nonprofit organizations in North America for utilization in their waterfowl habitat programs that provide direct benefits that can be clearly demonstrated to New Jersey's waterfowl preservation and protection efforts.

8. This act shall take effect on July 1, 1984.

Approved January 17, 1984.

CHAPTER 505

AN ACT concerning judges of the Superior Court in certain counties, amending N. J. S. 2A:2–1 and P. L. 1983, c. 405.

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

1. N. J. S. 2A:2–1 is amended to read as follows:

Superior Court judges.

2A:2–1. a. The Superior Court shall consist of not less than 324 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	6
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	26
Gloucester	8
Hudson	14
Hunterdon	2
Mercer	6
Middlesex	16
Monmouth	12
Morris	11
Ocean	8
Passaic	14
Salem	2
Somerset	5
Sussex	3
Union	16
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the number of judges of the county court authorized in each of

the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. Section 11 of P. L. 1983, c. 405 (C. 2A:2–1.3) is amended to read as follows:

C. 2A:2-1.3 County responsibility for salaries.

11. a. Each county shall be responsible for 50% of the cost of the salary of the judges of the juvenile and domestic relations courts or family court and county district courts transferred pursuant to this act until December 31, 1984.

b. In any county where the required number of judges set forth in N. J. S. 2A:2–1b. is increased after January 17, 1984 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 100% of the cost of the salary of any judge who has been assigned in the first year following the date of increase; 75% in the second year; 50% in the third year; 25% in the fourth year; and in the fifth year, the State shall be responsible for the entire cost of the salary of any judge so assigned.

c. In any county where the required number of judges set forth in N. J. S. 2A:2–1b. is increased after December 31, 1983 but before January 18, 1984 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 50% of the cost of the salary of any judge so assigned until December 31, 1984.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 506

AN ACT concerning the taking of striped bass, supplementing Title 23 of the Revised Statutes and repealing sections 1 through 3, inclusive, and 7 of P. L. 1938, c. 318 and section 1 of P. L. 1952, c. 216.

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

C. 23:5-43 Short title.

1. This act shall be known and may be cited as the "Striped Bass Act".

C. 23:5-44 Definitions.

2. As used in this act:

a. "Goggle fishing" means the taking of striped bass in the Atlantic ocean and the ocean side of any inlet jetties by means of a spear, harpoon or other missile, hand held and hand propelled, while completely submerged in the water;

b. "Marine waters" means all the salt waters of this State, including the waters of the Atlantic ocean, and all bays, inlets and estuarine waters located below the freshwater portion of any river, stream or creek, but shall not include any of the freshwaters of this State as defined in R. S. 23:1–2;

c. "Spawning waters" means for the Delaware river and bay those waters of the State south of an imaginary line drawn from the Delaware-Pennsylvania border to Birch creek in Gloucester county to an imaginary line drawn from Cape May Point in New Jersey to Cape Henlopen in Delaware and the tributaries of the Delaware river and bay to the freshwater license line and for the Hudson river, the Raritan river and Raritan and Sandy Hook bays, "spawning waters" means the waters of the Hudson river, Kill Van Kull, Arthur Kill, Newark bay, Raritan river, Raritan bay and Sandy Hook bay extending from the New Jersey-New York border on the north to an imaginary line drawn from Sandy Hook lighthouse in New Jersey to Rockaway Point in New York on the east and the Route 36 bridge from Highlands to Highlands park on the south and the tributaries of these waters to the freshwater license line;

d. "Spear" means a long-handled instrument with a sharp point or multiple points, often barbed, capable of being thrust into a fish and used for the purpose of taking a fish that was not first hooked and brought near the fisherman by angling with hook and line;

e. "Striped bass" means a game fish of the species "Morone saxatilis" commonly referred to as rockfish, rock or striper.

C. 23:5-45 January-February ban.

3. No person shall take from, or have in his possession on, the marine waters of this State any striped bass from January 1 to February 28 of each year.

C. 23:5-46 Daily limits.

4. No person shall take from the marine waters of the State in any one day or have in his possession at any time more than 10 striped bass, provided that no person shall take, catch, kill or have

in possession at any time any striped bass measuring less than 18 inches in length, or have in his possession while on or angling in the marine waters of this State other than the spawning waters more than four striped bass measuring less than 24 inches.

The possession of any striped bass or parts of a striped bass from which the head or tail has been removed other than immediately prior to preparation or being served as food, which is less than 18 inches, shall be presumed to be possessed in violation of this section.

C. 23:5-47 Permitted methods.

5. No person shall take, catch or kill a striped bass from or in any of the marine waters of this State by means of a net or by any method other than by hook and line or by goggle fishing as defined. Nothing in this section shall preclude the use of a landing net or gaff in landing a striped bass caught on hook and line, except that it shall be unlawful to foul hook striped bass.

C. 23:5-48 Violations.

6. A person who violates any of the provisions of this act shall be subject to the penalties set forth in section 73 of P. L. 1979, c. 199 (C. 23:2B-14).

Repealer.

7. The following acts or parts of acts are hereby repealed:

Sections 1 through 3, inclusive, of P. L. 1938, c. 318 (C. 23:5-5.1 to 23:5-5.3);

Section 7 of P. L. 1938, c. 318 (C. 23:5-5.7);

Section 1 of P. L. 1952, c. 216 (C. 23:5-5.1a).

8. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 507

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the sums appropriated under P. L. 1983, c. 240, there is appropriated out of the General Fund the following sums for the purposes specified:

DIRECT STATE SERVICES

LEGISLATIVE BRANCH

Government Direction, Management and Control

71 Legislative Activities

Legislature

0001 Senate

01-0001 Senate	$300,000
Total Appropriation, Senate	$300,000

Personal Services:
Salaries and wages ($200,000)
Members' staff services (100,000)

0002 General Assembly

02-0002 General Assembly	$500,000
Total Appropriation, General Assembly	$500,000

Personal Services:
Salaries and wages ($300,000)
Members' staff services (200,000)

Total Appropriation, Legislature	$800,000

EXECUTIVE BRANCH

CHIEF EXECUTIVE

Government Direction, Management and Control

76 Management and Administration

0300 Chief Executive's Office

01-0300 Executive Management	$250,000
Total Appropriation, Chief Executive	$250,000

Personal Services:		
Salaries and wages	($125,000)	
Services Other Than Personal	(50,000)	
Additions, Improvements and Equipment	(75,000)	

INTERDEPARTMENTAL ACCOUNTS

Government Direction, Management and Control

74 General Government Services

9420 State Contingency Fund

04-9420 State Contingency Fund		$5,000,000
Total Appropriation, State Contingency Fund		$5,000,000

Special Purpose:		
To the Director of the Division of Budget and Accounting for allotment to the following departments and agencies in the amounts and for the projects and programs specified:		
To the Department of the Treasury to be allocated in accordance with a plan approved by the Treasurer and the Director of the Division of Budget and Accounting	($4,000,000)	
To the Senate and General Assembly for word processing and information systems	(1,000,000)	
The sums hereinabove appropriated for the Senate and General Assembly for word processing and information automation systems shall be made directly available, notwithstanding allotment schedules or quarterly reports.		
Total Appropriation, Interdepartmental Accounts		$5,000,000
Total Appropriation, Direct State Services		$6,050,000

2. This act shall take effect immediately and shall be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 508

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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 sum is appropriated:

FEDERAL FUNDS

DEPARTMENT OF LABOR

Economic Planning, Development and Security

54 Manpower and Employment Services

10-4545	Employment Development Services	$500,000
	Total Appropriation, Manpower and Employment Services	$500,000
Special Purpose:		
	Dislocated worker programs ..... ($500,000)	
	Total Appropriation, Department of Labor ...	$500,000

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.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 509

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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 sum is appropriated:

FEDERAL FUNDS

DEPARTMENT OF HUMAN SERVICES

Educational, Cultural and Intellectual Development

33 Supplemental Education and Training Programs

7560 Commission for the Blind and Visually Impaired

11-7560	Habilitation and Rehabilitation	$2,620,745
	Total Appropriation, Commission for the Blind and Visually Impaired	$2,620,745

Special Purpose:
Construction and development of a vocational rehabilitation facility .. ($2,620,745)

	Total Appropriation, Department of Human Services	$2,620,745

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.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 510

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

DEPARTMENT OF TRANSPORTATION

Transportation Services

61 State Highway Facilities

10-6200	Federal Aid Interstate Highway Projects	$10,000,000
15-6200	Federal Aid Interstate Transfer Program	34,400,000
20-6200	Federal Aid Urban System Highway Projects	5,000,000
54-6200	Federal Aid Right-of-Way Revolving Funds	2,270,000
71-6200	Supportive Services, Federal Highway Construction Training Program	250,000
41-6200	Federal Aid Bridge and Highway Safety Projects	1,000,000
42-6200	Bridge Replacement	10,900,000
	Total Appropriation, State Highway Facilities	$63,820,000

Special Purpose:

Hazard elimination projects	($1,000,000)
Discretionary bridge projects	(10,900,000)
Interstate highway projects	(10,000,000)
Interstate transfer program fund	(34,400,000)
Urban systems	(5,000,000)
Right-of-way revolving funds	(2,270,000)
Supportive services	(250,000)

62 Public Transportation

05-6070	Aeronautics	$4,000,000
04-6050	Railroad and Bus Operations	28,000,000
	Total Appropriation, Public Transportation	$32,000,000

Special Purpose:
Aeronautics airport fund ..... ($4,000,000)
Erie-Lackawanna electrification project ..... (28,000,000)

63 Local Highway Facilities

20-6220	Federal Aid Urban System Highway Projects	$15,000,000
24-6220	Federal Aid Economic Growth Projects	87,000
40-6220	Federal Aid Bridge and Highway Safety Projects	5,170,000
	Total Appropriation, Local Highway Facilities	$20,257,000

Special Purpose:
Safer off-system projects ..... ($1,000,000)
Hazard elimination projects ..... (1,000,000)
Rail-highway crossing projects .... (3,000,000)
Pavement marking projects ..... (109,000)
Safer roads projects ..... (61,000)
Urban system highway projects .... (15,000,000)
Economic growth projects ..... (87,000)

	Total Appropriation, Department of Transportation	$116,077,000

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.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 511

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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 sum is appropriated:

FEDERAL FUNDS

DEPARTMENT OF HEALTH

Physical and Mental Health

21 Health Services

02-4220 Community Health Services		$7,617,455
Materials and Supplies	($10,300)	
Services Other Than Personal	(187,566)	
Special Purpose:		
Supplemental Food	(5,511,941)	
State Aid and Grants:		
Health Service Contracts	(1,897,148)	
Additions, Improvements and Equipment	(10,500)	

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.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 512

AN ACT concerning nursing education and amending N. J. S. 18A:64F–1 and N. J. S. 18A:64F–3.

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

1. N. J. S. 18A:64F–1 is amended to read as follows:

Definitions.

18A:64F–1. As used in this chapter:

(a) "Student" means any full-time student who is a resident of this State and who enters a school of professional nursing to begin a program of nursing instruction or any part-time student who is a resident of this State who enters an upper division program of nursing instruction, as defined by the chancellor, in a school of professional nursing;

(b) "Operational expense" means those funds devoted to or required for the regular or ordinary expense of the school of professional nursing, including administrative, maintenance and salary expenses;

(c) "School of professional nursing" means a school in New Jersey offering a program of nursing instruction not exceeding four years beyond high school, which is affiliated with a hospital and holds a certificate of accreditation issued by the New Jersey Board of Nursing, provided that said school is not eligible to receive State aid for its nursing program under any other law.

2. N. J. S. 18A:64F–3 is amended to read as follows:

Nursing school aid.

18A:64F–3. The chancellor shall formulate annual budget requests for funds for State aid for qualified schools of professional nursing. Within the limits of funds appropriated to the Department of Higher Education for said purpose, any school of professional nursing whose application has been approved by the chancellor shall be entitled to receive State aid for the operational expense of the school to the extent of one-half thereof or $600.00 per full-time student, whichever is the lesser amount and a pro rata amount for part-time students.

3. This act shall take effect July 1, 1984.

Approved January 17, 1984.

CHAPTER 513

AN ACT to amend "An act concerning enactment of certain municipal ordinances and supplementing chapter 49 of Title 40 of the Revised Statutes," approved February 23, 1978 (P. L. 1977, c. 395).

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

1. Section 1 of P. L. 1977, c. 395 (C. 40:49–2.1) is amended to read as follows:

C. 40:49-2.1 Publication of notice by title.

1. In the case of any ordinance adopted pursuant to the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D–1 et seq.), including any amendments or supplements thereto, or revisions or codifications thereof, which is in length six or more octavo pages of ordinary print, the governing body of any municipality may, notwithstanding the provisions of R. S. 40:49–2, satisfy the newspaper publication requirements for the introduction and passage of such ordinance in the following manner:

a. The publication of a notice citing such proposed ordinance by title, giving a brief summary of the main objectives or provisions of the ordinance, stating that copies are on file for public examination and acquisition at the office of the municipal clerk, and setting forth the time and place for the further consideration of the proposed ordinance;

b. The placing on file, in the office of the clerk, three copies of the proposed ordinance, which copies shall be available for public inspection until final action is taken on said ordinance; and

c. The publication or arranging for the publication of the proposed ordinance in pamphlet or other similar form, which may be sold by the municipality at a price not to exceed the cost of publication and distribution.

If any amendment be adopted to any such proposed ordinance substantially altering the substance of the proposed ordinance, there shall be caused to be published a notice of the title of the ordinance, the introduction and time and place that the amended ordinance will be further considered and a summary of the objectives or provisions of the amendment or amendments, which notice

shall be published at least 2 days prior to the time so fixed therefor in accordance with subsection c. of R. S. 40:49–2. Copies of the amended ordinance shall be on file and available for public examination and duplication, in the office of the municipal clerk, until final action is taken on said ordinance. If said ordinance is again amended, the same publication requirements herein set forth for amended ordinances shall be followed.

Upon passage of any such ordinance, notice of passage or approval shall be published in accordance with subsection d. of R. S. 40:49–2. A copy of the ordinance and of any summary or summaries published in connection with its adoption pursuant to subsection a. or c. of this section shall be forthwith transmitted to the tax assessor of the municipality.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 514

AN ACT to provide for the identification of dentures and supplementing chapter 6 of Title 45 of the Revised Statutes.

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

C. 45:6-19.1 Definitions.

1. For purposes of this act:

a. "Prosthesis" means an artificial substitute for a missing body part, such as a tooth, used for functional or cosmetic reasons or both.

b. "Rebasing" means the act of replacing the base material of a denture without changing the occlusal relations of the teeth.

C. 45:6-19.2 Identification of dentures.

2. Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed by this State shall be marked with the name and social security number of the patient for whom the prosthesis is intended unless the patient objects thereto. The markings shall be done during fabrication and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist or dental laboratory fabri-

cating the prosthesis on behalf of the dentist. If in the professional judgment of the dentist or dental laboratory this identification is not practicable, identification shall be provided as follows:

a. The social security number of the patient may be omitted if the name of the patient is shown;

b. The initials of the patient may be shown alone, if the use of the name of the patient is impracticable;

c. The identification marks may be omitted in their entirety if none of the forms of identification specified in subsections a. and b. of this section are practicable or clinically safe.

C. 45:6-19.3 Existing prostheses.

3. Any removable dental prosthesis in existence prior to the effective date of this act, which was not marked at the time of its fabrication, in accordance with section 2 of this act, shall be so marked at the time of any subsequent rebasing.

C. 45:6-19.4 Rules, regulations.

4. The board shall adopt rules and regulations and provide standards to carry out the provisions of this act.

5. This act shall take effect 90 days after enactment.

Approved January 17, 1984.

CHAPTER 515

AN ACT making the offering for sale of a machine gun or semi-automatic rifle by means of certain newspaper advertisements a disorderly persons offense.

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

C. 2C:39-15 Gun advertising requirement.

1. Any person who offers to sell a machine gun or semi-automatic rifle by means of an advertisement published in a newspaper circulating within this State, which advertisement does not specify that the purchaser shall hold a valid license to purchase and possess a machine gun or a valid firearms identification card to purchase and possess an automatic or semi-automatic rifle, is a disorderly person.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 516

AN ACT concerning occupational safety and health for public employees, supplementing Title 34 of the Revised Statutes and making an appropriation.

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

C. 34:6A-25 Short title.

1. This act shall be known and may be cited as the "New Jersey Public Employees' Occupational Safety and Health Act."

C. 34:6A-26 Findings, declarations.

2. The Legislature finds that the safety and health of public employees in the workplace is of primary public concern. Personal injuries and illnesses arising out of work situations result not only in wage loss and increased medical expenses for employees, but also in decreased productivity and increased workers' compensation expenses for employers. The Legislature therefore declares: a. that it is the policy of this State to ensure that all public employees be provided with safe and healthful work environments free from recognized hazards, b. that it is the responsibility of the State to promulgate standards for the protection of the health and safety of its public workforce, and c. that it is in the public interest for public employers and public employees to join in a cooperative effort to enforce these standards.

C. 34:6A-27 Definitions.

3. As used in this act:

a. "Advisory board" means the Public Employees' Occupational Safety and Health Advisory Board created by section 4 of this act;

b. "Commissioner" means the Commissioner of Labor or his designee;

c. "Employer" means public employer and shall include any person acting directly on behalf of, or with the knowledge and ratification of: (1) the State, or any department, division, bureau, board, council, agency or authority of the State, except any bi-state agency; or (2) any county, municipality, or any department, division, bureau, board, council, agency or authority of any county or municipality, or of any school district or special purpose district created pursuant to law;

d. "Employee" means any public employee, any person holding a position by appointment or employment in the service of an "employer" as that term is used in this act and shall include any individual whose work has ceased as a consequence of, or in connection with, any administrative or judicial action instituted under this act; provided, however, that elected officials, members of boards and commissions, and managerial executives as defined in the "New Jersey Employer-Employee Relations Act," P. L. 1941, c. 100 (C. 34:13A–1 et seq.) shall be excluded from the coverage of this act;

e. "Employee representative" means a "representative" as that term is defined in the "New Jersey Employer-Employee Relations Act," P. L. 1941, c. 100 (C. 34:13A–1 et seq.);

f. "Review commission" means the Occupational Safety and Health Review Commission created by section 18 of this act;

g. "Secretary" means the Secretary of the United States Department of Labor;

h. "Workplace" means a place where public employees are assigned to work.

C. 34:6A-28 Advisory board.

4. There is created a Public Employees' Occupational Safety and Health Advisory Board to assist the commissioner in establishing standards for the occupational safety and health of public employees. The board shall make itself available to receive information regarding matters of concern to public employees in the areas of occupational safety and health. The advisory board, under the chairmanship of the commissioner, shall consist of the Commissioner of the Department of Health, the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Community Affairs, and the State Treasurer and 18 members to be appointed by the Governor, as follows: one member representing the fire service, one member representing municipalities, one member representing municipal employees, one member representing county government, one member representing employees of county government, one member representing State employees, one member representing public health care facilities, one member representing employees of public health care facilities, one member representing correctional institutions, one member representing employees of correctional institutions, one member representing law enforcement employees, one member representing local school boards, one member representing local

school board employees, one member representing Rutgers, The State University, one member representing employees of institutions of higher education, and three members representing the public. The members selected by the Governor shall be selected on the basis of their experience and competence in the field of occupational safety and health. No more than nine members appointed by the Governor shall be from the same political party. Each member shall serve for a term of 3 years and until his successor is appointed and qualified. A vacancy shall be filled by appointment by the Governor to the unexpired term. The members of the advisory board shall serve without compensation but shall be entitled to reimbursement for their actual traveling expenses and other expenses incurred in the performance of their duties.

C. 34:6A-29 Plan for standards.

5. The commissioner shall, in consultation with the Commissioner of Health and the advisory board, promulgate a plan for the development and enforcement of occupational safety and health standards with respect to public employers and public employees, in accordance with section 18 (c) of the "Occupational Safety and Health Act of 1970," Pub. L. 91-596 (29 U.S.C. § 651 et seq.). The Department of Labor shall be the primary agency responsible for administering and enforcing this plan throughout the State. The plan shall:

a. Provide for the development and enforcement of safety and health standards, provided, however, that the standards for building and structural safety shall not exceed those established by the Commissioner of Community Affairs pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.) nor shall they exceed the standards for fire safety established by the Commissioner of Community Affairs pursuant to the "Uniform Fire Safety Act," P. L. 1983, c. 383 (C. 52:27D–192 et al.);

b. Provide for the right of entry and inspection of safety standards in all workplaces by the commissioner;

c. Provide for the right of entry and inspection of health standards in all workplaces by the Commissioner of Health;

d. Prohibit advance notice of inspections;

e. Contain satisfactory assurances that the Department of Labor has the legal authority and qualified personnel necessary for the enforcement of the standards;

f. Give satisfactory assurances that the State will devote adequate funds to the administration and enforcement of the standards;

g. Contain satisfactory assurances that the State will, to the extent permitted by law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program is as effective as the standards contained in the approved plan; and

h. Provide that the Department of Labor shall make such reports to the secretary in the form and containing the information that the secretary from time to time requires.

C. 34:6A-30 Adoption of standards.

6. No sooner than 180 days after the effective date of this act, the commissioner shall provide, at the minimum, for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the secretary under the authority of the "Occupational Safety and Health Act of 1970." Where no federal standards are applicable or where standards more stringent than the federal standards are deemed advisable, the commissioner shall, in consultation with the Commissioner of Health and the Commissioner of Community Affairs and, with the advice and consent of the advisory board, provide for the development of State standards as may be necessary in special circumstances. The commissioner shall meet with the advisory board at least four times a year for these purposes.

C. 34:6A-31 Provisions of regulations.

7. The commissioner, in consultation with the Commissioner of Health and the Commissioner of Community Affairs and with the advice and consent of the advisory board, shall by regulation:

a. Provide for a method of encouraging employers and employees in their efforts to reduce the number of safety and health hazards arising from undesirable, inappropriate, or unnecessarily hazardous or unhealthful working conditions at the workplace and of stimulating employers and employees to institute new, and to perfect existing, programs for providing safe and healthful working conditions;

b. Provide for the publication and dissemination to employers, employees, and labor organizations, and the posting, where appropriate, by employers of informational, educational and training materials calculated to aid and assist in achieving the objectives of this act;

c. Provide for the establishment of new, and for the perfection and expansion of existing, programs for occupational safety and

health education for employers and employees and institute methods and procedures for the establishment of a program for voluntary compliance by employers and employees with the standards established pursuant to this act.

C. 34:6A-32 Promulgation of regulations.

8. The commissioner shall, in consultation with the Commissioner of Health and the Commissioner of Community Affairs and with the advice and consent of the advisory board, promulgate all regulations which he deems necessary for the proper administration and enforcement of this act. With respect to any regulations governing standards for either design or construction for structures or for equipment in laboratories of higher education institutions constituting, comprising or part of a workplace, the regulations may distinguish between structures completed or equipment in laboratories of higher education institutions purchased prior to the issuance of the regulations and those to be completed or purchased thereafter. Insofar as design and structural features of workplaces or equipment may, in the commissioner's judgment, be determined to comply with the requirements for a permanent variance as set forth in subsection c. of section 15 of this act without the need for further inquiry into the particular practices, means, methods, operations or processes used or to be used in any such workplace, the regulations may provide for the approval of those features, although they do not meet standards promulgated for new construction, without the necessity for a variance procedure. This exemption from obtaining a variance shall not apply to those areas specified in subsection a. of section 13 of this act which are under the jurisdiction of the Commissioner of Health nor to any work for which a construction permit is required pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.) and the regulations adopted thereunder, nor to any equipment, device or procedure required pursuant to the "Uniform Fire Safety Act," P. L. 1983, c. 383 (C. 52:27D–192 et al.), and the regulations adopted thereunder.

Absent a clear and present danger to the employees' health or safety, nothing in this act shall be construed to require landlords of space leased by a public employer to physically upgrade said premises beyond the level of health or safety rules and regulations in effect at the time the lease was executed. Deficiencies resulting either from occupant use or deferred maintenance by the lessor shall be subject to correction in accordance with the governing

rules and regulations at the time the lease went into effect. However, a lease may not be entered into after the promulgation of safety rules and regulations pursuant to this act unless the leased property is in conformance with such rules and regulations.

C. 34:6A-33 Responsibilities of employers.

9. Every employer shall:

a. Provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury or death to his employees;

b. Comply with occupational safety and health standards promulgated under this act; and

c. In the absence of existing standards take all prudent measures to comply with written recommendations made by the commissioner, the Commissioner of Community Affairs or the Commissioner of Health to reduce the risk of exposure to unsafe or unhealthful conditions which have been shown to be detrimental to employee health or safety. A written rationale including the scientific basis for each recommendation shall be presented to the affiected employer.

C. 34:6A-34 Public employee compliance.

10. Every public employee shall comply with occupational safety and health standards and all regulations promulgated under this act which are applicable to his own actions and conduct.

C. 34:6A-35 Inspections.

11. a. The commissioner shall be charged with making inspections in all regulated areas, except as may be provided pursuant to subsection a. of section 13 of this act.

b. The commissioner shall have the right of entry at reasonable hours into any workplace when he has reason to believe that a violation of safety standards exists and to conduct such investigations as he may deem necessary. The commissioner shall maintain records of the results of any such investigation, which shall be made available to the public upon request. The authority of the commissioner to inspect any premises for purposes of investigating an alleged violation of safety standards shall not be limited to the alleged violation but shall extend to any other area of the premises in which he has reason to believe that a violation of the safety standards promulgated under this act exists.

c. If the commissioner concludes that conditions or practices in violation of the prescribed safety standards exist in any workplace,

he shall inform the affected employees and employers of the danger.

C. 34:6A-36 Notice of safety violation.

12. a. Any employee, group of employees or employee representative who believes that a violation of a safety standard exists, or that an imminent danger exists, may request an inspection by giving notice to the commissioner of the violation or danger. The notice and request shall be in writing, shall set forth the grounds for the notice and shall be signed by the employee, a group of employees or an employee representative. The commissioner shall give affected public employers notice that a complaint has been filed, within five working days from receipt of the complaint, except that on the request of the person giving the notice, his name or the name of any employee representative giving the notice shall be withheld. The commissioner shall conduct an appropriate inspection at the earliest time possible.

The commissioner shall so interpret and administer this section so as to encourage any employee, group of employees or employee representative who believes that a violation of a safety standard exists, or that an imminent danger exists, to report that violation or danger in the first instance to the employer's safety officer.

b. A representative of the employer, the employee or employees giving the notice and an employee representative shall be given the opportunity to accompany the commissioner during an inspection for the purpose of aiding in such inspection. Where there is no authorized employee representative, the commissioner shall consult with a reasonable number of employees concerning matters of safety in the workplace.

c. Any employee who accompanies the commissioner on an inspection shall receive payment of normal wages for the time spent during the inspection.

d. The information obtained by the commissioner under this section shall be obtained with a minimum burden upon the employer.

C. 34:6A-37 Areas subject to inspection.

13. a. The Commissioner of the Department of Health shall be charged with making inspections in the following areas:

(1) Occupational health and environmental control;

(2) Medical and first aid;

(3) Toxic and hazardous substances; and

(4) Respiratory protective equipment.

b. The Commissioner of Health or his designee shall have the right of entry at reasonable hours into any workplace when he has reason to believe that a violation of health standards exists and to conduct such investigations as he may deem necessary. The Commissioner of Health shall maintain records of the results of any such investigation, which shall be made available to the public upon request. The Commissioner of Health shall make the records available to the commissioner for purposes of enforcement and for the purpose of reporting to the secretary. The authority of the Commissioner of Health to inspect any premises for purpose of investigating an alleged violation of health standards shall not be limited to the alleged violation but shall extend to any other area of the premises in which he has reason to believe that a violation of the health standards promulgated under this act exists.

c. If the Commissioner of Health concludes that conditions or practices in violation of the prescribed health standards exist in any workplace, he shall inform the affected employees and employers of the danger.

C. 34:6A-38 Notice by employees.

14. a. Any employee, group of employees or employee representative who believes that a violation of a health standard, or of a building, fire safety or structural standard exists, or that an imminent danger exists, may request an inspection by giving notice to the Commissioner of Health or to the Commissioner of Community Affairs, as the case may be, of the violation or danger. The notice and request shall be in writing, shall set forth the grounds for the notice and shall be signed by the employee, a group of employees or employee representative. The Commissioner of Health or the Commissioner of Community Affairs, as the case may be, shall give affected public employers notice that a complaint has been filed, within five working days from receipt of the complaint, except that on the request of the person giving the notice, his name or any employee representative giving the notice shall be withheld. The Commissioner of Health or the Commissioner of Community Affairs, as the case may be, shall conduct an appropriate inspection at the earliest time possible.

The commissioner shall so interpret and administer this section so as to encourage any employee, group of employees or employee representative who believes that a violation of a safety standard exists, or that an imminent danger exists, to report that violation or danger in the first instance to the employer's safety officer.

b. A representative of the employer, an employee giving the notice and an employee representative shall be given the opportunity to accompany the Commissioner of Health or the Commissioner of Community Affairs during an inspection for the purpose of aiding in such inspection. Where there is no authorized employee representative, the Commissioner of Health shall consult with a reasonable number of employees concerning matters of health in the workplace and the Commissioner of Community Affairs shall consult with a reasonable number of employees concerning matters of building, structural and fire safety in the workplace.

c. Any employee who accompanies the Commissioner of Health or the Commissioner of Community Affairs on an inspection shall receive payment of normal wages for the time spent during the inspection.

d. The information obtained by the Commissioner of Health or the Commissioner of Community Affairs under this section shall be obtained with a minimum burden upon the employer.

C. 34:6A-39 Variances.

15. a. Any employer may apply to the commissioner for a temporary order granting a variance from a standard or any provision thereof promulgated under this act. A temporary order shall be granted only if the employer files an application with the commissioner which meets the requirements of this section and establishes in a hearing conducted pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) and P. L. 1978, c. 67 (C. 52:14F–1 et seq.) that:

(1) he is unable to comply with the standard by its effective date because of the unavailability of professional or technical personnel or of materials and equipment needed to comply with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(2) he is taking all available steps to safeguard employees against the hazards covered by the standards; and

(3) he has an effective program for complying with the standard as quickly as practicable.

Any temporary order issued under this section shall prescribe the practices, means, methods, operations and processes which the employer shall adopt and use while the order is in effect and the order shall state in detail what the employer's program shall be for complying with the standard.

A temporary order may be granted only if notice to the employees is given; provided, however, that the commissioner may issue an interim order to be effective until a decision is made on the basis of the hearing. An employee representative or, where one does not exist, the affected employees, may appear at the hearing, with or without counsel, and submit testimony concerning the employer's application for the variance. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed no more than twice so long as the requirements of this section are met and if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect longer than 180 days.

b. An application for temporary variance shall contain:

(1) a specification of the standard or portion thereof from which the employer seeks a variance;

(2) a representation by the employer, supported by representations from qualified persons who have firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor;

(3) a statement of the steps he has taken and will take, with specific dates, to protect employees against the hazard covered by the standard;

(4) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take, with dates specified, to comply with the standard;

(5) a certification that he has informed his employees of the application by giving a copy thereof to their employee representative where one exists, and posting a statement at the place where notices to employees are normally posted, giving a summary of the application and specifying where a copy may be examined. A description of the notification procedure used by the employer shall be contained in the certification. The information to the employees shall also inform them of their right to appear and be heard, as set forth in subsection a. of this section, at the hearing on the variance application; and

(6) a statement, if appropriate, that such a variance is necessary to permit an employer to participate in an experiment approved by him designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

c. Any affected employer may apply to the commissioner for a rule or order for a permanent variance from a standard promulgated under this act. An employee representative or, where one does not exist, the affected employees, shall be given notice of each such application and shall be afforded an opportunity to participate in a hearing pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) and P. L. 1978, c. 67 (C. 52:14F–1 et seq.) on the merits of the application, with or without counsel, and to submit testimony. The commissioner shall issue such rule or order if he determines on the record, after an opportunity for an inspection, where appropriate, that the proponent of the variance has demonstrated, by a preponderance of the evidence, that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide workplaces which are as safe and healthful as possible under the circumstances justifying the variance. The rule or order so issued shall prescribe the conditions the employer shall maintain and the practices, means, methods, operations and processes which he shall adopt and utilize to the extent they differ from any standard adopted pursuant to this act. Such a rule or order may be modified or revoked upon application by an employer, any employee, group of employees or employee representative, or by the commissioner on his own motion, in the manner prescribed for its issuance under this section at any time after six months from its issuance.

d. In determining whether to grant a variance from a health standard, the commissioner shall consult with the Commissioner of Health. In determining whether to grant a variance from a building, fire safety or structural safety standard, the commissioner shall consult with the Commissioner of Community Affairs.

C. 34:6A-40 Employer records.

16. In accordance with the commissioner's regulations, each employer shall make available for up to five years the following records to the commissioner and the Commissioner of Health:

a. Records regarding the employer's activities relating to this act as the commissioner deems necessary or appropriate for developing information regarding the causes and prevention of occupational accidents and illnesses.

b. Such records, which shall be available for public inspection, regarding periodic reports of work-related deaths, and injuries and illnesses which involve lost time from work, medical treatment, loss

of consciousness, restriction of work or of motion, or which necessitate transfer to another job or function.

c. Such records regarding employee exposure to potentially toxic materials or other harmful physical agents which the regulations require to be monitored or measured. Each employee or former employee shall be informed of all records which will indicate his own exposure to toxic materials or harmful physical agents and the properties, characteristics and effects thereof. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by any safety and health standard promulgated under this act, and shall inform any employee who is being exposed of the corrective action being taken and the time limit for compliance pursuant to subsection a. of section 17 of this act.

C. 34:6A-41 Compliance orders.

17. a. If the commissioner determines that an employer has violated a provision of this act, or a safety or health standard or regulation promulgated under this act, he shall with reasonable promptness issue to the employer a written order to comply which shall describe the nature of the violation, including a reference to the provision of the section, standard, regulation or order alleged to have been violated, the sanction therefor, where appropriate, and shall fix a reasonable time for compliance. Determinations regarding health standards, and written orders issued pursuant thereto, shall be made in consultation with the Commissioner of Health.

b. Where the commissioner issues to an employer an order to comply, the employer shall post such order or a copy thereof at or near each location of the violation cited in the order so that it is clearly visible to affected employees. The commissioner shall make such order available to employee representatives and affected employees.

c. If the time for compliance with an order of the commissioner issued pursuant to this section elapses, and the employer has not made a good faith effort to comply, within its powers and financial resources, the employer shall be liable to a penalty of not more than $1,000.00 per day to be collected in a civil action commenced by the commissioner by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) in the Superior Court, county district court, or a municipal court, all of which shall have jurisdiction to enforce "the penalty enforcement law" in connection

with this act. If the violation is of a continuing nature, each day during which it continues after the date given for compliance in accordance with the order of the department shall constitute an additional, separate and distinct offense.

d. The commissioner is authorized to compromise and settle any claim for a penalty under this section in such amount as, in the discretion of the commissioner, may appear appropriate and equitable under all of the circumstances, including a rebate of any such penalty paid up to 90% thereof where such person satisfies the commissioner within one year or such other period as the commissioner may deem reasonable that such violation had been eliminated or removed or that such order or injunction has been met or satisfied, as the case may be. In any claim involving investigations conducted by the Department of Health, the commissioner shall make the determination as to the compromise or settlement of the claim in consultation with the Commissioner of Health.

C. 34:6A-42 Review commission.

18. a. There is established an Occupational Safety and Health Review Commission within the Department of Labor to hear appeals from citations, notifications and penalties issued under this act. The commission shall consist of three members appointed by the Governor from among persons who by reason of training, education or experience are qualified to carry out the functions of the commission. The Governor shall designate one of the members of the commission to serve as chairman.

b. Members of the review commission shall serve terms of four years and until their successors are appointed. The salaries, compensation and wages of the members of the commission shall be established by the commissioner. The Department of Labor shall provide the review commission with the support staff necessary for the review commission to perform its duties. The members and the support staff shall be reimbursed for necessary expenses incurred in the performance of their duties.

c. The review commission shall meet as often as is necessary to hear and rule on appeals from citations, notifications and penalties issued under this act. The review commission shall adopt rules with respect to the procedural aspects of its hearings.

d. The review commission shall hear and make a determination upon any proceeding instituted before it, and shall make a report of the determination which shall constitute its final disposition of the proceeding. The report shall become the final order of the commission within 30 days of the issuance of the report.

e. In the conduct of hearings the review commission may subpena and examine witnesses, require the production of evidence, administer oaths and take testimony and depositions.

f. After hearing an appeal the review commission may sustain, modify or dismiss a citation or penalty.

C. 34:6A-43 Appeal to Appellate Division.

19. Any appeal from a decision of the review commission shall be to the Appellate Division of the Superior Court.

C. 34:6A-44 Imminent danger.

20. The Attorney General, at the request of and on behalf of the commissioner, may bring an action in the Superior Court to restrain any conditions or practices in any workplace which the commissioner determines, in accordance with section 17 of this act, are such that a danger exists which could reasonably be expected to cause death or serious physical harm. Any order issued under this act may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists.

C. 34:6A-45 Retaliatory discrimination prohibited.

21. a. No person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this section or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or others of any right afforded by this section.

b. Any employee who believes that he has been discharged, disciplined or otherwise discriminated against by any person in violation of this section may, within 180 days after the employee first has knowledge such violation did occur, bring an action in the Superior Court against the person alleged to have violated the provisions of this section. In any such action, the Superior Court shall have jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay.

c. Nothing in this section shall be deemed to diminish the rights of any employee under any law, rule or regulation or under any collective negotiation agreement.

d. Any waiver by an employee or applicant for employment of the benefits or requirements of this act shall be against public policy

and be void and any employer's request or requirement that an employee waive any rights under this act as a condition of employment or continued employment shall constitute an act of discrimination.

C. 34:6A-46 "Cap" exemption.

22. The provisions of any law to the contrary notwithstanding, any expenditures required to meet the standards established by this act shall be exempt from any expenditure or appropriation increase limitation imposed under any law.

C. 34:6A-47 New construction.

23. The Commissioner of Labor, the Commissioner of Community Affairs and the Commissioner of Health shall serve in an advisory capacity to the New Jersey Commission on Capital Budgeting and Planning on matters of workplace safety and health, to ensure that new construction meets the standards established by this act.

C. 34:6A-48 No right to strike.

24. Nothing in this act shall be deemed to give public employees the right to strike over occupational safety and health issues.

C. 34:6A-49 Uniform codes not superseded.

25. Nothing in this act shall be deemed to conflict with or supersede any provision of the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.) or the code promulgated thereunder or to affect or limit the powers, duties, authority and responsibilities of the Commissioner of Community Affairs or any enforcing agency thereunder. Nothing in this act shall be deemed to conflict with or supersede any provision of the "Uniform Fire Safety Act," P. L. 1983, c. 383 (C. 52:27D–192 et al.), or the code promulgated thereunder, nor affect or limit the powers, duties, authority and responsibilities of the Commissioner of Community Affairs or any enforcing agency thereunder.

26. There is appropriated the sum of $100,000.00 from the General Fund to effectuate the purposes of this act. The sum appropriated herein shall be allocated by the Director of the Division of Budget and Accounting to the Departments of Labor and Health upon his approval of an application therefor.

27. This act shall take effect immediately, except that the standards adopted pursuant to section 6 of this act shall not become operative with regard to any employer as defined in subsection (1) of paragraph c. of section 3 of this act until the first day immediately following the first year after the standards otherwise take

effect, and further, that the standards adopted pursuant to section 6 of this act shall not become operative with regard to any employer as defined in subsection (2) of paragraph c. of section 3 of this act until the first day immediately following the second year after the standards otherwise take effect.

Approved January 17, 1984.

CHAPTER 517

AN ACT concerning autobus fare increases 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. 48:4-2.20 Establishment of bus fares.

1. Notwithstanding the provisions of chapter 2 of Title 48 of the Revised Statutes or any other law to the contrary, all autobuses regulated by and subject to the provisions of Title 48 of the Revised Statutes may establish their rates, fares and charges in accordance with this act.

As used in this act "autobus" means any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business which is regulated by and subject to the provisions of Title 48 of the Revised Statutes.

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

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

services, such as rail services, in establishing the "zone of rate freedom" for each period. Prior to the promulgation of the percentage the commissioner shall hold a public hearing pursuant to subsections (a) and (g) of section 4 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–4).

C. 48:4-2.22 Rate filing.

3. Any rate, fare or charge for regular route autobus service filed by an owner or operator of an autobus with the Department of Transportation pursuant to this act shall be conclusively presumed to be just and reasonable and no action shall be required by the department for any rate, fare or charge to become effective if:

a. the autobus owner or operator notifies the department that it is filing the rate, fare or charge pursuant to this act; and

b. the increase or decrease in the rate, fare or charge, or an aggregate of increases and decreases in any single rate, fare or charge, is not more than the maximum percentage increase or decrease promulgated by the commissioner for the "zone of rate freedom" pursuant to this act for the year in question.

C. 48:4-2.23 Notification of adjustments.

4. An owner or operator of an autobus which adjusts rates, fares or charges for regular route autobus service under this act shall be required to notify the Department of Transportation at least 30 days prior to the effective date of the adjusted rate, fare or charge by filing with the department a complete schedule of all rates, fares or charges to be adjusted. In addition, public notice shall be posted in all autobuses providing service on the route affected by the adjusted rates, fares or charges and in all bus terminals served by those autobuses on the route at least 10 days prior to the effective date of the adjusted rates, fares or charges.

C. 48:4-2.24 Other laws applicable.

5. An owner or an operator of an autobus filing any rate, fare or charge for regular route autobus service pursuant to this act shall not be precluded from also establishing any rates, fares or charges in accordance with the provisions of R. S. 48:2–21 and R. S. 48:2–21.1 or any other provisions of law.

C. 48:4-2.25 Charter special bus operations.

6. The provisions of this act shall apply to the rates, fares and charges of autobuses for charter bus operations and special bus

operations in the same manner as they apply to the rates, fares and charges of autobuses for regular route service except that:

a. The commissioner may establish a different "zone of rate freedom" for charter and special bus operations relying on the special features of this sector of the bus industry;

b. Public notice regarding the rates, fares, and charges for charter and special bus operations pursuant to section 4 of this act shall only be required to be posted in all bus terminals served by the autobus offering charter or special services at least 10 days prior to the effective date of the adjusted rates, fares, or charges;

c. Upon petition or upon his own motion, the commissioner may exempt charter or special rates, fares and charges of any owner or operator of an autobus offering charter or special bus operations, or rates, fares and charges of any portion of these operations, from regulation under Title 48 of the Revised Statutes if, in his opinion, there are circumstances prevalent with respect to those operations, or any portion thereof, which will be consistent with the interests of the consumers or users of charter or special bus services;

d. Upon petition or upon his own motion, the commissioner may exempt charter and special rates, fares and charges of all owners or operators of autobuses offering charter or special bus operations from regulation under Title 48 of the Revised Statutes if, in his opinion, there are circumstances prevalent with respect to the charter and special bus sector of the bus industry which will be consistent with the interests of the consumers or users of charter and special bus services; and

e. The commissioner may reimpose regulation under Title 48 of the Revised Statutes of charter and special rates, fares and charges of owners or operators of autobuses offering charter or special bus operations if, in his opinion, there are circumstances prevalent with respect to the charter and special bus industry which are or will be inconsistent with the interests of the consumers or users of charter and special bus services.

7. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 518

AN ACT concerning higher education and amending N. J. S. 18A:64A–1 and P. L. 1974, c. 89.

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

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

Definitions.

18A:64A–1. As used in this chapter:

a. "Base year" means the fiscal year two years prior to that in which the budget is to be implemented; provided, however, for determining the level of State aid for fiscal 1982, the "base year" shall be the fiscal year three years prior to that in which the budget is to be implemented;

b. "Capital outlay expense" means those funds devoted to or required for the acquisition, landscaping or improvement of land; the acquisition, construction, reconstruction, improvement, remodeling, alteration, addition or enlargement of buildings or other structures; and the purchase of furniture, apparatus and other equipment;

c. "County college" means an educational institution established or to be established by one or more counties, offering programs of instruction, extending not more than two years beyond the high school, which may include but need not be limited to specialized or comprehensive curriculums, including college credit transfer courses, terminal courses in the liberal arts and sciences, and technical institute type programs;

d. "Educational and general costs" means expenditures of a county college audited and approved according to regulations established by the Board of Higher Education;

e. "Local bond law" means the local bond law, chapters 1 and 2 of Title 40A of the New Jersey Statutes (N. J. S. 40A:1–1 et seq.);

f. "Operational expense" means those funds devoted to or required for the regular or ordinary expenses of the college, including administrative, maintenance, minor capital and salary expenses but excluding capital outlay expenses;

g. "Elected public official" means a person elected to a public office in the State of New Jersey other than an elected representa-

tive serving on a board of education pursuant to the provisions of N. J. S. 18A:12–1 and section 1 of P. L. 1977, c 30 (C. 18A:54–16.1).

2. Section 3 of P. L. 1974, c. 89 (C. 18A:64A–32) is amended to read as follows:

C. 18A:64A-32 Community college commission.

3. The community college commission shall consist of the county superintendent of schools and nine public members who are residents of the county and have resided therein for a period of four years prior to their appointments, having no official connection with educational institutions contracting with the commission. No elected public official shall serve as a voting member of the commission. The president of the commission shall be an ex officio member of the commission without vote.

Seven of the public members shall be appointed by the appointing authority of the county, with the advice and consent of the board of chosen freeholders, and two of the members shall be appointed by the State Board of Higher Education, subject to the approval of the Governor, for such initial terms as shall be established by the board. Members shall be appointed for terms of four years each, except that the initial appointments shall be made in four classes as nearly equal as possible in number, one class to serve for one year, one class to serve for two years, one class to serve for three years, and one class to serve for four years. The terms of all members of the commission shall begin on July 1. Members initially appointed to the commission may serve from the time of their respective appointments, but the term of such office shall be deemed to commence as of July 1 of the year in which the appointment was made. Each member shall serve until his successor shall have been appointed and qualified. Vacancies shall be filled in the same manner as the original appointments and for the remainder of the unexpired terms. Any appointed member may be removed by the appointing authority of the county for cause upon notice and opportunity to be heard. The members of the commission shall serve without compensation for their services, but shall be entitled to receive reimbursement for all reasonable and necessary expenses incurred by virtue of services as a member of the commission.

A voting member of a community college commission shall not be eligible to accept employment of the college at which he has served as a member of the commission for a period of two years following resignation or expiration of his term as a member.

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

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 519

AN ACT concerning equitable distribution of certain matrimonial property upon entry of judgments of divorce under certain circumstances, and amending N. J. S. 2A:34–23.

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

1. N. J. S. 2A:34–23 is amended to read as follows:

Alimony, maintenance; equitable distribution.

2A:34–23. Pending any matrimonial action brought in this State or elsewhere, or after judgment of divorce or maintenance, whether obtained in this State or elsewhere, the court may make such order as to the alimony or maintenance of the parties, and also as to the care, custody, education and maintenance of the children, or any of them, as the circumstances of the parties and the nature of the case shall render fit, reasonable and just, and require reasonable security for the due observance of such orders. Upon neglect or refusal to give such reasonable security, as shall be required, or upon default in complying with any such order, the court may award and issue process for the immediate sequestration of the personal estate, and the rents and profits of the real estate of the party so charged, and appoint a receiver thereof, and cause such personal estate and the rents and profits of such real estate, or so much thereof as shall be necessary, to be applied toward such

alimony and maintenance as to the said court shall from time to time seem reasonable and just; or the performance of the said orders may be enforced by other ways according to the practice of the court. Orders so made may be revised and altered by the court from time to time as circumstances may require.

In all actions brought for divorce, divorce from bed and board, or nullity the court may award alimony to either party, and in so doing shall consider the actual need and ability to pay of the parties and the duration of the marriage. In all actions for divorce other than those where judgment is granted solely on the ground of separation the court may consider also the proofs made in establishing such ground in determining an amount of alimony or maintenance that is fit, reasonable and just. In all actions for divorce or divorce from bed and board where judgment is granted on the ground of institutionalization for mental illness the court may consider the possible burden upon the taxpayers of the State as well as the ability of the plaintiff to pay in determining an amount of maintenance to be awarded.

In all actions where a judgment of divorce or divorce from bed and board is entered the court may make such award or awards to the parties, in addition to alimony and maintenance, to effectuate an equitable distribution of the property, both real and personal, which was legally and beneficially acquired by them or either of them during the marriage. However, all such property, real, personal or otherwise, legally or beneficially acquired during the marriage by either party by way of gift, devise, or intestate succession shall not be subject to equitable distribution, except that interspousal gifts shall be subject to equitable distribution.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 520

AN ACT concerning county and municipal support of first aid and emergency or volunteer ambulance or rescue squad associations, and amending R. S. 40:5–2.

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

1. R. S. 40:5–2 is amended to read as follows:

Contributions to first aid squads.

40:5–2. Any county or municipality may make a voluntary contribution of not more than $25,000.00 annually to any duly incorporated first aid and emergency or volunteer ambulance or rescue squad association of the county, or of any municipality therein, rendering service generally throughout the county, or any of the municipalities thereof. In addition, if any such associations experience extraordinary need, the county or municipality may contribute an additional amount of not more than $25,000.00 annually; provided, however, that the need for such additional funds is established by the association and is directly related to the performance of said association's duties. The chief financial officer of the county or municipality shall receive an audit performed by a certified public accountant or a registered municipal accountant in any year in which any contribution is made of each association's financial records for the previous fiscal year and shall file a copy thereof with the clerk of the county or municipality.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 521

AN ACT concerning trespass on agricultural or horticultural lands, amending R. S. 4:17–2, and repealing R. S. 4:17–1.

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

1. R. S. 4:17–2 is amended to read as follows:

Trespass on agricultural lands.

4:17–2. Any person who trespasses upon the agricultural or horticultural lands of another is liable to a penalty of not less than $100.00, to be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.). The Superior Court and county district court shall have jurisdiction to enforce "the penalty enforcement law." If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense. As used in this

act, "agricultural or horticultural lands" means lands devoted to the production for sale of plants and animals useful to man, encompassing plowed or tilled fields, standing crops or their residues, cranberry bogs and appurtenant dams, dikes, canals, ditches and pump houses, including impoundments, man-made reservoirs and the adjacent shorelines thereto, orchards, nurseries and lands with a maintained fence for the purpose of restraining domestic livestock. "Agricultural or horticultural lands" shall also include lands in agricultural use, as defined in section 3 of P. L. 1983, c. 32 (C. 4:1C–13), where public notice prohibiting trespass is given by actual communication to the actor, conspicuous posting, or fencing or other enclosure manifestly designed to exclude intruders. Nothing in this act shall relieve owners of agricultural or horticultural lands from the obligation to provide conspicuous posting prohibiting trespass on the waters or banks along or around any waters listed for stocking with fish in the current fish code adopted pursuant to section 32 of P. L. 1948, c. 448 (C. 13:1B–30) before a trespass violation may be found.

Repealer.

2. R. S. 4:17–1 is repealed.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 522

AN ACT concerning certain intrusive or damaging acts on agricultural or horticultural lands 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:18-4 Definition of "lands".

1. As used in this act, "lands" means agricultural or horticultural lands devoted to the production for sale of plants and animals useful to man, encompassing plowed or tilled fields, standing crops or their residues, cranberry bogs and appurtenant dams, dikes, canals, ditches and pump houses, including impoundments, man-made reservoirs and the adjacent shorelines thereto, orchards,

nurseries, and lands with a maintained fence for the purpose of restraining domestic livestock. "Lands" shall also include lands in agricultural use, as defined in section 3 of P. L. 1983, c. 32 (C. 4:1C–13), where public notice prohibiting trespass is given by actual communication to the actor, conspicuous posting, or fencing or other enclosure manifestly designed to exclude intruders.

C. 2C:18-5 Offenses.

2. It is an offense under this act to:

a. Knowingly or recklessly operate a motorized vehicle or to ride horseback upon the lands of another without obtaining and in possession of the written permission of the owner, occupant, or lessee thereof.

b. Knowingly or recklessly damage or injure any tangible property, including, but not limited to, any fence, building, feedstocks, crops, live trees, or any domestic animals, located on the lands of another.

C. 2C:18-6 Penalties.

3. a. An offense pursuant to section 2 of this act is a crime of the third degree if the actor causes pecuniary loss of $2,000.00 or more; a crime of the fourth degree if the actor causes pecuniary loss in excess of $500.00 but less than $2,000.00; and a disorderly persons offense if he causes pecuniary loss of $500.00 or less.

b. The provisions of N. J. S. 2C:43–3 to the contrary notwithstanding, in addition to any other sentence which the court may impose, a person convicted of an offense under this act shall be sentenced to make restitution, and to pay a fine of not less than $500.00 if the offense is a crime of the third degree; to pay a fine of not less than $200.00 if the offense is a crime of the fourth degree; and to pay a fine of not less than $100.00 when the conviction is of a disorderly persons offense.

4. This act shall take effect immediately but subsection a. of section 2 shall remain inoperative until the effective date of P L. 198 , c. . . . (C. . . . .) (now pending before the Legislature as Assembly Bill No. 3130 of 1983).

Approved January 17, 1984.

CHAPTER 523

AN ACT appropriating moneys from the "Natural Resources Fund" for the purpose of planning, design, reconstruction, restoration and rehabilitation of certain dams.

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 "Natural Resources Fund," created pursuant to the "Natural Resources Bond Act of 1980," P. L. 1980, c. 70, the sum of $10,300,000.00 for dam restoration for State projects and for matching grants to local governments for the following projects: Farrington Lake Dam (New Brunswick), West Branch Reservoir Dam (Somerset county), East Branch Reservoir Dam (Somerset county), Clyde Potts Dam (Southeast Morris County MUA), Manalapan Lake Dam (Middlesex county), Clinton Reservoir Dam (city of Newark), Lake Lenape Dam (Hamilton township, Atlantic county), Boonton Dam on Rockaway River (Jersey City), Parsippany Dike on Rockaway River (Jersey City), Split Rock Pond Dam on Beaver Brook (Jersey City), Mirror Lake Dam (Pemberton township), Devoe Lake Dam (Spotswood borough), Mountain Lakes Dam (Mountain Lakes borough), and for administrative costs.

2. The sum appropriated above for each individual project will be for 50% grants to the local governments up to a maximum of $1,000,000.00. Any unexpended sum from these grants shall revert to the "Natural Resources Fund" for subsequent appropriation by the Legislature. The Commissioner of the Department of Environmental Protection shall inform the Subcommittee on Transfers of the Joint Appropriations Committee, in writing, as to the plan of expenditure of the funds appropriated by this act and any subsequent changes thereto.

3. The expenditures of sums appropriated by this act are subject to the provisions and conditions of P. L. 1980, c. 70.

4. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 524

AN ACT concerning the deinstitutionalization of the developmentally disabled and supplementing P. L. 1977, c. 82 (C. 30:6D–1 et seq.).

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

C. 30:6D-13 Findings, declarations.

1. The Legislature finds that in keeping with current State and national goals, increasing numbers of developmentally disabled persons are being placed into community residences as an alternative to institutional confinement. Such deinstitutionalization is highly desirable since it can lead to a fuller, richer, and more independent life for developmentally disabled persons. However, because of their disabilities, they may be vulnerable to abuse, neglect, and exploitation in the community unless appropriate safeguards are established and necessary services are delivered to them in a wholesome environment. Therefore, the well-being of developmentally disabled persons living under State sponsorship in the community requires clarification of their rights and the rights of family members and other persons interested in their welfare, and a delineation of the responsibilities of the Department of Human Services.

C. 30:6D-14 Definitions.

2. As used in this act:

a. "Department" means the Department of Human Services.

b. "Community residential facility" means any residential arrangement, public or private, other than an institution, in which one or more developmentally disabled persons reside under the sponsorship of the department. A family home in which all of the developmentally disabled persons residing within are related to the head of the household by blood, marriage or adoption is not a community residential facility.

c. "Transfer" means moving a developmentally disabled person from an institution to a community residential facility, from one community residential facility to another, or from a community residential facility to an institution. The placement of a person who has never before received services from the department directly into a community residential facility is a transfer.

C. 30:6D-15 Application.

3. This act shall apply to every developmentally disabled person who is receiving services from the department, is not related by reason of blood, marriage or adoption to the operator of the community residential facility, and who has been placed in a community residential facility since October 1, 1976 or who will be placed in a community residential facility after the effective date of this act.

C. 30:6D-16 Individual plans.

4. a. Except in emergency situations, the department shall ensure that an individual habilitation plan is prepared for each developmentally disabled person subject to transfer at least 30 days prior to the time the actual transfer takes place. In addition to conforming to the requirements of sections 11 and 12 of P. L. 1977, c. 82 (C. 30:6D–11 and 30:6D–12), the plan shall state with particularity what habilitation goals shall be achieved for a transfer to be successful and what services, supervision, and living arrangements are needed to secure compliance with this act once the transfer is made. No transfer shall occur until all enumerated elements of the plan can be made available. A copy of the prepared plan shall be immediately given to every person participating in its development and review.

b. Before a transfer occurs, persons participating in the development and review of the plan shall be given the opportunity to inspect the site of the proposed transfer and the site where the proposed services will be rendered. The appointment of a State employee as guardian of the developmentally disabled person shall not relieve the department of its responsibility to give parents and other interested persons an opportunity to participate in the development and review of the plan and to inspect proposed sites. A representative of the operator of the community residential facility shall also be given an opportunity to participate in the development and review of the plan.

c. The department shall ensure that the individual habilitation plan is reviewed not earlier than four weeks and not later than six weeks after the transfer occurs.

C. 30:6D-17 Required services.

5. The department shall ensure that every developmentally disabled person in a community residential facility receives adequate medical and dental care, a nutritionally adequate diet, a full daily program of structured activities, and those other services which are necessary to maximize the developmental potential of the develop-

mentally disabled person in a manner least restrictive of personal liberty. Every developmentally disabled person shall have adequate protection from abuse and a wholesome environment in which to live.

All rights and procedures for the enforcement of rights recognized in sections 4, 5 and 7 of the "Developmentally Disabled Rights Act," P. L. 1977, c. 82 (C. 30:6D–4, 30:6D–5 and 30:6D–7) shall apply to persons covered by this act.

C. 30:6D-18 Location criteria.

6. To the maximum extent possible, the department shall not transfer any developmentally disabled person to a geographic location that cannot be readily visited by those persons interested in the well-being of the developmentally disabled person or to a location that does not afford reasonable employment opportunities in the case of a developmentally disabled person with employment potential.

C. 30:6D-19 Trained staff.

7. The department shall not allow a developmentally disabled person to be transferred or to reside in a community residential facility unless the staff of the facility is adequately trained to meet the needs of the developmentally disabled, to use and operate fire and life-safety equipment, and trained in other areas as the department determines necessary.

C. 30:6D-20 Monthly visit.

8. The department shall ensure that every developmentally disabled person covered by this act is visited at least monthly by a case manager employed by the department or by an agency under contract to the department.

C. 30:6D-21 Retransfer provision.

9. A transfer shall be made only when consistent with the best interests of the developmentally disabled person. The department shall ensure that a developmentally disabled person who fails to adjust to life in a community residential facility may return to the institution or other facility from which he was transferred or to a more suitable community residential facility.

C. 30:6D-22 Rules, regulations.

10. The Commissioner of the Department of Human Services shall promulgate those rules and regulations as are necessary to effectuate this act.

11. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 525

AN ACT concerning domestic animal control and amending and supplementing P. L. 1941, c. 151.

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

1. Section 1 of P. L. 1941, c. 151 (C. 4:19–15.1) is amended to read as follows:

C. 4:19-15.1 Definitions.

1. "Certified animal control officer" means a person 18 years of age or older who has satisfactorily completed a course of study approved by the Commissioner of Health on the control of animals, prescribed by this amendatory and supplementary act or who has been employed in the State of New Jersey in the capacity of, and with similar responsibilities to those required of certified animal control officers pursuant to the provisions of this act, for a period of three years.

"Dog" shall mean any dog, bitch or spayed bitch.

"Dog of licensing age" shall mean any dog which has attained the age of seven months or which possesses a set of permanent teeth.

"Kennel" shall mean any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop.

"Pet shop" shall mean any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs for sale are kept or displayed.

"Pound" shall mean an establishment for the confinement of dogs seized either under the provisions of this act or otherwise.

"Shelter" shall mean any establishment where dogs are received, housed and distributed.

"Owner" when applied to the proprietorship of a dog shall include every person having a right of property in such dog and every person who has such dog in his keeping.

2. Section 16 of P. L. 1941, c. 151 (C. 4:19–15.16) is amended to read as follows:

C. 4:19-15.16 Destruction of dogs.

16. Any person appointed for the purpose by the governing body of the municipality shall take into custody and impound or cause to be taken into custody and impounded, and thereafter destroyed or disposed of as provided in this section:

(a) Any dog off the premises of the owner or of the person keeping or harboring said dog which said official or his agent or agents have reason to believe is a stray dog;

(b) Any dog off the premises of the owner or of the person keeping or harboring said dog without a current registration tag on his collar;

(c) Any female dog in season off the premises of the owner or of the person keeping or harboring said dog;

(d) Any dog or other animal which is suspected to be rabid;

(e) Any dog or other animal off the premises of the owner reported to, or observed by, a certified animal control officer to be ill, injured or creating a threat to public health, safety or welfare, or otherwise interfering with the enjoyment of property.

If any animal so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the person keeping or harboring said animal is known, any person authorized by the governing body shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring said animal, if known, a notice in writing stating that the animal has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after the service of the notice.

A notice under this section may be served either by delivering it to the person on whom it is to be served, or by leaving it at the person's usual or last known place of abode, or at the address given on the collar, or by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode, or to the address given on the collar.

When any dog so seized has been detained for seven days after notice, when notice can be given as above set forth, or has been detained for seven days after seizure, when no notice has been given as above set forth and if the owner or person keeping or harboring said dog has not claimed said dog and paid all expenses incurred by reason of its detention, including maintenance not exceeding $4.00 per day, and if the dog be unlicensed at the time of the

seizure and the owner or person keeping or harboring said dog has not produced a license and registration tag for said dog, any person authorized by the governing body may cause the dog to be destroyed in manner causing as little pain as possible and consistent with the provisions of R. S. 4:22–19. No dog or other animal so caught and detained or procured, obtained, sent or brought to a pound or shelter shall be sold or otherwise made available for the purpose of experimentation. Any person who sells or otherwise makes available any such dog or other animal for the purpose of experimentation shall be guilty of a disorderly persons offense.

After observation, any animal seized under this section suspected of being rabid shall be immediately reported to the executive officer of the local board of health and to the Department of Health.

C. 4:19-15.16a Qualifications for animal control officers.

3. (New section) a. The Commissioner of Health shall, within 120 days after the effective date of this amendatory and supplementary act and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), adopt rules and regulations concerning the training and educational qualifications for the certification of animal control officers including, but not limited to, a course of study approved by the commissioner, which acquaints a person with:

(1) The law as it affects animal control and welfare;

(2) Animal behavior and the handling of stray or diseased animals; and

(3) Community safety as it relates to animal control.

b. The commissioner shall provide for the issuance of a certificate to a person who possesses, or acquires, the training and education required to qualify as a certified animal control officer pursuant to the provisions of this act and the issuance of a certificate to a person who has been employed in the State of New Jersey in the capacity of, and with similar responsibilities to those required of certified animal control officers pursuant to the provisions of this act, for a period of three years.

C. 4:19-15.16b Appointment of certified officer.

4. (New section) The governing body of a municipality shall, within three years of the effective date of this amendatory and supplementary act, appoint a certified animal control officer who shall be responsible for animal control within the jurisdiction of

the municipality and who shall enforce and abide by the provisions of section 16 of P. L. 1941, c. 151 (C. 4:19–15.16).

5. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 526

AN ACT to amend the "Delaware River Basin Compact," approved May 1, 1961 (P. L. 1961, c. 13).

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

1. Section 12.9 of P. L. 1961, c. 13 (C. 32:11D–72) is amended to read as follows:

C. 32:11D-72 Interest.

12.9. Interest. Bonds shall bear interest at a rate determined by the commission, payable annually or semiannually.

2. This act shall take effect upon the enactment of legislation having identical effect by the United States, the States of Delaware and New York and the Commonwealth of Pennsylvania.

Approved January 17, 1984.

CHAPTER 527

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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 moneys to support the expenditures listed below are available, the following sum is appropriated:

FEDERAL FUNDS

DEPARTMENT OF LABOR

Economic Planning, Development, and Security

54 Manpower and Employment Services

10-4545	Employment Development Services	$1,828,086
	Total Appropriation, Manpower and Employment Services	$1,828,086
	Special Purpose:	
	Dislocated workers' program ($1,828,086)	
	Total Appropriation, Department of Labor	$1,828,086
	Total Appropriation, Federal Funds	$1,828,086

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 528

AN ACT providing for the sale and disposition of wearing apparel, household goods and other items remaining unclaimed at dry-cleaning shops, tailor shops and other similar business establishments in certain cases.

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

C. 2A:44-19.1 Definition of customer.

1. "Customer" means the owner, a representative of the owner, or a person lawfully in possession of any of the goods enumerated in section 2 of this act.

C. 2A:44-19.2 Lien for charges.

2. Any person who performs dry cleaning, pressing, glazing, dyeing, washing, laundering, alteration, tailoring or repairs, or

uses or furnishes materials or supplies, upon any garment, clothing, wearing apparel (exclusive of furs), draperies, curtains, slipcovers or furniture covers, or stores any of the same, at the request of or with the consent of a customer, shall have a lien thereon for the agreed charges for the work, services, storage, materials or supplies, or, in the event there has been no agreed charge, for the reasonable value thereof.

C. 2A:44-19.3 Sale of goods.

3. In the event that payment is not made of the agreed charges or the reasonable value thereof for the work, services, storage, materials or supplies within 90 days after any of the goods were to be delivered or to be available to the customer, the goods may be sold at a public or private sale to pay the agreed or reasonable charges together with the cost of notifying the customer. The person to whom the charges are payable and owing shall, at least 30 days prior to the sale, give notice of the time and place of the sale to the customer. The notice shall be mailed to the customer at his last known address by certified mail, return receipt requested. Where the address of the customer is unknown, the posting of a notice of the sale in a prominent place in a public portion of the premises of the person required to give the notice shall constitute notice.

C. 2A:44-19.4 Disposition of proceeds.

4. Upon the completion of a sale pursuant to the provisions of this act, the proceeds thereof shall be used to pay the reasonable or agreed to charges for work, services, storage, materials or supplies, together with the expenses thereof, including the cost of notifying the customer of the sale, and the balance remaining, if any, shall be forwarded to the customer at the last known address together with a statement of the distribution of the proceeds of the sale.

If the address of the customer is unknown, the balance remaining shall be held by the person performing or furnishing the work, services, storage, materials or supplies for a period of 6 months from the date of the disposition to be paid to the customer upon demand during this period of time. Upon the expiration of the aforesaid period of six months, amounts unclaimed shall be paid to the treasurer of the municipality in which the premises are located, for the use of the municipality.

C. 2A:44-19.5 Disposal of goods.

5. If after reasonable effort the goods cannot be sold as provided by this act, they may be given away or otherwise disposed of as the holder thereof shall determine.

C. 2A:44-19.6 Action for debt.

6. Nothing in this act shall be construed to bar any person from maintaining an action for debt against a customer, except that the proceeds of any sale, after deductions of expenses thereof, shall be credited upon the debt so due. If sale is held prior to entry of judgment, judgment shall be entered only for the amount of the debt then due and owing after application of the proceeds of the sale.

C. 2A:44-19.7 Notice required.

7. The provisions of this act shall apply to all persons performing or furnishing the work, services, storage, materials or supplies on goods who at the time the agreement to furnish or perform the same was made and at all times thereafter kept posted in a prominent place in a public portion of the premises the following notice:

"All articles cleaned, pressed, glazed, dyed, laundered, washed, altered, tailored, stored or repaired and not called for within 90 days thereafter are subject to sale as provided by law."

C. 2A:44-19.8 Assignment.

8. The lien and indebtedness on which it is founded may be assigned without impairing the lien and the lien may be enforced by the assignee directly.

C. 2A:44-19.9 Liability extinguished.

9. Conformance with the provisions of this act shall extinguish any liability of any person who causes goods to be sold or disposed of pursuant hereto.

10. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 529

AN ACT concerning podiatry and amending R. S. 45:5–1.

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

1. R. S. 45:5–1 is amended to read as follows:

D.S.C., D.P., D.P.M. defined.

45:5–1. The degree of "D.S.C." is the abbreviation for "doctor of surgical chiropody" and the degree of "D.P." is the abbreviation for "doctor of podiatry" and the degree of "D.P.M." is the abbreviation for "doctor of podiatric medicine" when used in this chapter.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 530

AN ACT to consolidate the New Jersey Housing Finance Agency and the New Jersey Mortgage Finance Agency into a new agency to be known as the New Jersey Housing and Mortgage Finance Agency, establishing its powers and duties, providing for the financing by it of housing in the State and providing for the issuance of bonds, notes and other evidences of financial indebtedness by it.

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

C. 55:14K-1 Short title.

1. This act shall be known as and may be cited as the "New Jersey Housing and Mortgage Finance Agency Law of 1983."

C. 55:14K-2 Findings, declarations.

2. The Legislature hereby finds that:

a. Changing economic conditions and financial markets have reduced the availability in the private sector of feasible construction and permanent financing for: (1) the construction of new housing, (2) the conversion of non-residential structures to housing, (3) the rehabilitation and improvement of existing housing and (4) the transfer of existing housing among owners; and these conditions pertain to both rental housing and owner-occupied housing;

b. The foregoing conditions adversely affect the economy of this State and reduce the number of opportunities for adequate and affordable housing in the State that are available to New Jersey residents;

c. Since their creation the New Jersey Mortgage Finance Agency and the New Jersey Housing Finance Agency have contributed significantly to the achievement of the housing goals of New Jersey, providing over 30,000 units of affordable rental housing, and nearly 30,000 loans for home ownership, as well as numerous loans for home improvement;

d. The continued contribution of these two agencies depends on the adaptation of their powers to changing federal housing programs and policies, financing availability for housing and the housing needs of New Jersey residents; and

e. The combination and enhancement of the powers of the two agencies with respect to the full range of housing types would achieve an economy of scale and better equip the State to deal with the changing housing needs of an increasingly diverse population and economy.

The Legislature therefore declares that it is in the best interests of the residents of New Jersey to create a strong, unified advocate for housing production, finance and improvement which will combine available talent, resources and experience to:

(1) Assure the availability for both rental housing and owner-occupied housing of feasible construction and permanent financing for new housing construction, the conversion of non-residential structures to housing, the rehabilitation and improvement of existing housing, and the transfer of existing housing among owners;

(2) Stimulate the construction, rehabilitation and improvement of adequate and affordable housing in the State so as to increase the number of opportunities for adequate and affordable housing in the State for New Jersey residents, including particularly New Jersey residents of low and moderate income;

(3) Enhance the productive capacity of the private sector in meeting the housing needs of the residents of the State;

(4) Assist in the revitalization of the State's urban areas; and

(5) Respond to changing housing demographic and economic circumstances by the development of innovative and flexible finance vehicles.

Therefore, this act provides for the consolidation of the New Jersey Housing Finance Agency and the New Jersey Mortgage Finance Agency into an agency to be known as the New Jersey Housing and Mortgage Finance Agency.

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 this act, 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 retirement community, whether new construction or rehabilitation, which is designed for the primary purpose of providing rental housing of more than 25 dwelling units.

i. "Housing sponsor" means any person, partnership, corporation or association 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.

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.

C. 55:14K-4 New Jersey Housing and Mortgage Finance Agency established.

4. a. The New Jersey Housing Finance Agency, created by section 4 of P. L. 1967, c. 81 (C. 55:14J–4) and the New Jersey Mortgage Finance Agency created by section 4 of P. L. 1970, c. 38 (C. 17:1B–7) are hereby consolidated into a single agency which shall be known as the New Jersey Housing and Mortgage Finance Agency, which shall be a continuance of the corporate existence of those agencies.

b. In this section, the words "original agencies" refer to the agencies which are consolidated pursuant to subsection a. of this section before their consolidation, and the word "agency" refers to the single agency resulting from that consolidation.

c. All property, rights and powers of each of the original agencies are hereby vested in and shall be exercised by the agency, subject, however, to all pledges, covenants, agreements and trusts made or created by the original agencies, respectively.

d. All debts, liabilities, obligations, agreements and covenants of the original agencies are hereby imposed upon the agency. Any property of the original agencies in which a mortgage or security interest has been granted to any bondholders or other creditors of either of the original agencies shall continue to be subject to that

mortgage or security interest until the mortgage or security interest is defeased or terminated in accordance with its terms. All bondholders and other creditors of the original agencies and persons having claims against or contracts with the original agencies of any kind or character may enforce those debts, claims and contracts against the agency in the same manner as they might have against the original agencies respectively, and the rights and remedies of those bondholders, creditors and persons having claims or contracts shall not be limited or restricted in any manner by this act.

e. In continuing the functions and carrying out the contracts, obligations and duties of the original agencies, the agency is hereby authorized to act in its own name or in the name of either of the original agencies as may be convenient or advisable.

f. Any references to either of the original agencies in any other law or regulation shall be deemed to refer to and apply to the agency.

g. All regulations of the original agencies shall continue to be in effect as the regulations of the agency until amended, supplemented or rescinded by the agency in accordance with law.

h. All employees of the original agencies shall become employees of the agency. Nothing in this title shall affect the civil service status, if any, of those employees or their rights, privileges, obligations or status with respect to any pension or retirement system.

i. The agency is hereby established in, but not of, the Department of Community Affairs and constituted a body politic and corporate and an instrumentality exercising public and essential governmental functions, and the exercise by the agency of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

j. The agency shall consist of the Commissioner of the Department of Community Affairs, the State Treasurer, the Attorney General and the Commissioner of Banking, who shall be members ex officio, and three members appointed by the Governor with the advice and consent of the Senate for terms of three years. The three members appointed by the Governor shall be residents of the State and shall have knowledge in the areas of housing design, construction or operation; finance; urban redevelopment; or community relations. The members first appointed by the Governor shall serve for terms of one year, two years and three years respectively. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and

qualified. A member of the agency shall be eligible for reappointment.

k. Each ex officio member of the agency may designate an officer or employee of his department or agency to represent him at meetings of the agency, and each designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any designation shall be in writing, delivered to the agency and shall continue in effect until revoked or amended by writing, delivered to the agency.

l. Each member of the agency may be removed from office by the Governor, for cause, after a public hearing and may be suspended by the Governor pending the completion of such a hearing. Each member of the agency before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of these oaths shall be filed in the office of the Secretary of State.

m. Any vacancies in the membership of the agency occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

n. The Commissioner of the Department of Community Affairs shall be the chairman of the agency and the members shall elect one of their number as vice-chairman thereof. The agency shall elect a secretary and a treasurer who need not be members; but the same person may be elected to serve both as secretary and treasurer. The powers of the agency shall be vested in the members thereof in office from time to time and four members (which shall include at least two ex officio members) of the agency shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the agency at any meeting thereof by the affirmative vote of at least four members of the agency, which shall include at least two ex officio members. No vacancy in the membership of the agency shall impair the right of a quorum to exercise all the powers and perform all the duties of the agency.

o. A true copy of the minutes of every meeting of the agency shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the agency shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after such copy of the minutes shall have been so delivered unless during such 10-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in said 10-

day period, the Governor returns such copy of the minutes with veto of any action taken by the agency or any member thereof at such meeting, such action shall be null and void and of no effect. The Governor may approve all or part of the action taken at such meeting prior to the expiration of the said 10-day period.

p. The members of the agency shall serve without compensation, but the agency shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties.

q. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of acceptance of the office of member of the agency or his services in such office.

r. The agency may be dissolved by act of the Legislature on condition that the agency has no debts or obligations outstanding or provision has been made for the payment or retirement of its debts or obligations. Upon dissolution of the agency all property, funds and assets thereof shall be vested in the State.

C. 55:14K-5 Additional powers.

5. In order to carry out the purposes and provisions of this act, the agency, in addition to any powers granted to it elsewhere in this act, shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business; to adopt an official seal and alter the same at pleasure; to maintain an office at such place or places within the State as it may designate; to sue and be sued in its own name;

b. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;

c. To issue subpenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before the agency, or before one or more of the members of the agency appointed by it to conduct a hearing;

d. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

e. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mort-

gage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

f. To acquire, hold, use and dispose of its income, revenues, funds and moneys;

g. To adopt rules and regulations expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act. The agency shall adopt regulations which provide for consultation with housing sponsors regarding the formulation of agency rules and regulations governing the operation of housing projects and which require the agency to consult with the affected housing sponsor prior to taking any and all specific proposed agency actions relating to the sponsor's housing project. The agency shall publish all rules and regulations and file them with the Secretary of State;

h. To borrow money or secure credit on a temporary, short-term, interim or long-term basis, and to issue negotiable bonds and to secure the payment thereof and to provide for the rights of the holders thereof;

i. To make and enter into and enforce all contracts and agreements necessary, convenient or desirable to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of eligible loans owned by the agency;

j. To appoint and employ an executive director, who shall be the chief executive officer of the agency, and additional officers, who need not be members of the agency as the agency deems advisable, and to employ architects, engineers, attorneys, accountants, construction and financial experts and other employees and agents as may be necessary in its judgment and to determine their qualifications, terms of office, duties and compensation; and to promote and discharge such officers, employees and agents, all without regard to the provisions of Title 11 of the Revised Statutes, Civil Service;

k. To contract for and to receive and accept any gifts, grants, loans or contributions from any source, of money, property, labor

or other things of value, to be held, used and applied to carry out the purposes of this act subject to the conditions upon which the grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or the State for payment of rent supplements to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

l. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the agency;

m. To procure insurance against any loss in connection with its operations, property and other assets (including eligible loans) in the amounts and from the insurers it deems desirable;

n. To the extent permitted under its contract with the holders of bonds of the agency, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other terms of any loan to an institutitional lender, eligible loan, loan commitment, contract or agreement of any kind to which the agency is a party;

o. To the extent permitted under its contract with the holders of bonds of the agency, to enter into contracts with any housing sponsor containing provisions enabling the housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment from the agency, any department or agency of the United States or the State, these reductions can be made without jeopardizing the economic stability of the housing project;

p. To make and collect the fees and charges it determines are reasonable;

q. To the extent permitted under its contract with the holders of bonds of the agency, to invest and reinvest any moneys of the agency not required for immediate use, including proceeds from the sale of any obligations of the agency, in obligations, securities or other investments as the agency deems prudent. All functions, powers and duties relating to the investment or reinvestment of these funds, including the purchase, sale or exchange of any investments or securities may, upon the request of the agency, be exercised and performed by the Director of the Division of Investment in the Department of the Treasury, in accordance with written directions of the agency signed by an authorized officer, without

regard to any other law relating to investments by the Director of the Division of Investment;

r. To provide, contract or arrange for, where, by reason of the financing arrangement, review of the application and proposed construction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of the application or supervision or, in the alternative, to delegate the processing in whole or in part to any such department or agency;

s. To make eligible loans, and to participate with any department, agency or authority of the United States or of any state thereof, this State, a municipality, or any banking institution, foundation, labor union, insurance company, trustee or fiduciary in an eligible loan, secured by a single participating mortgage, by separate mortgages or by other security agreements, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but which need not be equal as to interest rate, time or rate of amortization or otherwise, and to undertake commitments to make such loans;

t. To assess from time to time the housing needs of any municipality which is experiencing housing shortages as a result of the authorization of casino gaming and to address those needs when planning its programs;

u. To sell any eligible loan made by the agency or any loan to an institutional lender owned by the agency, at public or private sale, with or without bidding, either singly or in groups, or in shares of loans or shares of groups of loans, issue securities, certificates or other evidence of ownership secured by such loans or groups of loans, sell the same to investors, arrange for the marketing of the same; and to deposit and invest the funds derived from such sales in any manner authorized by this act;

v. To make commitments to purchase, and to purchase, service and sell, eligible loans, pools of loans or securities based on loans, insured or issued by any department or agency of the United States, and to make loans directly upon the security of any such loans, pools of loans or securities;

w. To provide such advisory consultation, training and educational services as will assist in the planning, construction, rehabilitation and operation of housing including but not limited to assistance in community development and organization, home management and advisory services for residents and to encourage com-

munity organizations and local governments to assist in developing housing;

x. To encourage research in and demonstration projects to develop new and better techniques and methods for increasing the supply, types and financing of housing and housing projects in the State and to engage in these research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including but not limited to the United States and the State, for carrying out this purpose;

y. To provide to housing sponsors, through eligible loans or otherwise, financing, refinancing or financial assistance for fully completed, as well as partially completed, projects which may or may not be occupied, if the projects meet all the requirements of this act, except that, prior to the making of the mortgage loans by the agency, said projects need not have complied with sections 7a. (9) and 42 of this act;

z. To encourage and stimulate cooperatives and other forms of housing with tenant participation;

aa. To promote innovative programs for home ownership, including but not limited to lease-purchase programs, employer-sponsored housing programs, and tenant cooperatives;

bb. To set aside and designate, out of the funds that are or may become available to it for the purpose of financing housing in this State pursuant to the terms of this act, certain sums or proportions thereof to be used for the financing of housing and home-ownership opportunities, including specifically lease-purchase arrangements, provided by employers to their employees through nonprofit or limited-dividend corporations or associations created by employers for that purpose; and to establish priority in funding, offer bonus fund allocations, and institute other incentives to encourage such employer-sponsored housing and home-ownership opportunities;

cc. Subject to any agreement with bondholders, to collect, enforce the collection of, and foreclose on any property or collateral securing its eligible loan or loans to institutional lenders and acquire or take possession of such property or collateral and sell the same at public or private sale, with or without bidding, and otherwise deal with such collateral as may be necessary to protect the interests of the agency therein;

dd. To administer and to enter into agreements to administer programs of the federal government or any other entity which are in furtherance of the purposes of this act;

ee. To do and perform any acts and things authorized by this act under, through or by means of its officers, agents or employees or by contract with any person, firm or corporation; and

ff. To do any acts and things necessary or convenient to carry out the powers expressly granted in this act.

C. 55:14K-6 Financing of housing projects.

6. a. The agency, in order to encourage the development, operation, maintenance, construction, improvement and rehabilitation of safe and adequate housing in the State, is hereby authorized and empowered to finance, by the making of eligible loans or otherwise, the construction, improvement or rehabilitation of housing projects in the State.

b. The agency, in order to carry out the purposes of subsection a. of this section, may:

(1) accept applications for loans;

(2) enter into agreements with housing sponsors for permanent loans and temporary loans or advances in anticipation of permanent loans for the development, operation, maintenance, construction, improvement or rehabilitation of housing projects; and

(3) make permanent loans and temporary loans or advances in anticipation of permanent loans to housing sponsors under the provisions of this act.

c. No application for a loan for the construction, improvement or rehabilitation of a housing project containing rental units to be rented at below market rates to be located in any municipality shall be processed unless there is already filed with the secretary of the agency a certified copy of a resolution adopted by the municipality reciting that there is a need for such housing project in the municipality.

d. Every application for a loan to a housing sponsor shall be made on forms furnished by the agency and shall contain such information as the agency shall require.

e. In considering any application for a loan for a housing project, the agency shall give first priority to applications for loans for the construction, improvement or rehabilitation of housing projects which will be a part of or constructed in connection with an urban redevelopment program, and also shall give consideration to:

(1) the comparative need of the area to be served by the proposed project for housing;

(2) the ability of the applicant to construct, operate, manage and maintain the proposed housing project;

(3) the existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project;

(4) the availability of adequate parks, recreational areas, utilities, schools, transportation and parking;

(5) the availability of adequate, accessible places of employment; and

(6) where applicable, the eligibility of the applicant to make payments to the municipality in which the housing project is located in lieu of local property taxes.

C. 55:14K-7 Terms, conditions of loans.

7. a. Loans made by the agency to finance housing projects shall be subject to the following terms and conditions:

(1) The loan shall be for a period of time not in excess of 50 years as determined by the agency;

(2) The amount of the loan shall not exceed 90% of the total project cost as determined by the agency, except that as to projects to be owned, constructed, improved, rehabilitated, operated, managed and maintained as mutual housing or by any corporation or association organized not for profit which has as one of its purposes the construction, improvement or rehabilitation of housing projects, the amount of the loan shall not exceed 100% of the total project cost as determined by the agency; but the agency may make additional loans to a housing sponsor to which a loan by the agency for the cost of a project is outstanding if and to the extent that the agency finds that such additional loan is required to more adequately secure and protect the project or to avoid a default by the sponsor on the original loan for the cost of the project and is in the best interest of the agency and the holders of its bonds issued to finance the original loan for the cost of the project;

(3) The interest rate on the loan shall be established by the agency at the lowest level consistent with the agency's cost of operation and its responsibilities to the holders of its bonds;

(4) The loan shall be evidenced by a mortgage note or bond and by a mortgage which shall be a first lien on the project and which shall contain such terms and provisions and be in

a form approved by the agency. The agency shall require the qualified housing sponsor receiving a loan or its contractor to post security in amounts related to the project cost as established by regulation and to execute such other assurances and guarantees as the agency may deem necessary and may require its principals or stockholders to also execute such other assurances and guarantees as the agency may deem necessary;

(5) The loan shall be subject to an agreement between the agency and the housing sponsor which will subject the housing sponsor and its principals or stockholders to limitations established by the agency as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and franchises to the extent more restrictive limitations are not provided by the law under which the borrower is incorporated or organized;

(6) The loan shall be subject to an agreement between the agency and the housing sponsor limiting the housing sponsor and its principals or stockholders to such rate of return on its investment in the housing project to be assisted with a loan from the agency as shall be fixed from time to time by the agency in its regulations which shall take into account the prevailing rates of return available for similar investments and the risks associated with the development of the project, together with factors designed to promote the objectives of providing affordable housing, encouraging investment in urban development areas, maintaining and improving the existing housing stock, and other objectives of this act; but agreements entered into by the predecessors of the agency prior to the effective date of this act shall continue to be subject to any restrictions on rate of return imposed by prior law unless those restrictions are expressly modified pursuant to regulations of the agency. No housing sponsor which is permitted by the provisions of the law under which it is organized or incorporated to earn a return on its investment, nor any of the principals or stockholders of that housing sponsor, shall earn, accept or receive a return on investment greater than the rate of return fixed by the agency in any housing project assisted with a loan from the agency, whether upon the completion of the construction, improvement or rehabilitation of the project, or upon the operation thereof, or upon the sale, assignment or lease of the project to any other person, association or corporation. Any person, association or corporation

who violates the provisions of this subsection is guilty of a crime of the fourth degree;

(7) No loan shall be executed except a loan made to a corporation or association organized not for profit which has as one of its purposes the development, construction, improvement or rehabilitation of housing projects or for mutual housing unless the housing sponsor agrees (a) to certify upon completion of project construction, improvement or rehabilitation, subject to audit by the agency, either that the actual project cost as defined herein exceeded the amount of the loan proceeds by 10% or more, or the amount by which the loan proceeds exceed 90% of the total project cost, and (b) to pay forthwith to the agency, for application to reduction of the principal of the loan, the amount, if any, of such excess loan proceeds, subject to audit and determination by the agency. No loan shall be made to a corporation or association organized not for profit or for mutual housing unless the corporation or association organized not for profit or for mutual housing agrees to certify the actual project cost upon completion of the project, subject to audit and determination by the agency, and further agrees to pay forthwith to the agency, for application to reduction of the principal of the loan, the amount, if any, by which the proceeds of the loan exceed the certified project cost subject to audit and determination by the agency. Notwithstanding the provisions of this paragraph, the agency may accept, in lieu of any certification of project cost as provided herein, such other assurances of the project cost in any form or manner whatsoever, as will enable the agency to determine with reasonable accuracy the amount of the project cost;

(8) No loan shall be made for the construction, improvement or rehabilitation of a housing project for which tax exemption is granted by a municipality unless the tax exemption remains in effect during the entire term of the loan, unless a lesser period of tax exemption is approved by the agency; and

(9) The loan shall be subject to an agreement between the agency and the qualified housing sponsor which contains a provision stating the prevailing wage rate, as determined by either the Commissioner of Labor and Industry or the Secretary of the United States Department of Labor in accordance with the provisions of section 42 of this act, which can be paid to the workmen employed in the performance of any contract

for the construction or rehabilitation of any housing project, and which stipulates that the qualified housing sponsor, or any builder, contractor or subcontractor thereof, shall pay to such workmen not less than the applicable prevailing wage rate pursuant to that section.

b. As a condition of any loan to finance a housing project, the agency shall have the power at all times during the construction, improvement or rehabilitation of a housing project and the operation thereof:

(1) To enter upon and inspect without prior notice any project, including all parts thereof, for the purpose of investigating the physical and financial condition thereof, and its construction, improvement, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;

(2) To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof;

(3) To order any managing agent, project manager or owner of a housing project to do such acts as may be necessary to comply with the provisions of all applicable laws or ordinances or any rule or regulation of the agency or the terms of any agreement concerning the project or to refrain from doing any acts in violation thereof and in this regard the agency shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein;

(4) To require the adoption and continuous use of uniform systems of accounts and records for a project and to require all owners or managers of a project to file annual reports containing that information and verified in such manner as the agency shall require, and to file at the times and on the forms as it may prescribe, reports and answers to specific inquiries required by the agency to determine the extent of compliance with any agreement, the terms of the loan, the provisions of this act and any other applicable law;

(5) To enforce, by court action if necessary, the terms and provisions of any agreement between the agency and the hous-

ing sponsor and the terms of any agreement between the housing sponsor and any municipality granting tax exemption, as to schedules of rental or carrying charges, income limits as applied to tenants or occupants, or any other limitation imposed upon the housing sponsor as to financial structure, construction or operation of the project;

(6) Subject to the provisions of paragraph (7) of subsection b. of this section, in the event of a violation by the housing sponsor of the terms of any agreement between the agency and the housing sponsor, or between the municipality granting tax exemption and the housing sponsor, or in the event of a violation by the housing sponsor of this act or of the terms of the loan agreement or of any rules and regulations of the agency duly promulgated pursuant to this act, or in the event that the agency shall determine that any loan or advance from the Housing Development Fund pursuant to section 30 of this act is in jeopardy of not being repaid, the agency may, without resort to any judicial process, assume all of the powers and duties of the housing sponsor in the management and operation of the project, including but not limited to the power to receive all revenues and pay all expenses of the project and the power to control all property, including bank accounts and cash, owned by the housing sponsor. The agency may appoint such person or persons whom the agency in its sole discretion deems advisable, including officers or employees of the agency, to perform the functions of the officers or other controlling persons of the housing sponsor. Persons so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation, bylaws or partnership agreement of the housing sponsor. In the absence of fraud or bad faith, persons so appointed shall not be personally liable for debts, obligations or liabilities of the housing sponsor. Persons so appointed shall serve only for a period coexistent with the duration of the violation or until the agency is assured in a manner satisfactory to it that the violation, or violations of a similar nature, will not recur. Persons so appointed shall serve in such capacity without compensation, but shall be entitled to be reimbursed, if and as the certificate of incorporation, bylaws or partnership agreement of the housing sponsor may provide, for all necessary expenses incurred in the discharge of their duties as determined by the agency; and

(7) The provisions of this subsection and this act pertaining to the regulation of housing sponsors shall be for purposes of protecting the collateral for any loan or loans; implementing or enforcing any condition, requirement or criterion for loans as provided in this act or other applicable law; and securing the rights and remedies of lenders and bond holders to the extent of the undertakings of the agency. Subject to the foregoing, the agency shall permit, provide for and encourage the right of local housing sponsors to exercise their own initiative and competence in the administration of their assets and the conduct and operation of housing projects and exercise their rights and responsibilities to the fullest extent permitted by law. Therefore, the agency shall exercise its remedies and powers under paragraph (6) of this subsection only with regard to material violations and only after reasonable notice and reasonable opportunity to correct the violation is provided to the housing sponsor in accordance with regulations adopted by the agency.

C. 55:14K-8 Income limitations.

8. a. Admission to housing projects constructed, improved or rehabilitated under this act shall be limited to families whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges, including the value or cost to them of heat, light, water, sewerage, parking facilities and cooking fuel, of the dwellings that may be furnished to such families, or seven times those charges if there are three or more dependents. There may be included in the carrying charges to any family for residence in any mutual housing project constructed, improved or rehabilitated with a loan from the agency an amount equal to 6% of the original cash investment of the family in the mutual housing project and, to the extent authorized by the agency where not included in the carrying charges, the value or cost of repainting the apartment and replacing any fixtures or appliances. Notwithstanding the provisions of this section, no family or individual shall be eligible for admission to any housing project constructed, improved or rehabilitated with a loan from the agency, whose gross aggregate family income exceeds such amount as shall be established from time to time by the agency, by rules or regulations promulgated hereunder; except that with respect to any project financed by an agency loan insured or guaranteed by the United States of America or any agency or instrumentality thereof, the agency may adopt the admission

standards for such projects then currently utilized or required by the guarantor or insurer.

b. The agency shall by rules and regulations provide for the periodic examination of the income of any person or family residing in any housing project constructed, improved or rehabilitated with a loan from the agency. If the gross aggregate family income of a family residing in a housing project increases and the ratio to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission in subsection a. of this section but is not more than 25% above the family income so prescribed for admission to the project, the owner or managing agent of the housing project shall permit the family to continue to occupy the unit. The agency or (with the approval of the agency) the housing sponsor of any housing project constructed, improved or rehabilitated with a loan from the agency, may terminate the tenancy or interest of any family residing in the housing project whose gross aggregate family income exceeds by 25% or more the amount prescribed herein and which continues to do so for a period of six months or more; but no tenancy or interest of any such family in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the agency; and any such family, with the approval of the agency, may be permitted to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the housing sponsor in accordance with a schedule of surcharges fixed by the agency. The housing sponsor shall pay the surcharge to the municipality granting tax exemption, but only up to an amount that together with payments made to the municipality in lieu of taxes and for any land taxes equals 25% of the total rents or carrying charges of the housing project for the current and any prior years that the project has been in operation.

c. For projects on which the agency has made a loan and financed the loan with the proceeds of bonds issued prior to January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid into the housing finance fund securing the bonds issued to finance the project for the use of the agency; for projects financed on or after January 1, 1973, any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid to the agency.

d. Any family residing in a mutual housing project required to remove from the project because of excessive income as herein

provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by the family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

e. The agency shall establish admission rules and regulations for any housing project financed in whole or in part by loans authorized hereunder which shall provide priority categories for persons displaced by urban renewal projects, highway programs or other public works, persons living in substandard housing, persons and families who, by reason of family income, family size or disabilities, have special needs, elderly persons and families living under conditions violative of minimum health and safety standards.

C. 55:14K-9 Enforcement; receivership; reorganization.

9. a. The agency may institute any action or proceeding against any housing sponsor receiving a loan under the provisions hereof, or owning any housing project hereunder in any court of competent jurisdiction in order to enforce the provisions of this act, or to foreclose its mortgage, or to protect the public interest, the tenants, the stockholders or creditors of the sponsor. In connection with any such action or proceeding it may apply for the appointment of a receiver to take over, manage, operate and maintain the affairs of the housing sponsor, and the agency, through the agent as it shall designate, is authorized to accept appointment as receiver of the sponsor when so appointed by a court of competent jurisdiction.

b. The reorganization of any housing sponsor shall be subject to the supervision and control of the agency, and no reorganization shall be had without the consent of the agency. Upon a reorganization, the amount of capitalization, including stocks, income debentures and bonds and other evidences of indebtedness, shall be as authorized by the agency, but not in excess of the fair value of the property received.

C. 55:14K-10 Foreclosure.

10. a. In any foreclosure action involving a housing sponsor other than a foreclosure action instituted by the agency, the agency and the municipality in which any tax exemption or abatement is provided to the housing sponsor shall, in addition to other necessary parties, be made parties defendant. The agency and the municipality shall take all steps in the action necessary to protect the

interest of the public therein, and no costs shall be awarded against the agency or the municipality.

b. Subject to the terms of any applicable loan agreement, contract or other instrument entered into or obtained pursuant to subsection a. of section 7 of this act, judgment of foreclosure in accordance with this section shall not be entered unless the court to which application therefor is made shall be satisfied that the interest of the lienholder or holders cannot be adequately secured or safeguarded except by the sale of the property; and in the proceeding the court shall be authorized to make an order increasing the rental or carrying charges to be charged for the housing accommodations in the housing project involved in the foreclosure, or appoint a member of the agency or any officer of the municipality in which any tax exemption or abatement with respect to the project is provided, as a receiver of the property, or grant such other and further relief as may be reasonable and proper; and in the event of a foreclosure or other judicial sale, the property shall be sold only to a housing sponsor which will manage, operate and maintain the project subject to the provisions of this act, unless the court finds that the interest and principal on the obligations secured by the lien which is the subject of foreclosure cannot be earned under the limitations imposed by the provisions of this act and that the proceeding was brought in good faith, in which event the property may be sold free of limitations imposed by this act or subject to such limitations as the court may deem advisable to protect the public interest.

c. In the event of a judgment against any housing sponsor in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property included in any housing project hereunder of the housing sponsor except upon 120 days' written notice to the agency. Upon receipt of the notice the agency shall take those steps as in its judgment may be necessary to protect the rights of all parties.

C. 55:14K-11 Loans to institutional lenders.

11. a. The agency may make loans to institutional lenders in order to furnish funds to institutional lenders to make eligible loans; but an eligible loan for a housing project shall be subject to all the provisions of this act applicable to agency loans to housing sponsors for housing projects.

b. The agency shall adopt rules and regulations governing the making of these loans to institutional lenders and the application

of the proceeds thereof, including rules and regulations as to any of the following:

(1) procedures for the submission of requests or the invitation of proposals for loans;

(2) standards and requirements concerning allocations of loans to the institutional lenders or awards of loans and determining the amounts of interest rates thereof;

(3) limitations or restrictions as to the number of family units, location or other qualifications or characteristics of projects or residences to be financed by eligible loans;

(4) restrictions as to the maturities and interest rates on eligible loans or the return realized therefrom by institutional lenders;

(5) requirements as to commitments by institutional lenders with respect to eligible loans;

(6) schedules of any fees and charges necessary to provide for expenses and reserves of the agency; and

(7) any other matters related to the duties and the exercise of the powers of the agency under this section.

These rules and regulations shall be designed to effectuate the general purposes of this act and the following specific objectives: the expansion of the supply of funds in the State available for housing; the provision of the additional housing needed to remedy the shortage of adequate housing in the State and eliminate the existence of a large number of substandard dwellings; the provision of nonhousing facilities which enhance the livability of residential properties or areas being improved through financing by the agency and provide supplies and services primarily to the residents of such residential properties and areas; and the effective participation by institutional lenders in the programs authorized by this act and the restriction of the financial return and benefit thereto from such programs to that necessary and reasonable to induce such participation.

c. Loans to institutional lenders shall be general obligations of the respective institutional lenders owing the same and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with this section, all as the agency shall by resolution determine.

d. The agency shall require as a condition of each loan to an institutional lender that the institutional lender thereafter proceed as promptly as practicable to make and disburse from the loan proceeds, eligible loans in an aggregate principal amount equal to the amount of the loan.

e. The agency may require that loans to institutional lenders shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts as the agency shall by resolution determine to be necessary to assure the payment of the loans and the interest thereon as they become due. The agency may require that collateral mortgages be insured by a mortgage guaranty insurance company licensed to do business by the State. The agency may enter into an agreement with an institutional lender containing such provisions as the agency shall deem necessary to adequately identify and maintain such collateral and service the same and shall provide that the institutional lender shall hold the collateral as an agent for the agency and shall be held accountable as the trustee of an express trust for the application and disposition thereof and the income therefrom solely to the uses and purposes in accordance with the provisions of the agreement. A copy of each agreement and any revisions or supplements thereto shall be filed with the Secretary of State and no further filing or other action under Title 12A, Commercial Transactions, of the New Jersey Statutes or any other law of the State shall be required to perfect the security interest of the agency in the collateral or any additions thereto or substitutions therefor, and the lien and trust for the benefit of the agency so created shall be binding from the time made against all parties having claims of any kind in tort, contract, or otherwise against the institutional lender. The agency may also establish additional requirements as it deems necessary with respect to the pledging, assigning, setting aside, or holding of the collateral and the making of substitutions therefor or additions thereto and the disposition of income and receipts therefrom.

f. The agency shall require the submission to it by each institutional lender to which the agency has made a loan of evidence satisfactory to the agency of the making of eligible loans as required by this section and prescribed by rules and regulations of the agency and in connection therewith may inspect the books and records of the institutional lender.

g. The agency may require as a condition of any loans to institutional lenders such representations and warranties as it shall

determine to be necessary to secure the loans and carry out the purposes of this act.

h. Compliance by any institutional lender with the terms of this section and its undertaking to the agency with respect to the making of eligible loans may be enforced by decree of the Superior Court. The agency may require as a condition of any loan to any institutional lender the consent of the institutional lender to the jurisdiction of the Superior Court over any such proceeding. The agency may also require agreement by any institutional lender, as a condition of the loan to the institutional lender, to the payment of penalties to the agency for violation by the institutional lender of any provision of this section or its undertaking to the agency with respect to the making of eligible loans, and these penalties shall be recoverable at the suit of the agency.

C. 55:14K-12 Powers of agency.

12. a. The agency in order to encourage the development, operation, construction, improvement, and rehabilitation of an adequate supply of affordable housing, shall have the power:

(1) to make and to purchase or participate in the purchase, and to contract to purchase or participate in the purchase, of eligible loans and to enter into advance commitments for the making of or the purchase, or for participation in the purchase, of eligible loans, at the prices and upon the terms and conditions determined by the agency;

(2) to sell eligible loans acquired by the agency at public or private sale and at the price or prices and upon the terms and conditions as may be determined by the agency;

(3) to enter into arrangements or agreements with loan originators, which may be a part of any contract with the loan originators for the purchase or participation in the purchase of eligible loans, containing provisions determined by the agency to be necessary or appropriate to provide security for its bonds, including but not limited to provisions requiring the repurchase of eligible loans or participations therein by the loan originators at the option of the agency, payments of such premiums, fees, charges or other amounts by loan originators to provide a reserve or escrow fund for the purposes, among others, of protecting against defaults with respect to eligible loans, and provisions for the guarantee by, or for recourse against, loan originators with respect to defaults on eligible loans of the agency;

(4) to enter into contracts for the servicing and custody of eligible loans owned by the agency, which contracts may provide for the payment of the reasonable value of services rendered to the agency pursuant to the contracts;

(5) to renegotiate or refinance any eligible loan, or foreclose, or contract for the foreclosure of, any mortgage securing any eligible loan in default; to waive any default or consent to the modification of the terms of any mortgage; to commence any action to protect or enforce any right conferred upon by any law, mortgage, insurance policy, contract or other agreement, and to bid for and to purchase the property securing any eligible loan at any foreclosure or at any other sale, or acquire or take possession of any such property; to operate, manage, lease, dispose of, and otherwise deal with such property; all in the manner as may be necessary to protect the interest of the agency and the holders of its bonds;

(6) to procure insurance against any default with respect to eligible loans in such amounts and from such insurers as may be necessary or desirable;

(7) to establish, revise from time to time, charge and collect such premiums, fees or other charges in connection with the making or purchase of eligible loans, as the agency determines and to apply those premiums, fees or charges to the purposes or deposit them in funds or reserves, as the agency determines; and

(8) to provide subsidies or other reductions of interest rates with respect to eligible loans in order to encourage the availability of affordable housing or housing for persons and families of low and moderate income.

b. An eligible loan for a housing project made by the agency or purchased by the agency less than one year after construction of the project was commenced shall be subject to all the provisions of this act applicable to agency loans to housing sponsors for housing projects.

c. The agency shall from time to time adopt rules and regulations governing the making or purchase of eligible loans, including, without limitation, rules and regulations as to any of the following:

(1) procedures for the purchase of eligible loans by the agency, whether by auction, invitation of tenders, or negotiation;

(2) standards and requirements as to allocations of purchases of eligible loans among all or certain of the loan originators or among particular areas of the State;

(3) limitations or restrictions as to the number of family units, income levels for owners or occupants, or location or other qualifications or characteristics of residences to be financed by the eligible loans to be made by the agency or by loan originators;

(4) restrictions as to the maturities and interest rates on eligible loans and on the return realized from the origination and sale of eligible loans to the agency by loan originators;

(5) standards and requirements for eligible loans which are not secured by a mortgage; and

(6) any other matters related to the duties and the exercise of the powers of the agency in connection with the purchase of eligible loans under this act.

d. These rules and regulations and the terms and conditions for the making or purchase of eligible loans shall effectuate the general purposes of the act and the following specific objectives: (1) the expansion of the supply of funds in the State available for eligible loans, (2) the provision of the additional housing needed to remedy the shortage of adequate housing in the State and to eliminate the existence of a large number of substandard dwellings and (3) the provision of nonhousing facilities which enhance the livability of residential properties or areas being improved through financing by the agency and provide supplies and services primarily to the residents of those residential properties and areas.

e. The agency shall require as a condition of each purchase of eligible loans from a loan originator that the loan originator proceed as promptly as practicable to make and disburse from the proceeds thereof eligible loans in an aggregate principal amount equal, as nearly as practicable, to the amount of the proceeds from the purchase by the agency of eligible loans therefrom, but these requirements shall not apply if the eligible loans so purchased were originated pursuant to a commitment or other arrangement with the agency.

f. The agency shall require the submission to it by each loan originator from which the agency has purchased eligible loans evidence satisfactory to the agency of the making of eligible loans or the application of the proceeds from the purchase of eligible loans in accordance with commitments with the agency for the

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origination of eligible loans by the loan originator, as may be appropriate and in connection therewith may, through its employees or agents, inspect the books and records of the loan originator.

g. The agency may require as a condition of any purchase of eligible loans from loan originators representations and warranties it determines to be necessary in connection with that purchase and to carry out the purposes of this act.

h. Compliance by any loan originator with the terms of its agreement with or undertaking to the agency with respect to the making of any eligible loans may be enforced by decree of the Superior Court. The agency may require as a condition of purchase of eligible loans from any loan originator the consent of the loan originator to the jurisdiction of the Superior Court of any such proceeding. The agency may also require agreement by any loan originator, as a condition of the agency's purchase of eligible loans from the loan originator, to the payment of penalties to the agency for violation by the loan originator of its undertakings to the agency, and these penalties shall be recoverable at the suit of the agency.

i. Whenever any eligible loan purchased by the agency is to be held or serviced by a person other than the agency, a statement designating the eligible loan being so held or serviced and the person so holding or servicing the eligible loan and setting forth the agency's interest in the eligible loan may be filed in the records of the agency, which loan records shall be available for public inspection during regular business hours of the agency, and no possession, further filing, or other action under Title 12A, Commercial Transactions, of the New Jersey Statutes or any other law of the State shall be required to perfect any security interest which may be deemed to have been created in favor of the agency. The servicer shall, in any case, be and be deemed to be the trustee of an express trust for the benefit of the agency in all matters relating to any such eligible loan.

j. Notwithstanding the provisions of section 213.1 of P. L. 1948, c. 67 (C. 17:9A–213.1) or any other provision of law to the contrary, any loan originator may, in connection with the sale of eligible loans to the agency pursuant to this act, enter into arrangements or agreements with the agency as are authorized under and contemplated by this act, including, without limitation, provisions requiring the repurchase of eligible loans or participation therein by the loan originator at the option of the agency, provisions requiring the payment of premiums, fees or charges or other amounts

by the loan originator to provide a reserve or escrow for the purposes, among others, of protecting against defaults with respect to eligible loans, and provisions for the guarantee by, or for recourse against, the loan originator with respect to defaults on eligible loans of the agency.

C. 55:14K-13 Life safety improvement loans.

13. a. In order to encourage the construction, acquisition and rendering of life safety improvements at or to boarding houses, the agency is hereby authorized to finance by life safety improvement loans the construction, acquisition and rendering of life safety improvements at or to boarding houses.

b. To carry out the purposes of this section, the agency may accept from boarding house owners applications for life safety improvement loans and enter into agreements with boarding house owners with respect thereto. In considering applications for life safety improvement loans, the agency shall give consideration to:

(1) the degree of need for the life safety improvement at the boarding house with respect to which the application is made;

(2) factors affecting the tax-exempt status of interest on the bonds issued by the agency to raise the money necessary to make the life safety improvement loan, including the location and ownership of boarding houses with respect to which applications have been and are being made;

(3) the extent of the benefit which, in the agency's opinion, can be expected to be achieved from the life safety improvement intended to be financed with the life safety improvement loan for which the application is made, giving effect to, among other things, the cost of such life safety improvement;

(4) the applicant's ability to obtain alternate financing; and

(5) the extent of the applicant's compliance with the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et seq.). This determination shall be accomplished through an inspection of the boarding house by either the New Jersey Department of Community Affairs or the New Jersey Department of Health. Deficiencies which are to be corrected through life safety improvement loans are not to be used as a basis for disapproving a loan under this section.

c. Life safety improvement loans made by the agency shall not be subject to the terms and conditions set forth in sections 6 through

10 of this act but shall be subject to the following terms and conditions:

(1) the amount of the loan shall not exceed 100% of the cost of the life safety improvement to be constructed, acquired or rendered, as determined by the agency.

(2) the interest rate on the loan shall be established by the agency at the lowest level consistent with the agency's cost of operation but not lower than the effective cost of the agency of the obligations of the agency sold to raise the money used to make the loan.

(3) the loan shall be evidenced by a promissory note which shall contain terms and provisions and be in a form approved by the agency, and the terms and provisions shall include, but not be limited to, agency requirements that: (a) the boarding house owner remit to the agency the entire unpaid balance of all life safety improvement loans made by the agency to the boarding house owner as of the time when the facility ceases to be a boarding house, and the money shall be used for making new boarding house life safety improvement loans or any other lawful purpose; (b) the boarding house owner remit to the agency, for payment to the Department of Community Affairs for deposit in the "Boarding House Rental Assistance Fund," established under section 14 of this act, an amount equal to the rental assistance payments made to or on behalf of the residents of a boarding house, pursuant to this section, prior to the point in time when the facility ceases to be a boarding house, but the inclusion of this second requirement in the promissory note and the remittance of that amount shall be required if and to the extent that the agency determines it to be feasible and practicable; and (c) in the event of any sale which occurs during the period when the life safety improvement loan is being repaid to a purchaser who will maintain the facility as a boarding house, the boarding house owner shall either remit the entire unpaid balance of all life safety improvement loans made by the agency to the boarding house owner or require the purchaser to assume the loan.

(4) as a condition of the loan, the agency shall have the power at all times during the construction, acquisition or rendering of a life safety improvement at or to a boarding house and for a reasonable period of time subsequent thereto to enter without prior notice the boarding house with respect

to which the loan is made in order to inspect the construction, acquisition or rendering of the life safety improvement being financed with the loan.

C. 55:14K-14 Boarding House Rental Assistance Fund.

14. There is hereby established in the Department of Community Affairs a fund to be known as the "Boarding House Rental Assistance Fund." The fund shall be under the control of the Commissioner of the Department of Community Affairs. The fund shall be maintained by the Department of the Treasury and may be invested by the Division of Investment in the Department of the Treasury in investments in which other State funds may be invested. There shall be deposited in the fund all moneys appropriated thereto by the Legislature and any other moneys made available for the purposes for which the fund is established. The fund is established for the purposes of (i) providing rental assistance to residents of boarding houses in need of assistance to meet the rental payments at the boarding houses in which they reside necessitated by the construction, acquisition or rendering of life safety improvements at or to the boarding houses with the proceeds of the life safety improvement loans made by the agency, (ii) providing a source of repayment for such life safety improvement loans, and (iii) subject to the approval of the treasurer, paying the cost to the Department of Community Affairs of discharging its obligations under sections 13 through 17 of this act. If needed to meet on a timely basis that part of the rental obligations of residents of boarding houses attributable to debt service (including fees and charges payable to the agency) on life safety improvement loans made by the agency to finance the construction, acquisition or rendering of life safety improvements at said boarding houses, the commissioner shall disburse from the fund to or on behalf of the residents of the boarding houses the amount of money which, together with amounts already disbursed and to be disbursed, will be sufficient to meet on a timely basis that part of the rental obligations of the residents of the boarding houses. If for any reason rental assistance payments made on behalf of residents are not sufficient to meet the debt service payments on the life safety improvement loans, then the commissioner shall disburse from the fund such amounts as are necessary to meet the debt service payments; or, upon the request of the agency, the commissioner shall disburse such amounts as are necessary to fully pay the life safety improvement loans and all related costs.

C. 55:14K-15 Rental assistance agreements.

15. In furtherance of the purposes of sections 13 through 17 of this act, the Commissioner of the Department of Community Affairs is authorized to enter into rental assistance agreements with boarding house owners providing for the payment of rental assistance to or on behalf of the residents of the boarding houses in respect of that part of their rent that is attributable to debt service on life safety improvement loans, as determined by the agency. Rental assistance agreements may permit or require the commissioner to make (i) rental assistance payments on behalf of boarding house residents directly to the agency or (ii) direct payments to the agency in satisfaction of the boarding house owners' payment obligations on life safety improvement loans. As a condition to the payment of rental assistance, rental assistance agreements shall require that the boarding house owner remit to the commissioner for return to the Boarding House Rental Assistance Fund an amount equal to any rental assistance payment made by the commissioner to or on behalf of a resident of the boarding house who, were such resident a family as defined in subsection f. of section 3 of this act, would not have constituted a family qualified for admission to housing projects under section 8 of this act, at any time during the period covered by the rental assistance payment but the agency may establish a lower income standard for residents of boarding houses which would require remittance to the commissioner by the owners of boarding houses of rental assistance payments formerly made by the commissioner to or on behalf of residents with incomes above that income standard.

C. 55:14K-16 Annual report.

16. On or before December 1 of each year, the Commissioner of the Department of Community Affairs shall submit to the Governor and the State Treasurer a Boarding House Rental Assistance Fund Annual Report which shall include the following: (i) a summary of the activities and transactions of the Boarding House Rental Assistance Fund during the preceding fiscal year; (ii) an estimate of the amount of rental charges which will be made during the ensuing 12 months by the residents of boarding houses on account of the debt service (including fees and charges payable to the agency) on life safety improvement loans made by the agency to finance the construction, acquisition or rendering of life safety improvements at or to the boarding houses, together with a brief description of each of the boarding house's life safety improvement loans and life safety improvements and a summary of various charac-

teristics of the residents of the boarding houses, including their ages, disabilities, if any, and income levels; (iii) a statement as to the maximum amount of debt service payable in any one year on all outstanding obligations of the agency issued with respect to life safety improvement loans; and (iv) an estimate of, and request for, the amount of money in addition to the then current balance of the Boarding House Rental Assistance Fund which will be needed in the ensuing fiscal year to meet the disbursements from the fund which the commissioner anticipates will be made in furtherance of the purposes of the fund and in satisfaction of the commissioner's obligations under rental assistance agreements.

C. 55:14K-17 Appropriations to fund.

17. a. To assure that there exists sufficient money in the Boarding House Rental Assistance Fund so as to permit the fund to be fully employed in furtherance of its purposes and to enable the Commissioner of the Department of Community Affairs to fulfill his commitments under rental assistance agreements, there shall be appropriated in each fiscal year and paid to the Department of Community Affairs for deposit in the Boarding House Rental Assistance Fund (1) from the Casino Revenue Fund, the amount of money requested for that fiscal year by the commissioner in the applicable Boarding House Rental Assistance Fund Annual Report, as amended by the commissioner from time to time, for the benefit of boarding house residents who are either senior citizens or disabled residents of the State within the meaning of regulations promulgated by the commissioner; and (2) from the General Fund of the State of New Jersey, the amount of money requested for that fiscal year by the commissioner in the applicable Boarding House Assistance Fund Annual Report, as amended by the commissioner from time to time, for the benefit of boarding house residents who are neither senior citizens nor disabled residents of the State within the meaning of regulations promulgated by the commissioner, either as rental assistance payments or direct debt service on loans.

b. After receipt of each Boarding House Rental Assistance Fund Annual Report, the State Treasurer shall determine whether or not during the preceding fiscal year rental assistance payments were made with funds appropriated from the Casino Revenue Fund to or on behalf of residents of boarding houses who, were they families as defined in subsection f. of section 3 of this act, would have constituted families qualified for admission to housing projects under section 8 of this act during such fiscal year, but who were not

either senior citizens or disabled residents of the State within the meaning of regulations promulgated by the commissioner. Upon making a determination that funds were appropriated from the Casino Revenue Fund to or on behalf of one or more of such residents, the Treasurer shall request and the State shall appropriate from the General Fund to the Casino Revenue Fund an amount of money equal to payments so made from funds appropriated from the Casino Revenue Fund; but neither the request nor the appropriation shall be required if, or to the extent that, the amount of payments is reimbursed from any other available source, which may be, but shall not be limited to, a payment from unencumbered funds of the agency, as authorized by the agency.

c. If the Commissioner of the Department of Community Affairs is for any reason unable to make rental assistance payments on one or more rental assistance agreements, the agency may, but shall be under no obligation to, authorize payments from its unencumbered reserves. If no such authorization is made, or if the agency's payment is only intended to be a temporary source of funding in order to satisfy payments due on bonds issued to finance life safety improvement loans, or the amount authorized is insufficient to make full payments under the agreements, there shall be appropriated from the General Fund in each fiscal year and paid to the Department of Community Affairs, for disbursement to the agency, sufficient funds to make full payments. The commissioner shall annually report to the Governor and the Treasurer detailing the need for the appropriations.

C. 55:14K-18 Subsidiary corporations.

18. a. In order to carry out the purposes and provisions of this act, the agency, in addition to any powers granted to it elsewhere in this act, shall have the authority to form, purchase or assume control of one or more subsidiary corporations, in the manner and for the purposes set forth in this section.

b. The agency may form a subsidiary corporation 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 corporation, its duration, the location of its principal office, the joint owners thereof, and the purposes of the corporation.

c. The directors of the subsidiary corporation shall be members or employees of the agency, who shall constitute at least a majority, and such other persons representing any joint owner or owners as

may be provided for in the agreement in connection with the incorporation.

d. The subsidiary corporation shall have all the powers vested in the agency which the agency may delegate to it by terms of the agreement of incorporation, except that it shall not have power to contract indebtedness independently of the agency. The subsidiary corporation and any of its properties, functions and activities shall have all the privileges, immunities, tax exemptions and other exemptions as the agency's property, functions and activities. The subsidiary corporation shall also be subject to the restrictions and limitations to which the agency is subject. The subsidiary corporation shall be subject to suit as if it were the agency itself.

e. Whenever the State or any municipality, commission, public authority, agency, officer, department, board, or division is authorized and empowered for any purposes of this act to cooperate and enter into agreements with the agency or to grant any consent to the agency or to grant, convey, lease or otherwise transfer any property to the agency 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 corporation and to grant consents to the subsidiary corporation and to grant, convey, lease or otherwise transfer property to the subsidiary corporation and to execute documents for the subsidiary corporation.

f. Among the powers that shall be granted to a subsidiary corporation established by agency, or which may be exercised by the agency itself, are:

(1) To act as receiver or interim owner of rental properties and in connection therewith to provide tenant education and training, with the goal of achieving cooperative or other private forms of resident ownership.

(2) To act as a housing service corporation to operate or complete the construction of agency-financed properties.

(3) To undertake acquisition, construction, rehabilitation and operation of housing and related activities on a demonstration or experimental basis.

(4) To participate as a co-owner or co-venturer in any activity financed by an eligible loan from the agency.

g. The agency shall establish at least one subsidiary corporation pursuant to this section, unless the agency shall, by resolution

setting forth the reasons for its decision, determine that such establishment would be inexpedient, which resolution shall be forthwith communicated to the Governor and the Legislature.

C. 55:14K-19 New Jersey Housing Development Corporation.

19. a. In order to carry out the purposes and provisions of this act, there is hereby chartered in, but not of, the agency the New Jersey Housing Development Corporation.

b. The corporation shall be organized, managed and operated as an entity distinct from the agency, except that members and employees of the agency may be officers and directors of the corporation; but it shall be empowered to act as agent of the agency under contractual agreements relating to matters set forth in subsection c. of this section.

c. The corporation may issue its stock and employ the proceeds of such sales:

(1) To purchase residential structures in need of rehabilitation and rehabilitate them for purposes of resale, including resale under lease-purchase agreements.

(2) To contract for the construction of new residential structures and to assume ownership of the same for the purposes of resale, including lease-purchase agreements.

(3) To co-venture with other public or private agencies or corporations as an investor in major rehabilitation or construction projects of the types described in paragraphs (1) and (2) of this subsection.

d. The agency is directed to complete the organization of the corporation unless the members of the agency vote not to so organize and so advise the Governor and the Legislature.

C. 55:14K-20 Issuance of bonds.

20. a. The agency shall have the power and is hereby authorized from time to time to issue its bonds in such principal amounts as in the opinion of the agency shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including the making or purchase of eligible loans, the making of loans to institutional lenders, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by it, whether the bonds or interest to be funded or refunded have or have not become due, the establishment or increase of reserves to secure or to pay such bonds or interest thereon or to provide, insure or otherwise protect against defaults on or prepayment

of eligible loans, and all other costs or expenses of the agency incident to and necessary or convenient to carry out its corporate purposes and powers; but the agency's power to issue its bonds in order (1) to make life safety improvement loans, (2) to fund reserves for these bonds (excluding therefrom for purposes of this calculation such bonds that have been refunded), and (3) to refund bonds originally issued to make life safety improvement loans and to fund reserves for these bonds is limited to the extent that the amount of debt service payable in any one year on all these bonds then outstanding may not exceed $4,000,000.00.

b. Except as may be otherwise expressly provided herein or by the agency, every issue of bonds shall be general obligations payable out of any moneys or revenues of the agency, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. The agency may issue such types of bonds as it may determine, including but not limited to bonds on which the principal and interest are payable (1) exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; (2) exclusively from the revenues of the agency derived from certain loans made to institutional lenders or derived from certain eligible loans made or purchased by the agency whether or not such loans were made or such eligible loans were purchased in whole or in part from the proceeds of such bonds; or (3) from its revenues generally. Bonds may be additionally secured by a pledge of any grant or contribution from any department, agency or instrumentality of the United States or of the State or from any person, firm or corporation or a pledge of any moneys, income or revenues of the agency from any source whatsoever.

c. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each holder or owner of such a bond, or of any coupon appurtenant thereto, by accepting the bond or coupon shall be conclusively deemed to have agreed that the bond or coupon is and shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes.

d. Bonds of the agency shall be authorized by or in accordance with a resolution of the agency and may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 50 years from the date thereof, bear interest

at such rate or rates or bear interest at such variable or formula rate or rates not to exceed such maximum rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources, in such medium of payment, at such place or places within or without the State, and be subject to such terms of redemption (with or without premium) as such resolution or resolutions may provide.

e. Bonds of the agency may be sold at public or private sale at the price or prices as the agency determines.

f. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by this act.

g. Bonds of the agency issued under the provisions of this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the agency and shall not create or constitute any indebtedness, liability or obligation of the State or of any such political subdivision or be or constitute a pledge of the faith and credit of the State or of any such political subdivision but all such bonds, unless funded or refunded by bonds, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond shall contain on its face a statement to the effect that the agency is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the agency and that neither the State nor any political subdivision thereof is obligated to pay such principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

h. All expenses incurred in carrying out the provisions of this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act and nothing in this act shall be construed to authorize the agency to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

C. 55:14K-21 Provisions of bond resolutions.

21. Any resolution or resolutions of the agency authorizing the issuance of bonds may contain provisions, except as expressly limited in this act and except as otherwise limited by existing agreements with the holders of the bonds, which shall be a part of the contract with the holders thereof, as to the following:

a. The pledging of or creating of a lien on, as security for the payment of the principal and redemption price of and interest on any bonds of the agency, all or any part of its revenues or assets to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, including the eligible loans made or purchased by the agency pursuant to this act and the revenues therefrom, the loans made to institutional lenders pursuant to this act and the revenues therefrom and the rights and interest of the agency in and to any collateral securing such loans and the collections and proceeds therefrom, the eligible loans purchased by the agency pursuant to this act and all payments on account of principal and interest with respect thereto, and all other premiums, fees and charges payable to the agency, all or any part of any money, funds or property held in trust or otherwise by others for the payment of any such mortgages, such loans to institutional lenders or such eligible loans, or any bonds of the agency, and all or any part of the proceeds of any bonds, and covenanting against pledging all or any part of such revenues, assets, moneys, funds or property, or against permitting or suffering any lien thereon;

b. Otherwise providing for the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property of the agency or with respect to which the agency may have any rights or interest;

c. The use and disposition of any and all payments of principal or interest received by the agency with respect to loans to institutional lenders or eligible loans or any income or proceeds from investments held by the agency or other income, revenues or receipts of the agency;

d. The establishment of reserves or sinking funds, the making of charges and fees to provide for the same, and the regulation and disposition thereof;

e. The custody, application and disposition of the proceeds of any bonds;

f. The rank or priority of any such bonds with respect to any

lien or security or as to the acceleration of the maturity of any such bonds;

g. The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment or redemption of bonds, reserves against defaults or prepayments of eligible loans or loans to institutional lenders or for other purposes and as to the use and disposition of the moneys held in such funds;

h. Limitations on the purpose to which the proceeds of sale of bonds may be applied and pledging such proceeds to secure the payment of the bonds;

i. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the refunding or purchase of outstanding bonds of the agency;

j. The procedure, if any, by which the terms of any contract with the holders of any bonds of the agency may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

k. The vesting in a trustee or trustees within or without the State of such property, rights, powers and duties in trust as the agency may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds pursuant to section 22 of this act and limiting or abrogating the right of the holders of any bonds of the agency to appoint a trustee under this act or limiting the rights, powers and duties of such trustee;

l. Appointing and providing for the duties and obligations of a paying agent or paying agents or such other fiduciaries within or without the State;

m. Provision for a trust agreement by and between the agency and a corporate trustee which may be any trust company or bank having the powers of a trust company within the State, which agreement may provide for the pledging or assigning of any assets or income from assets to which or in which the agency has any rights or interest, and may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds of the agency and not otherwise in violation of law, and the agreement may provide for the restriction of the rights of any individual holder of bonds of the agency. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the costs of operation of the agency. The trust agreement may contain any further

provisions which are reasonable to delineate further the respective rights, duties, safeguards, responsibilities and liabilities of the agency, individual and collective holders of bonds of the agency, and the trustee;

n. The custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

o. The time or manner of enforcement or restraint from enforcement of any rights of the agency arising by reason of or with respect to nonpayment of principal or interest with respect to mortgages or loans to institutional lenders or any rights to or security interest in the collateral securing such loans or arising with respect to the default with respect to any eligible loan;

p. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the agency and providing for the rights and remedies of the holders of bonds in the event of such default;

q. Covenants to do or refrain from doing such acts and things as may be necessary or convenient or desirable to better secure any bonds of the agency, or which, in the discretion of the agency, will tend to make any bonds to be issued more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; and

r. Any other matters of the like or different character, which in any way affect the security or protection of the bonds issued by the agency.

C. 55:14K-22 Appointment of trustee.

22. a. If the agency defaults in the payment of principal of or interest on any issue of bonds after the same becomes due, whether at maturity or upon call for redemption, and the default continues for a period of 30 days, or if the agency fails or refuses to comply with the provisions of this act or fails or refuses to carry out and perform the terms of any contract with the holders of bonds and the failure or refusal continues for a period of 30 days after written notice to the agency of its existence and nature, the holders of 25% in aggregate principal amount of such issue of bonds then outstanding by instrument or instruments filed in the office of the Secretary of State and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of those bonds for the purposes provided in this section.

b. The trustee may, and upon written request of the holders of

25% in aggregate principal amount of such bonds then outstanding shall, in the trustee's own name:

(1) by any action, writ, or other proceeding, enforce all rights of the holders of such bonds, including the right to collect and enforce the payment of principal of and interest due or becoming due on eligible loans and loans to institutional lenders and collect and enforce any collateral securing such loans or sell such collateral and the right to cause the foreclosure of any eligible mortgage loan, and to sell any property purchased at any such foreclosure, so as to carry out any contract as to, or pledge of, revenues, and to require the agency to carry out and perform the terms of any contract with the holders of such bonds or its duties under this act;

(2) bring suit upon all or any part of such bonds;

(3) by action, require the agency to account as if it were the trustee of an express trust for the holders of such bonds;

(4) by action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds; or

(5) declare all such bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the agency, and, if all defaults shall be made good, then with the consent of the holders of 25% of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

c. The trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of the functions specifically set forth herein or incident to the general representation of the holders of bonds in the enforcement and protection of their rights.

d. In any action or proceeding by such trustee, the fees, counsel fees and expenses of the trustee, if any, appointed pursuant to this act, shall constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any revenues, moneys, funds or property of the agency pledged for the payment or security of such issue of bonds.

C. 55:14K-23 Pledges.

23. Any pledge made by the agency of income, revenues or other property shall be valid and binding from the time the pledge is made. The income, revenue or other property so pledged by

the agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the agency.

C. 55:14K-24 State bond ceiling.

24. For purposes of subsection (g) of section 103A of the federal Internal Revenue Code of 1954, as amended, the State ceiling on the aggregate amount of qualified mortgage bonds which may be issued in the State shall be allocated 100% to the agency.

C. 55:14K-25 Reservation for qualifying municipalities.

25. At least 25% of the funds made available by the agency for the acquisition, operation, construction, rehabilitation, conversion, improvement or ownership of residential properties of from one to four, or from five to 12, dwelling units shall be reserved for use in municipalities which qualify for State aid under P. L. 1978, c. 14 (C. 52:27D–178 et seq.). The period of reservation shall be established by the agency at its discretion, but shall not be less than four months. The period may be extended at the agency's discretion, with or without adjusting the amount of funds so reserved.

C. 55:14K-26 Inclusion of interest in gross income.

26. The agency may consent, at or prior to the time of issuance of any issue of its bonds, to the inclusion of interest on such bonds in the gross income of holders of such bonds under the federal Internal Revenue Code of 1954, as amended, or any subsequent federal law, to the same extent and in the same manner as the interest on bills, notes, bonds and other obligations of the United States is includible in the gross income of the holders thereof under the federal Internal Revenue Code of 1954, as amended, or any subsequent federal law. Nothing contained in this act shall be construed to waive or to authorize the agency to waive any other exemption, privilege or immunity of the State or to consent or to authorize the agency to consent to the application of any other provision of any other laws, federal or State, to the agency or to its bonds, which would not otherwise be so applicable.

C. 55:14K-27 No personal liability.

27. Neither the members of the agency nor any person executing bonds issued pursuant to this act shall be liable personally on such bonds by reason of the issuance thereof.

C. 55:14K-28 Power to purchase bonds.

28. The agency shall have power to purchase bonds of the agency out of any funds available therefor. The agency may hold, cancel or resell such bonds subject to and in accordance with agreements with holders of its bonds.

C. 55:14K-29 Housing finance funds.

29. a. The agency may create and establish one or more special funds to be known as housing finance funds and may pay into such housing finance funds any moneys appropriated and made available by the State for the purposes of such funds, any proceeds of the sale of the bonds to the extent provided in the resolution of the agency authorizing the issuance thereof, the moneys directed to be transferred by the agency to such funds, and any other moneys which may be made available to the agency for the purposes of such funds from any other source or sources. The moneys held in or credited to any housing finance fund established under this act, except as hereinafter provided, shall be used solely for the payment of the principal of and interest on bonds of the agency secured by such housing finance fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds of the agency or the payment of any redemption premium to be paid when such bonds are redeemed prior to maturity; but moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds of the agency then outstanding and secured by such housing finance fund (such amount being hereafter referred to as the "required minimum capital reserve"), except for the purpose of paying principal and interest on the bonds of the agency secured by such housing finance fund maturing and becoming due and sinking funds payments for the payment of which other moneys of the agency are not available. Any income or interest earned by, or increment to, any such housing finance fund due to the investment thereof may be transferred to any other fund or account of the agency to the extent it does not reduce the amount of such housing finance fund below the required minimum capital reserve. In computing the amount of any housing finance fund for the purposes of this section, securities in which all or a portion of such housing finance

fund are invested shall be valued at par if purchased at par or, if purchased at other than par, at amortized cost.

b. The agency shall not issue bonds secured by a housing finance fund at any time if the maximum amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds outstanding then to be issued and secured by a housing finance fund will exceed the amount of such housing finance fund at the time of issuance, unless the agency, at the time of issuance of such bonds, shall deposit in such housing finance fund from the proceeds of the bonds or other obligations so to be issued, or otherwise, an amount which together with the amount then in such housing finance fund, will be not less than the required minimum capital reserve.

c. The Housing Finance Fund established under the agency's existing General Housing Bond Resolution shall continue as a housing finance fund pursuant to the provisions of subsection a. of this section.

d. To assure the maintenance of the required minimum capital reserve in the housing finance funds, there shall be annually appropriated and paid to the agency for deposit in each of such funds, such sum, if any, as shall be certified by the chairman of the agency to the Governor as necessary to restore each of such funds to an amount equal to the required minimum capital reserve. The chairman shall annually, on or before December 1, make and deliver to the Governor his certificate stating the sum, if any, required to restore each of such funds to the amount aforesaid, and the sum or sums so certified shall be appropriated and paid to the agency during the then current State fiscal year.

C. 55:14K-30 Housing Development Fund.

30. a. The agency shall establish and maintain a Housing Development Fund which shall consist of all moneys appropriated by the State for inclusion therein, notwithstanding any inconsistent provisions of this or of any other law, any moneys which the agency shall receive in repayment of advances from the fund, and any other moneys available to the agency which it determines to utilize for this purpose.

b. The agency is hereby authorized to use the money held in the Housing Development Fund to make noninterest bearing advances to housing sponsors who are corporations or associations organized not for profit or for mutual housing to defray development costs for housing projects. No such advance shall be made unless

it is reasonably anticipated by the agency that an eligible mortgage loan will be obtained for the housing project and the not for profit or mutual housing sponsor enters into an agreement with the agency to be regulated with respect to those matters provided in paragraphs (5) and (6) of subsection a. of section 7 of this act.

c. Each advance shall be repaid in full concurrent with the receipt by the not for profit or mutual housing sponsor of the proceeds of the eligible mortgage loan, unless the agency shall extend the period for the repayment of such advance, but no such extension shall be granted beyond the date of final payment under the eligible mortgage loan.

d. If the agency determines at any time that an eligible mortgage loan may not be obtained from the agency, the advance shall become immediately due and payable and shall be paid from any assets of the housing project. To the extent that repayment cannot be made from the assets of the housing project, the advance shall be treated as a grant.

e. The term "development cost", as used in this section, means the amount approved by the agency as an appropriate expenditure which may be incurred prior to the first advance on an eligible mortgage loan, including but not limited to (1) payments for options, deposits or contracts to purchase properties on the proposed housing project site or, with the prior approval of the agency, payments for the purchase of such properties; (2) legal and organizational expenses, including attorney's fees and salaries, office rent and other incidental expenses for a project manager and clerical staff; (3) fees for preliminary feasibility studies, planning advances, borings, surveys, engineering and architectural work; (4) expenses for tenant surveys and market analyses; and (5) such other expenses as the agency may deem appropriate to effectuate the purpose of this section.

f. The term "eligible mortgage loan", as used in this section, means a below-market interest rate mortgage loan insured by the Secretary of the Department of Housing and Urban Development, or a mortgage loan insured by the Secretary of the Department of Housing and Urban Development and augmented by a program of rent supplements, or an eligible loan made by the agency.

C. 55:14K-31 General Fund.

31. a. The agency shall establish and maintain a fund called the "General Fund" which shall consist of all moneys of the agency not required to be deposited in any other fund of the agency,

which the agency may deposit therein. To the extent available, after paying all the operating costs of the agency, the moneys remaining in the General Fund may be used for the payment of the principal of and interest on the bonds issued by the agency or for such other corporate purposes of the agency as this act authorizes.

b. The agency may establish such additional and further funds as may be necessary and desirable to accomplish any agency purpose or to comply with the provisions of any agreement made by the agency or any resolution approved by the agency. The resolution establishing such a fund shall specify the source of moneys from which it shall be funded and the purposes for which moneys held in the fund shall be disbursed.

C. 55:14K-32 Pledge to bondholders.

32. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds issued pursuant to the authority of this act that the State will not limit, restrict or alter the rights or powers hereby vested in the agency to perform and fulfill the terms of any agreement made with the holders of such bonds, or in any way impair the rights or remedies of such holders until such bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or in behalf of such holders, are fully met, paid and discharged. The agency may include this pledge and agreement of the State in any agreement with the holders of bonds issued by the agency.

C. 55:14K-33 Investment authorized.

33. Notwithstanding any restriction contained in any other law, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to this act, and such bonds shall be authorized security for any and all public deposits.

C. 55:14K-34 Tax exemption.

34. a. All property of the agency is hereby declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special

assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are hereby declared to be issued by a body corporate and politic of this State and for an essential public and governmental purpose and such bonds, and the interest thereon and the income therefrom, and all fees, charges, funds, revenues, income and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation, except for transfer inheritance and estate taxes.

b. The sale to a housing sponsor of all materials and supplies to be used to construct, improve or rehabilitate a housing project financed by a loan made by the agency to the housing sponsor shall be exempt from all sales taxes of the State or any subdivision thereof.

C. 55:14K-35 Exemption from judicial process.

35. All property of the agency, except as otherwise provided herein, shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the agency be a charge or lien upon its property; except that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the agency on its revenues or other moneys.

C. 55:14K-36 Insurance.

36. a. The agency may obtain, or aid in obtaining, from any department or agency of the United States or any other person any insurance or guarantee as to, or of or for the payment or repayment of interest or principal, or both, or any part thereof, on any loan or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this act; and notwithstanding any other provisions of this act enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee, and accept payment in such manner and form as provided therein in the event of the default by the borrower.

b. The agency may obtain from any department or agency of the United States or any other person any insurance or guarantee as to, or of or for the payment or repayment of, interest or principal, or both, or any part thereof, on any bonds issued by the agency pursuant to the provisions of this act; and notwithstanding any other provisions of this act enter into any agreement, contract

or any other instrument whatsoever with respect to any such insurance or guarantee except to the extent that such action would in any way impair or interfere with the agency's ability to perform and fulfill the terms of any agreement made with the holders of the bonds of the agency.

C. 55:14K-37 Other acts superseded; payments in lieu of taxes.

37. a. It is the intent of the Legislature that in the event of any conflict or inconsistency in the provisions of this act and any other acts concerning housing sponsors or any rules and regulations adopted thereunder, to the extent of such conflict or inconsistency, the provisions of this act shall be enforced and the provisions of such other acts and rules and regulations adopted thereunder shall be of no effect.

b. The governing body of any municipality in which a housing project financed or to be financed by the agency is or is to be located may by ordinance or resolution, as appropriate, provide that such project shall be exempt from real property taxation, if the housing sponsor enters into an agreement with the municipality for payments to the municipality in lieu of taxes for municipal services. Any such agreement may require the housing sponsor to pay to the municipality an amount up to 20% of the annual gross revenue from each housing project situated on such real property for each year of operation thereof following the substantial completion thereof. For the purpose of this section, "annual gross revenue" means the total annual gross rental or carrying charge and other income of a housing sponsor from a housing project. If any such agreement is entered into from the date of recording the mortgage on the project to the date of substantial completion of the project, the annual amount payable to the municipality as taxes or as payments in lieu of taxes in respect of the project site shall not be in excess of the amount of taxes on the project site for the year preceding the recording of the mortgage. Any agreement between any housing sponsor and a municipality pursuant to this subsection shall be submitted to the agency for review in order to avoid duplicating, overlapping or inconsistent regulations or provisions. Any exemption from taxation pursuant to the provisions of this section shall not extend beyond the date on which the eligible loan made by the agency on the project is paid in full.

C. 55:14K-38 3rd degree crime.

38. Any person who attempts to or obtains an eligible loan hereunder or occupancy or continued occupancy of a dwelling unit

financed by an eligible loan by false or misleading information or who violates this act or who by fraud attempts to obtain moneys from the agency or its approval for the payment of moneys or fraudulently attempts to or prevents the collection of any moneys due to the agency is, for each offense, guilty of a crime of the third degree.

C. 55:14K-39 Conflict of interest.

39. a. No member, officer or employee of the agency shall have or attempt to have, for purposes of personal gain, directly or indirectly, any interest:

(1) In any contract or agreement of the agency;

(2) In the sale or purchase of any property by the agency;

(3) In any eligible loan, loan to institutional lender or application therefor;

(4) In any housing project constructed, improved, rehabilitated or operated, or to be constructed, improved, rehabilitated or operated under the provisions of this act; or

(5) In any boarding house at which or to which a life safety improvement is or is to be constructed, acquired or rendered with moneys provided by a life safety improvement loan from the agency;

but this section shall not be construed to prohibit a member, officer or employee of the agency from being the borrower on a loan purchased by the agency made to provide financing for a single family dwelling which is the primary residence of the borrower, and the agency shall adopt a policy governing the eligibility of agency members, officers and employees for such loans.

b. Any member, officer or employee of the agency who violates the provisions of this section is guilty of a crime of the fourth degree. Any such person shall be barred from public employment in this State in any capacity whatsoever for a period of five years from the date he was adjudged guilty.

C. 55:14K-40 Annual report; audit.

40. On or before the last day of March in each year, the agency shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. Each report shall set forth a complete operating and financial statement covering its operations during the year. The agency shall cause an audit of its books and accounts to be made at least once in each year

by certified public accountants and the cost thereof shall be considered an expense of the agency and a copy thereof shall be filed with the State Treasurer.

C. 55:14K-41 Agency financial strategy.

41. a. The agency shall develop and revise every two years an agency financial strategy. This strategy shall be submitted to the presiding officer of each House of the Legislature and to the Senate County and Municipal Government Committee and the General Assembly Housing and Urban Policy Committee, or their successors.

b. The strategy shall include, but need not be limited to:

(1) An inventory and description of the housing stock in New Jersey based on currently available data;

(2) An estimate of the housing needs;

(3) An estimate of the cost of construction, improvement, repair or rehabilitation of housing to meet those needs;

(4) Estimates of resources available to meet those needs;

(5) A list of the agency's priorities in meeting the housing needs of the residents of the State; and

(6) An estimate of the extent and nature of the agency's financial participation in housing projects for the next two years.

c. The agency shall annually review the housing program content of its actions in light of the powers granted in this act and of the goals and priorities established in its financing strategy.

C. 55:14K-42 Prevailing wage rate mandated.

42. Each qualified housing sponsor granted a loan from the agency, or any builder, contractor or subcontractor engaged by the qualified housing sponsor for the construction or rehabilitation of any housing project, shall pay the workmen employed in the performance of any contract for such construction or rehabilitation not less than the prevailing wage rate. The prevailing wage rate shall be determined by the Commissioner of the New Jersey Department of Labor in all cases, except that the prevailing rate shall be determined by the Secretary of the United States Department of Labor in accordance with the Davis-Bacon Act as amended (40 U. S. C. 276a to 276a-5), when the loan from the agency for the construction or rehabilitation of a housing project or the tenants of the housing project is the subject of direct or indirect federal assistance other than the federal tax exemption of the interest paid on the agency obligations.

The Commissioner of Labor is authorized to, and shall, determine the prevailing wage rate and shall establish the prevailing wage in the locality in which the construction or rehabilitation of any housing project is to be performed for each craft or trade or classification of all workmen employed in the performance of such construction or rehabilitation, as if such construction or rehabilitation were "public work" within the meaning of P. L. 1963, c. 150 (C. 34:11–56.25 et seq.). For the purpose of carrying out the provisions of this section, the Commissioner of Labor and any workmen employed in the performance of any contract for the construction or rehabilitation of any housing project shall have and may exercise or perform any right, power or duty granted or imposed upon them by P. L. 1963, c. 150.

C. 55:14K-43 Services of other State bodies.

43. All officers, departments, boards, agencies, divisions and commissions of the State are hereby authorized and empowered to render any services to the agency as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the agency. The cost and expense of any such services shall be met and provided for by the agency.

C. 55:14K-44 Discrimination ban.

44. No person shall be discriminated against because of race, religious principles, color, national origin or ancestry by the agency, any housing sponsor, any institutional lender, or any loan originator or any agent or employee thereof in connection with any housing project or eligible loan. No person shall be discriminated against because of age in admission to, or continuance of occupancy in, any housing project receiving assistance under this act except for any housing project constructed under a governmental program restricting occupancy of at least 90% of the dwelling units to persons 62 years of age or older and any members of their immediate households or their occupant surviving spouses, or constructed as a retirement subdivision or retirement community as defined in the "Retirement Community Full Disclosure Act," P. L. 1968, c. 215 (C. 45:22A–1 et seq.). Any person who violates the provisions of this section is a disorderly person.

45. It is the intent of the Legislature that in the event of any conflict or inconsistency in the provisions of this act and any other acts pertaining to matters herein established or provided for or in any rules and regulations adopted under this act or said other

acts, to the extent of such conflict or inconsistency, the provisions of this act and the rules and regulations adopted hereunder shall be enforced and the provisions of such other acts and rules and regulations adopted thereunder shall be of no effect.

46. This act shall be construed liberally to effectuate the legislative intent and the purposes of this act as complete and independent authority for the performance of every act and thing herein authorized and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

47. If any clause, sentence, subdivision, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Repealer.

48. The following are repealed:

P. L. 1967, c. 81, §§ 1–19, 21–40 (C. 55:14J–1 to 55:14J–19 inclusive, C. 55:14J–21 to 55:14J–40 inclusive);

P. L. 1970, c. 38 (C. 17:1B–4 to 17:1B–25 inclusive);

P. L. 1975, c. 160, §§ 1, 5, 6 (C. 17:1B–5.1, 17:1B–9.1, 17:1B–9.2);

P. L. 1975, c. 396 (C. 17:1B–9.3);

P. L. 1976, c. 3, §§ 3, 8 (C. 55:14J–20.1 and 55:14J–20.2);

P. L. 1976, c. 133, § 5 (C. 55:14J–45); and

P. L. 1981, c. 515, §§ 1, 2, 6–10 (C. 55:14J–52 to 55:14J–58 inclusive).

49. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 531

AN ACT providing for the establishment of the Alcohol Education, Rehabilitation and Enforcement Fund, amending and supplementing P. L. 1980, c. 62.

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

1. Section 3 of P. L. 1980, c. 62 (C. 54:32C–3) is amended to read as follows:

C. 54:32C-3 7.3% tax.

3. There is imposed a tax of 7.3% upon the receipts from every sale of alcoholic beverages, except draught beer sold by the barrel, by any wholesaler to any retail licensee.

C. 54:32C-3.1 Allocation of moneys.

2. (New section) The State Treasurer shall annually allocate moneys received under section 3 of P. L. 1980, c. 62 (C. 54:32C–3) in the following manner:

a. 89.25% of all money shall be deposited in the General Fund.

b. 10.75% of all moneys shall be deposited in a special account to be known as the Alcohol Education, Rehabilitation and Enforcement Fund established pursuant to section 3 of this act.

c. Of the moneys deposited in the first year into the fund, the following dedication shall be made:

(1) $2,000,000.00 for the establishment of Intoxicated Driver Resource Centers, as provided in subsection (f) of R. S. 39:4–50.

(2) $20,000.00 for the establishment of a pilot project of portable roadside breath analyzers as provided in P. L. ....., c. .... (C. .....) (now pending before the Legislature as Assembly Bill No. 3467 of 1983).

(3) The moneys remaining in the fund in the first year shall be dedicated as follows:

70% for rehabilitation;
20% for enforcement; and
10% for education.

d. The moneys collected in each subsequent year shall be annually dedicated as follows:

75% to rehabilitation;
15% to enforcement; and
10% to education.

C. 26:2B-32 Fund established.

3. (New section) An Alcohol Education, Rehabilitation and Enforcement Fund is established as a nonlapsing, revolving fund in a separate account in the Department of Health. An advisory commission having as its members the Commissioner of Health, the Commissioner of Education, the Chancellor of Higher Education, the Attorney General, or their designees, and a representative of the

counties designated by the Governor, shall be established for the purpose of issuing an annual report to the Governor and the Legislature to evaluate the expenditures which are made from the fund. The fund shall be credited with 10.75% of the tax revenues collected pursuant to section 3 of P. L. 1980, c. 62 (C. 54:32C–3). Interest received on moneys in the fund shall be credited to the fund. Pursuant to the formula set forth in section 5 of this act, moneys appropriated pursuant to law shall only be distributed to the counties by the Department of Health, without the assessment of administrative costs, to develop and implement a comprehensive plan for the treatment of intoxicated persons and alcoholics and for the expenditures established in section 2 of this act.

C. 26:2B-33 Plan for community services.

4. (New section) a. Within 180 days of the enactment of this act, the governing body of each county, in conjunction with the county agency, or individual, designated by the county with the responsibility for planning services and programs for the care or rehabilitation of intoxicated persons and alcoholics, shall submit to the Director of the Division of Alcoholism a comprehensive plan for the provision of community services to meet the needs of intoxicated persons and alcoholics.

b. The comprehensive plan shall address the needs of urban areas with a population of 100,000 or over and shall demonstrate linkage with existing resources which serve alcoholics and their families. Special attention in the plan shall be given to alcoholism and youth; drinking drivers; women and alcoholism; alcoholism on the job; alcoholism and crime; public information; and educational programs as defined in subsection c. of this section. Each county shall identify, within its comprehensive plan, the Intoxicated Driver Resource Center which shall service its population, as is required under subsection (f) of R. S. 39:4–50. The plan may involve the provision of programs and services by the county, by an agreement with a State agency, by private organizations, including volunteer groups, or by some specified combination of the above.

If the State in any year fails to deposit a minimum of 10.75% of the receipts derived from the tax under section 3 of P. L. 1980, c. 62 (C. 54:32C–3), a county may reduce or eliminate, or both, the operation of existing programs currently being funded from the proceeds deposited in the Alcohol Education, Rehabilitation and Enforcement Fund.

c. Programs established with the funding for education as pro-

vided in section 2 of this act shall include all courses in the public schools required pursuant to N. J. S. 18A:35–4, programs for students included in the comprehensive plan for each county, and in-service training programs for teachers and administrative support staff including nurses, guidance counselors, child study team members, and librarians. All moneys dedicated in section 2 of this act for education shall be allocated through the designated county alcoholism agency and all programs shall be consistent with the comprehensive county plan submitted to the Director of the Division of Alcoholism pursuant to this section. Moneys dedicated to education from the fund shall be first allocated in an amount not to exceed 20% of the annual education allotment for the in-service training programs, which shall be conducted in each county through the office of the county alcoholism coordinator in consultation with the county superintendent of schools, local boards of education, local councils on alcoholism and institutions of higher learning, including the Rutgers University Center of Alcohol Studies. The remaining money in the education allotment shall be assigned to offset the costs of programs such as those which assist employees, provide intervention for staff members, assist and provide intervention for students and focus on research and educate about youth and drinking. These funds shall not replace any funds being currently spent on education and training by the county.

d. The governing body of each county, in conjunction with the county agency, or individual, designated by the county with responsibility for services and programs for the care or rehabilitation of intoxicated persons and alcoholics, shall establish a citizens' advisory committee to assist the governing body in development of the comprehensive plan. The advisory committee shall consist of no less than 10 nor more than 16 members and shall be appointed by the governing body. At least two of the members shall be recovering alcoholics. The committee shall include representatives from among the judges assigned to the county, the county prosecutor or his designee, a wide range of public and private organizations involved in the treatment of alcohol-related problems and other individuals with interest or experience in issues concerning alcohol abuse. Each committee shall, to the maximum extent feasible, represent the various socioeconomic, racial and ethnic groups of the county in which it serves.

e. The Director of the Division of Alcoholism shall review a plan pursuant to a procedure developed by the director in conjunction with the Advisory Council on Alcoholism established pursuant to

section 4 of P. L. 1975, c. 305 (C. 26:2B–10). In determining whether to approve a comprehensive plan under this act, the director shall consider whether the plan is designed to meet the goals and objectives of the "Alcoholism Treatment and Rehabilitation Act," P. L. 1975, c. 305 (C. 26:2B–7 et seq.) and whether implementation of the plan is feasible. Each county plan submitted to the director shall be presumed valid; provided it is in substantial compliance with the provisions of this act. Where the department fails to approve a county plan, the county may request a court hearing on that determination.

C. 26:2B-34 Allotment formula.

5. (New section) a. Allotments to each county whose comprehensive plan is approved pursuant to the provisions of section 4 of this act shall be made on the basis of the following formula:

$$\text{County Allotment} = \text{Population of County} \times \frac{\text{Total Funds Appropriated}}{\text{Population of State}} \times \left[.5 \times \frac{\text{Per Capita Income of State (3 yr. average)}}{\text{Per Capita Income of County (3 yr. average)}} + .5 \times \frac{\text{Need in County}}{\text{Need in State}} \right]$$

in which Need in County and Need in State are estimates of the prevalence of alcoholism according to the current New Jersey Behavioral Health Services Plan. The funds dedicated for the provision of educational programs pursuant to section 2 of this act shall be allocated to the counties on the basis of this formula.

b. As a condition for receiving the allotment calculated in subsection a. of this section, a county shall contribute a sum not less than 25% of that county's allotment to fund community services for intoxicated persons and alcoholics pursuant to the county's comprehensive plan. Those alcoholism education and treatment programs already existing in a county may be combined under the county plan which establishes the comprehensive plan to be approved by the Director of the Division of Alcoholism in the Department of Health. In determining the sum of money to be contributed by each county, the required 25% minimum county contribution may include any moneys currently appropriated by the county to meet the needs of the alcoholism programs.

C. 26:2B-35 Distribution of enforcement moneys.

6. (New section) a. Moneys dedicated for enforcement pursuant to section 2 of this act shall be distributed as follows:

(1) One-third shall be distributed to the "Municipal Court Administration Reimbursement Fund" pursuant to subsection b. of this section.

(2) Two-thirds shall be distributed in the "Drunk Driving Enforcement Fund" established pursuant to P. L. 1983, c. ... (C. .....) (now pending before the Legislature as Assembly Bill 2262 of 1982).

b. (1) Each municipality in this State shall present to the Administrative Office of the Courts, before December 31, 1983, the number of drunk driving arrests in the municipality during calendar year 1980. This number shall be the base year number of arrests. Beginning January 15, 1984, and each year thereafter the municipality shall report to the Administrative Office of the Courts the number of drunk driving arrests made in its municipality during the preceding calendar year.

(2) The Administrative Office of the Courts shall certify the amounts submitted by each municipality and shall calculate for each municipality any increase in the number of arrests between the base year and the number of arrests reported for the preceding calendar year. The Administrative Office of the Courts shall then calculate the sum of all increases for all municipalities reporting.

(3) Beginning for calendar year 1983, the following fraction shall be calculated for each municipality:

The increase in drunk driving arrests in the municipality between the base year and the preceding year over the total of increases in drunk driving arrests between the base year and the preceding year in all reporting municipalities in the State.

This fraction shall be multiplied by the total amount of the money available in the "Municipal Court Administration Reimbursement Fund" in the preceding calendar year. This amount shall be allocated to the municipality for the purpose of maintaining its municipal court which may include payments to municipal court judges, municipal prosecutors and other municipal court personnel for work performed in addition to regular employment hours.

7. This act shall take effect immediately but shall remain inoperative until the following bills, now pending before the Legisla-

ture as Assembly Bill No. 2262 of 1982 and Senate Bill No. 1042 of 1982 are enacted into law and no moneys shall be deposited in the Alcohol Education, Rehabilitation and Enforcement Fund created in section 3 of this act during the fiscal year ending June 30, 1984 in excess of an amount equal to the amount of additional revenue realized in that fiscal year as a result of the increase in the tax rate imposed in section 1 of this act. This act shall apply to alcoholic beverages delivered to retail licensees on and after the first day of the second month following enactment even though rendered under a contract entered into prior to that date.

Approved January 17, 1984.

CHAPTER 532

AN ACT increasing certain fees collected by the Department of Insurance, amending P. L. 1938, c. 322, P. L. 1960, c. 32, P. L. 1975, c. 106, N. J. S. 17B:22–23 and R. S. 45:15–15 and supplementing Titles 17 and 45 of the Revised Statutes and Title 17B of the New Jersey Statutes.

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

1. Section 15 of P. L. 1938, c. 322 (C. 17:16A–15) is amended to read as follows:

C. 17:16A-15 Fees.

15. Fees. The commissioner shall charge and collect for his services under the provisions of this chapter and pay into the State Treasury the following fees: for issue of certificate of authority annually, $250.00; for filing the certified copy of the charter, deed of settlement or certificate of organization of an investment company, $20.00; for filing each annual statement of each investment company, $20.00; for each certificate of authority to an agent of an investment company of another state, $50.00; for each certificate of the condition or qualification of an investment company, $1.00; for each copy of any paper filed in the department, $0.20 a sheet or folio of 100 words and $1.00 for certification; for services in connection with deposits of securities by investment companies, the depositing company shall pay to the commissioner

an annual fee of $15.00 on January 1 of each year, and on each substitution of securities and clipping and forwarding of interest coupons an additional fee of $25.00; and all other fees and charges due and payable into the State Treasury for any official or service of the commissioner.

2. Section 21 of P. L. 1960, c. 32 (C. 17:22–6.55) is amended to read as follows:

C. 17:22-6.55 Surplus lines agents.

21. Any resident New Jersey licensed insurance broker who is determined by the commissioner to have had sufficient experience in the insurance business to be competent for the purpose, may be licensed as a surplus lines agent, upon taking and successfully passing a written examination as to surplus lines, as given by the commissioner. Any New Jersey copartnership or corporation licensed as an insurance broker may become licensed as a surplus lines agent; provided all members of the copartnership or all the officers of the corporation, as the case may be, who are actively engaged in the surplus lines business of the copartnership or corporation possess the requisite experience and successfully pass the written examination set forth above. The commissioner shall issue a certificate of eligibility to all such members and officers possessing the requisite experience and successfully passing the written examination.

The examination requirements set forth in the first paragraph of this section shall not be required in the case of an individual, copartnership or corporation holding a New Jersey surplus lines broker's license on the effective date of this act.

Initial and renewal applications for the said licenses and certificates shall be made to the commissioner on forms as designated and furnished by him.

Such licenses and certificates shall expire at midnight on the October 31 next following date of issuance, and shall be renewable upon written request therefor filed with the commissioner and accompanied by payment of the license fee, prior to expiration.

The following fees shall be paid in advance:

(a) Surplus lines agent's annual license fee	$200.00
(b) Annual certificate of eligibility	50.00
(c) Examination fee	10.00

All applicants and licensees must file and maintain the bond required under section 22 of this act.

3. Section 30 of P. L. 1975, c. 106 (C. 17:46B–30) is amended to read as follows:

C. 17:46B-30 Title insurance agents; names to be certified to commissioner; application and examination for a license.

30. Title insurance agents; names to be certified to commissioner; application and examination for a license.

a. Every title insurance company authorized to transact business within this State shall certify annually to the commissioner the names of all title insurance agents representing it in this State. No person shall function as a title insurance agent and no title insurance company shall authorize any person to function as its agent unless such person shall hold a valid title insurance agent's license as provided herein.

b. Title insurance agents shall be licensed in the manner provided for agents of insurance companies in section 6 of P. L. 1944, c. 175 (C. 17:22–6.6); provided, however, that:

(1) All applicants for a title insurance agent's license, except attorneys licensed to practice law in this State, shall be required to qualify for such license by taking an examination of sufficient scope to satisfy the commissioner that the applicant has sufficient knowledge of, and is reasonably familiar with, the title insurance laws of this State and with the provisions, terms and conditions of title insurance, including a knowledge of the examination and evaluation of titles, and has an adequate understanding of the duties and obligations of a title insurance agent.

(2) If the applicant for a title insurance agent's license is a firm, association, partnership, corporation, cooperative or joint stock company, the application for a license shall name all members or officers thereof who intend to exercise the power and perform the duties of title insurance agents, and no such license shall be issued unless the members or officers so named in the application hold individual licenses as provided by this act; provided, however, those employees performing only clerical functions not requiring the knowledge and understanding of title insurance agents shall not be required to obtain such a license.

(3) Any applicant for a title insurance agent's license who has had at least two years' experience as a title insurance agent prior to the effective date of this act, shall not be required to take an examination for such license if application for the issuance of such license is filed with the commissioner within a period of six months immediately following the effective date of this act.

(4) Applicants for a title insurance agent's license shall not be required to comply with the educational program requirements set forth in section 6 of P. L. 1944, c. 175 (C. 17:22-6.6), as amended, unless and until the commissioner of insurance shall, by regulation, make said requirements applicable to applicants for a title insurance agent's license.

c. Licenses of title insurance agents shall expire biennially at midnight of June 30 unless sooner terminated as a result of business relations between the company and the agent, or unless revoked by the commissioner.

d. Title insurance agents' licenses shall be renewed biennially on the filing of an application containing such information as the commissioner deems necessary.

e. (1) At the time of application for a title insurance agent's license and for every renewal thereof, there shall be paid to the commissioner by each applicant for a license an annual fee of $50.00.

(2) An examination fee of $20.00 shall be paid to the commissioner at the time of the original application for each examination scheduled, which fee shall be nonrefundable.

f. In the event of the death or the inability further to act of a licensed title insurance agent, where no other agent in the agency, copartnership, association or corporation is authorized to represent such insurance company the commissioner may issue a temporary license to another person enabling such other person to represent any such insurance company, upon the filing of an appropriate application for a title insurance agent's license containing the additional information required by this section. Such temporary license shall continue only until the licensee is afforded an opportunity of taking the examination provided in subsection b. (1) hereof and receiving the results, but not to exceed a period of six months. In the event of the failure of the applicant to qualify for a regular title insurance agent's license as provided in this section, no renewal or extension may be granted to any temporary license held by said applicant.

g. No bank, trust company, bank and trust company, or other lending institution, mortgage service, mortgage brokerage or mortgage guaranty company or any service company of or for any lending institution or any officer or employee of any of the foregoing shall be licensed as or permitted to act as an agent for a title insurance company. No bank, trust company, bank and trust

company, or other lending institution, mortgage service, mortgage brokerage or mortgage guaranty company, or any service company of or for any lending institution shall make the selection of a particular title insurance company or agent a condition precedent to the granting of any mortgage loan.

4. N. J. S. 17B:22–23 is amended to read as follows:

Insurance license fees.

17B:22–23. a. The following annual license fees shall be paid to the commissioner at the time of the original application and at the time of the biennial renewal thereof:

(1) Agent's license $20.00
(2) Broker's license $50.00
(3) Solicitor's license $50.00

b. The following temporary license fees shall be paid to the commissioner at the time of the application:

(1) Agent's temporary license fee $20.00
(2) Broker's temporary license fee $50.00

Notwithstanding anything in this section to the contrary, an applicant who having paid the above cited temporary license fee and who shall thereafter pass his examination and be properly licensed, such applicant shall not be required to pay any further license fee until the next ensuing annual license renewal date.

c. Each application for a license shall be accompanied by a nonrefundable application fee of $20.00.

d. If the applicant fails to qualify for, or is refused, a license, the license fee shall be returned. The examination fee shall not be returned for any reason.

e. An examination fee shall be paid for each examination and reexamination permitted pursuant to this chapter. One examination fee shall entitle the applicant to take an examination for life insurance, health insurance or annuity or any combination thereof.

5. R. S. 45:15–15 is amended to read as follows:

Real estate licenses.

45:15–15. The annual fee for each real estate broker's license shall be $50.00, and the annual fee for each real estate salesman's license shall be $25.00. The annual fee for a branch office license shall be $10.00. Each license granted under this article shall entitle the licensee to perform all of the acts contemplated herein during

the period for which the license is issued, as prescribed by this article. If a licensee fails to apply for a renewal of his license prior to the date of expiration of such license, the commission may refuse to issue a renewal license except upon the payment of a late renewal fee in the amount of $5.00 for a salesman and $10.00 for a broker; provided, however, the commission may, in its discretion, refuse to renew any license upon sufficient cause being shown. New licenses may be granted for each ensuing year upon request of licensees and the payment of the annual fee therefor as herein required, but the commission may, in its discretion, refuse to grant any new license upon sufficient cause being shown. The revocation or suspension of a broker's license shall automatically suspend every real estate salesman's license granted to employees of the broker whose license has been revoked or suspended, pending a change of employer and the issuance of a new license. The new license shall be issued without additional charge, if the same is granted during the year in which the original license was granted.

6. (New section) The commissioner is authorized to collect the balance of any fee due under section 15 of P. L. 1938, c. 322 (C. 17:16A–15), section 21 of P. L. 1960, c. 32 (C. 17:22–6.55), or section 30 of P. L. 1975, c. 106 (C. 17:46B–30), by virtue of its increase pursuant to this 1983 amendatory and supplementary act, on or after its effective date.

7. (New section) The Commissioner of Insurance is authorized to collect the balance of any fee due under R. S. 45:15–15 by virtue of its increase pursuant to this 1983 amendatory and supplementary act, on or after its effective date.

8. (New section) The commissioner is authorized to collect the balance of any fee due under N. J. S. 17B:22–23 by virtue of its increase pursuant to this 1983 amendatory and supplementary act, on or after its effective date.

9. This act shall take effect immediately and shall be retroactive to May 1, 1983, but shall remain inoperative until the enactment of Assembly Bill No. 3571 of 1983.

Approved January 17, 1984.

CHAPTER 533

AN ACT concerning the licensing of insurance representatives and revising parts of the statutory law.

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

C. 17B:22-1.1 Insurance agent defined.

1. (New section) An insurance agent is hereby defined to be an individual who is a resident of this State or whose principal office for the conduct of his insurance business is in this State, or a partnership or corporation domiciled in this State or having its office for the conduct of its insurance business in this State, authorized in writing by an insurance company lawfully authorized to transact life insurance, health insurance and annuity business in this State, to act as its agent, to solicit or negotiate contracts of insurance in its behalf, to collect the premiums thereon, and with a bona fide office in this State in which is kept a record of the contracts of insurance sold by the agent.

2. N. J. S. 17B:22–2 is amended to read as follows:

Broker defined.

17B:22–2. For the purpose of this chapter, "broker" is hereby defined to be an individual, partnership, or corporation, resident of or domiciled, or having its office for the conduct of its insurance business, in this State, who or which, for a commission or a brokerage consideration, shall act or aid in any manner in soliciting or negotiating any life insurance, health insurance or annuity contract as an agent for an insured or prospective insured, other than himself. No individual may be licensed as a broker unless he is at least 18 years of age.

3. N. J. S. 17B:22–4 is amended to read as follows:

Nonresident broker defined.

17B:22–4. "Nonresident broker" means any individual, partnership or corporation, who or which, for a commission or a brokerage consideration, shall act or aid in any manner in soliciting or negotiating any life insurance, health insurance or annuity contract as an agent for an insured or prospective insured, other than himself, and residing in or domiciled in and having its principal office for the conduct of its insurance business in any state

other than New Jersey. No individual may be licensed as a broker unless he is at least 18 years of age.

4. N. J. S. 17B:22–8 is amended to read as follows:

License required.

17B:22–8. a. No individual, partnership or corporation or other entity shall act as an agent, nonresident agent, broker, nonresident broker or solicitor without first procuring a license so to act from the commissioner.

b. (Deleted by amendment, P. L. 1983, c. 533.)

c. (Deleted by amendment, P. L. 1983, c. 533.)

d. An agent duly licensed and appointed by an insurer authorized to transact business in this State may transact business for any subsidiaries or affiliates of said insurer that are duly licensed in this State for the same line or lines of insurance without securing additional licenses, provided a certified copy of a resolution adopted by the board of directors of each of the insurers requesting such authority is filed with the commissioner by each of the insurers and renewed and refiled whenever deemed necessary by the commissioner. The resolution shall also designate the primary insurer for which all of the company's agents must be licensed pursuant to this section, and said license must be in full force and effect in order to transact business for any of the affiliated or subsidiary insurers.

The Commissioner of Insurance is authorized to promulgate regulations to effectuate the purpose of this section, which will assist in maintaining the separation between lending institutions and the insurance business and to minimize the possibilities of unfair competitive practices by lending institutions or their related companies.

5. N. J. S. 17B:22–9 is amended to read as follows:

Application.

17B:22–9. a. An application for an agent's, broker's or solicitor's license shall be filed in the office of the commissioner in writing.

Any person not now engaged in the insurance business in this State as agent, broker or solicitor and hereafter desiring to engage in said business as agent, broker, or solicitor, and any licensed agent, broker or solicitor hereafter desiring to be licensed for additional kinds of insurance shall apply to the commissioner for a license authorizing him to engage in and transact such business, or

kinds thereof respectively. Every applicant for a broker's license shall be at least 18 years of age and if such applicant be a nonresident he shall show that he is the holder of an unexpired license as an insurance broker or agent in the state of his residence, or in which he maintains his principal office for the conduct of his insurance business, or that he has established a principal office in this State for the transaction of such business. If the application be for a solicitor's license it shall be accompanied by a written request of a licensed agent or broker with whom such solicitor has established a solicitor relationship. All such applications shall be in writing on uniform forms and supplements prepared by the commissioner, and shall be accompanied by a nonrefundable examination fee of $20.00 for each examination scheduled for such applicant (unless applicant is exempt from examination as set forth in N. J. S. 17B:22–12 and N. J. S. 17B:22–26).

b. The application shall be verified by the applicant and shall, unless otherwise prescribed by the commissioner, set forth:

(1) The name and address of the applicant; if the applicant is a partnership, the name and address of each member thereof who is actively engaged in the business of soliciting or negotiating policies or contracts of life insurance, health insurance or annuity; if the applicant is a corporation, the name and address of each of its officers who is actively engaged in the business of soliciting or negotiating policies or contracts of life insurance, health insurance or annuity, designated to act for the applicant.

(2) Whether the applicant has ever been convicted of a crime involving moral turpitude.

(3) The business in which the applicant has been engaged for the five years next preceding the date of application, and, if employed, the name and address of his employer.

(4) Whether the applicant has ever been denied, or had revoked, a license to engage in business as an insurance agent, broker or solicitor, or other profession or occupation, licensed under the laws of any state.

(5) In what states the applicant is now or has been licensed as an insurance agent, broker or solicitor.

(6) The kinds of insurance business the applicant proposes to transact: namely, life insurance, health insurance or annuity or any combination thereof.

(7) Whether the applicant intends to transact the business of insurance with the general public.

(8) That the applicant is not seeking such license principally for the purpose of soliciting, negotiating or writing life insurance, health insurance or annuity contracts covering himself, members of his family, members or employees of any organization of which the applicant is an officer, or officers or employees of a firm in which the applicant or his mother, father, sister, brother or wife or combination of such persons owns a controlling interest or for an employer that the applicant may be employed with.

c. The application shall include a certificate by a resident representative of an insurance company lawfully authorized to transact business in New Jersey, or by a licensed insurance agent or broker of New Jersey, certifying:

(1) That the applicant is a resident of New Jersey, or if a nonresident has his principal office for the conduct of his insurance business in New Jersey, or that he is an applicant for a nonresident agent's or broker's license;

(2) That the applicant is personally known to him;

(3) That the applicant has had experience or instruction in the business of life insurance, health insurance or annuity;

(4) That the applicant is of good reputation and is worthy of a license.

d. (Deleted by amendment, P. L. 1983, c. 533.)

C. 17B:22-9a Educational requirement.

6. (New section) The commissioner may prescribe and furnish forms calling for any information he deems proper in connection with the application for or renewal of licenses.

Before a first-time applicant for an insurance agent's, broker's or solicitor's license shall be admitted to a written examination, the applicant shall be required to have taken and successfully completed a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the kinds of insurance for which he desires to be licensed.

The commissioner may waive the educational requirement set forth herein if the commissioner is satisfied that the applicant possesses sufficient knowledge of the kinds of insurance for which such applicant desires a license in the following cases:

a. Where an applicant has previously been licensed in New Jersey for the same authority.

b. Where an applicant has previously been licensed in another state for that authority.

The commissioner may establish rules and regulations with respect to continuing education requirements.

7. N. J. S. 17B:22–11 is amended to read as follows:

Examination.

17B:22–11. Except as provided in section 17B:22–12, each applicant for a license shall submit to a written examination to determine his competence with respect to the life insurance, health insurance or annuity business or combination thereof which he proposes to transact and his familiarity with the pertinent provisions of the laws of this State, and shall pass the same to the satisfaction of the commissioner.

The commissioner shall issue a license to a first time applicant or applicant for renewal of license when he has satisfied himself, upon evidence presented, that the applicant is trustworthy and competent to act as an agent, broker, or solicitor.

If the applicant is a nonresident who wishes to qualify by taking an examination, the commissioner may, in his discretion, forward the examination paper or papers to the insurance supervisory authority of the state in which the applicant has his resident license, for the purpose of having such official administer the taking of the examination by the applicant in accordance with the instructions of the commissioner. In such event, the examination paper or papers shall be returned to and be graded by the commissioner for the purpose of determining whether the applicant has passed.

8. N. J. S. 17B:22–12 is amended to read as follows:

Exemptions.

17B:22–12. No written examination shall be required of:

a. An applicant who is the holder of a valid license issued by the commissioner or an applicant for a renewal license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetency in the conduct of his business to the detriment of the insurance-buying public;

b. An applicant whose license to do business or act as an insurance agent, broker or solicitor for life insurance, health insurance or annuities in this State has expired less than three years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than three years, he must submit to and pass an examination the same as a new applicant,

except where the applicant is a veteran who meets the requirements of subsection g. hereunder, when no reexamination shall be required;

c. An applicant who is a ticket-selling agent or other representative of a public carrier and who shall act under a restricted license only as an agent with respect to accident insurance ticket policies covering the risks of travel;

d. An applicant who shall act under a restricted license only as an agent with respect either to credit life or credit health insurance or to life or accident insurance covering the risks of travel, issued by means of mechanical vending machines supervised by him and located solely in terminal facilities of common carriers;

e. (Deleted by amendment, P. L. 1983, c. 533.)

f. An applicant whose previous license has been revoked or suspended; provided this examination exemption is only at the discretion of the commissioner; or

g. An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of an agent's license or a broker's license in New Jersey, which authorized the applicant to transact the business of life insurance, health insurance or annuity;

h. An applicant who provides certification that he is a designated Chartered Life Underwriter;

i. If the applicant is duly licensed in another state, provided the state issuing such license requires no like examination of licensees of New Jersey, the commissioner shall have the power to enter into written reciprocal agreements with other states where he deems it to be necessary.

If the laws of another state require the sharing of commissions with resident agents of that state on applications for life insurance, health insurance or annuity written by nonresident agents, then the same provision shall apply when resident agents of that state, licensed as nonresident agents of New Jersey, write applications for life insurance, health insurance or annuity on residents of this State.

9. N. J. S. 17B:22–13 is amended to read as follows:

Rules, regulations.

17B:22–13. a. The commissioner may establish rules and regulations with respect to:

(1) The scope, type and conduct of written examinations.

(2) The times and places within this State when they shall be held.

(3) Educational requirements and the qualification of schools offering a prescribed course of instruction.

b. Examinations for agents' licenses shall be held at least twice in each month.

C. 17B:22-10.1 Insurance agents.

10. (New section) Any insurance company lawfully authorized to transact business in this State may, by a written certificate of authority, contract with and appoint as its representative in this State, as its agent, any person who holds an unexpired certificate of authority issued prior to the effective date of this act, or a license issued under the provisions of chapter 22 of Title 17B of the New Jersey Statutes. Such company shall file with the commissioner a certificate showing the names and addresses of such appointees and shall pay a fee of $20.00 for each company appointment so made. Such contract and appointment shall contain the essentials of the duties, responsibilities and limitations of authority between the representative and the appointing company and said representative must abide by the terms of said contract.

An insurance company which has a written certificate of authority with a representative and which has filed such a certificate with the commissioner may, upon request to and on form approved by the commissioner, obtain a listing of the names and addresses of those insurance companies which have also issued a certificate of authority to the same representative. The commissioner shall have the authority to designate an appropriate fee to be charged to the requesting company based on an appropriate amount needed to offset the cost of producing the information requested.

If an agency is operating its business affairs as a partnership or corporation, such certificate of authority may be issued by such company in the name of that partnership or corporation, which certificate shall permit that partnership or corporation to be licensed as an insurance agent; provided all individuals actively engaged in the insurance business of such agency hold an unexpired agent's license issued in accordance with the provisions of chapter 22 of Title 17B of the New Jersey Statutes. The payment of one agency appointment fee by each insurance company represented by said agency shall cover all of its licensed agents in said agency.

Such certificate of authority shall remain in full force and effect until the license as agent is revoked by the commissioner as provided in chapter 22 of Title 17B of the New Jersey Statutes or canceled by the company upon written notice to that effect filed with the commissioner. Any licensed insurance agent who is a stockholder, officer or agent of any such corporation may be authorized by it to act for such corporation. Nothing contained in this section shall vest in any individual stockholder, officer or agent of any such corporation, any vested interest, claim, title or proprietary right in the agency franchise or otherwise, separate and apart from the title, franchise or proprietary right of the said corporation.

11. N. J. S. 17B:22–20 is amended to read as follows:

Reciprocal agreements.

17B:22–20. The commissioner shall have the power to enter into written reciprocal agreements with the appropriate supervisory insurance official of any other state waiving the written examination of any applicant resident in such other state, provided:

a. A written examination is required of applicants for an agent's, broker's or solicitor's license to write life insurance, health insurance or annuities in such other state.

b. The appropriate supervisory insurance official of such other state certifies that the applicant holds a currently valid license as an agent, a broker or solicitor to write life insurance, health insurance or annuities in such other state, and

(1) Passed a written examination, or

(2) Was the holder of a license prior to the time a written examination was required, or

(3) Was not required to take such examination by reason of provisions of the applicable licensing law.

c. That in such other state, a resident of this State is privileged to procure an agent's, broker's or solicitor's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other state.

12. N. J. S. 17B:22–25 is amended to read as follows:

2-year licenses; renewal.

17B:22–25. a. Every license issued to an agent or nonresident agent shall continue in force until May 1 of the next odd numbered year after its issue and by renewal thereof before May 1 of each odd numbered year, and every license issued to a broker, nonresident broker or solicitor shall continue in force until October

1 of the next even numbered year after its issue and by renewal thereof before October 1 of each even numbered year, or until suspended or revoked by the commissioner or, in case of an agent, nonresident agent or solicitor, until the appointment is terminated by the agent or broker.

b. In the absence of a contrary ruling by the commissioner, a renewal license shall be issued biennially subject to the payment of the renewal license fee as required in section 17B:22–23. A renewal license shall only be issued after a renewal application therefor, as required by the commissioner, has been submitted by the individual licensee, along with the payment of the renewal license fee as required in section 17B:22–23, and has been approved by the commissioner.

c. An insurer shall upon the termination of the appointment of an agent, and any broker or agent shall upon the termination of the appointment of any solicitor, immediately file a written notice of termination with the commissioner together with a statement of facts relative to the termination of appointment and the date and cause thereof. Any statement to the commissioner pursuant to this section shall be deemed a privileged communication and this statement shall not be used in evidence in any court action or other proceeding. This does not preclude the insurance department from subpenaing the insurer's records and using these records in a court action or other proceeding.

13. N. J. S. 17B:22–26 is amended to read as follows:

Temporary licenses.

17B:22–26. a. The commissioner is authorized to promulgate regulations containing educational standards and such other qualifications that he may deem proper for temporary licenses. Such regulations may also contain provisions governing the conduct of the holder of any such temporary license. Such temporary license shall be valid for a period not in excess of six months and may be revoked at any time within said period by the commissioner for cause. After the promulgation of such regulations as the commissioner shall deem proper, he shall be empowered to issue a temporary license to any applicant who shall qualify for the same.

b. The commissioner may also issue a temporary license to act as agent or broker to an individual otherwise qualified therefor without regard to educational, experience or examination requirements in the following cases:

(1) To the surviving spouse or next of kin or to the administrator or executor of a deceased agent or broker.

(2) To the spouse, next of kin, employee or legal guardian of an agent or broker who has become mentally or severely physically disabled.

(3) To a designee of a licensed agent or broker entering into active service of the Armed Forces of the United States of America.

Such temporary license shall continue only until the agent or broker can qualify under the provisions of sections 17B:22–9 to 17B:22–13, inclusive, and shall not exceed a period of six months, except at the discretion of the commissioner, when the temporary licensee is acting as an executor or administrator or otherwise endeavoring to settle or dispose of the estate.

c. An applicant for a temporary license shall file an application with the commissioner in such form and containing such information as the commissioner may reasonably require. No such license shall issue until payment of the applicable fee as prescribed in section 17B:22–23. Application for temporary license under subsection b. must be made within three months of the death, disability or entering into active service of the licensed agent or broker.

14. N. J. S. 17B:22–27 is amended to read as follows:

Denial, revocation, suspension, nonrenewal.

17B:22–27. a. The commissioner may refuse to issue and may revoke, suspend or refuse to renew a license issued under this chapter if he finds after notice and an opportunity for a hearing in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), and any rules adopted thereunder that the applicant for or holder of such license has:

(1) Willfully violated any provisions of the insurance laws of this State; or

(2) Intentionally withheld material information or made a material misstatement in the application to qualify for such license; or

(3) Obtained or attempted to obtain a license by fraud or misrepresentation; or

(4) Committed fraudulent practices; or

(5) Misappropriated or converted to his own use or is illegally withholding moneys belonging to insurers, policyholders or others and received in the conduct of his business; or

(6) Obtained or has used such license not for the purpose of holding himself out to the general public as an agent, broker, or solicitor, but primarily for the purpose of soliciting or negotiating "controlled business," that is life insurance, health insurance or annuity contracts covering himself, members of his family, members or employees of any organization of which the holder is an officer, or officers or employees of a partnership or corporation in which the holder or his mother, father, sister, brother or wife or combination of such persons owns a controlling interest.

Such a license shall be deemed to have been used principally for the purpose of writing controlled business if the commissioner finds that during any 12-month period the aggregate commissions or other compensation accruing or to accrue from such controlled business have exceeded or will exceed the aggregate commissions or other compensation accruing or to accrue on other business written or probably to be written by such applicant or licensee during the same period; or

(7) Materially misrepresented the terms and conditions of policies or contracts of insurance or annuity which he seeks to sell or has sold; or

(8) Paid all or part of his commission to a person who does not hold a license hereunder as compensation for services rendered in the solicitation or negotiation of life or health insurance or annuity contracts in this State or to a person who is not properly licensed as agent or broker under the laws of another state as compensation for services rendered in the solicitation or negotiation of life or health insurance or annuity contracts in that state; or

(9) Aided, abetted or assisted another person in violating any of the insurance laws of this State; or

(10) Been convicted of a crime involving moral turpitude; or

(11) Changed the address of his place of business without due notice to the commissioner, and the commissioner, after diligent effort, is unable to locate the licensee. The sending of a letter by certified mail, with return receipt requested, to the licensee's last known address shall be deemed to satisfy the requirements of this subsection; or

(12) Demonstrated unworthiness, lack of integrity, bad faith, dishonesty or incompetency to transact business as an agent, nonresident agent, broker, nonresident broker or solicitor.

b. As an alternative to such suspension, revocation or refusal to renew, the commissioner may impose a fine of not more than $2,000.00 for each separate offense which the licensee may elect to pay to the commissioner in lieu of such suspension, revocation or refusal to renew.

15. N. J. S. 17B:22–31 is amended to read as follows:

Penalties.

17B:22–31. Any individual, partnership or corporation violating any of the provisions of this chapter, for which violation no other penalty is provided in this chapter, shall be liable to a penalty not exceeding $2,000.00 for the first offense and not exceeding $3,000.00 for each succeeding offense, to be recovered in a summary proceeding in accordance with "the penalty enforcement law," N. J. S. 2A:58–1 et seq.

16. N. J. S. 17B:22–34 is amended to read as follows:

Provinces of Canada included.

17B:22–34. The references to "state" in this chapter, other than to "this State," shall be deemed to include the Provinces of Canada.

17. Section 12 of P. L. 1944, c. 175 (C. 17:22–6.12) is amended to read as follows:

C. 17:22-6.12 Renewal licenses.

12. Renewal of all certificates of authority and licenses in force on the effective date of this act, as they expire, and renewal of all licenses issued under this act, as they expire, shall be by license issued by the commissioner upon application in writing by the applicant, subject to the conditions of examination of such applicants as set forth in section 9 for renewal of license, and upon payment of the annual license fee. Such renewal license shall, in the case of an agent or solicitor, be limited to the group or groups of the kinds of insurance for which applicant was licensed during the preceding year. If the application be for the renewal of a solicitor's license it shall be accompanied by a written request as provided in section 6 of this act. All present employees of agents or brokers who hold a broker's license shall have such license renewed upon expiration as a solicitor's license, in accordance with the terms and conditions of this act. The holder of a present broker's license may have the same renewed as such if he is an independent contractor. The commissioner may establish rules and regulations with respect to continuing education requirements.

18. Section 14 of P. L. 1944, c. 175 (C. 17:22–6.14) is amended to read as follows:

C. 17:22-6.14 Company appointees.

14. Any insurance company lawfully authorized to transact business in this State may, by a written certificate of authority, contract with and appoint as its representative in this State, as its agent or agents, any person or persons who hold an unexpired certificate of authority issued prior to the effective date of this act, or a license issued under the provisions of this act. Such company shall file with the commissioner a certificate showing the names and addresses of such appointees and shall pay a fee of $5.00 for each company appointment so made. If the licensed agent is to be authorized to countersign policies by an attorney or attorneys in fact, the names of person or persons authorized to act as such attorney or attorneys in fact for such agent shall be stated in the certificate of appointment or a separate certificate duly executed by the company and filed in the office of the commissioner. If an agency is operating its business affairs as a copartnership or corporation, such certificate of authority may be issued by such company in the name of such copartnership or corporation, which certificate shall permit such copartnership or corporation to be licensed as an insurance agent under this act; provided all individuals actively engaged in the insurance business of such agency hold an unexpired agent's license issued in accordance with the provisions of this act. The payment of one agency appointment fee by each insurance company represented by said agency shall cover all of its licensed agents in said agency. Such certificate of authority shall remain in full force and effect until the license as agent is revoked by the commissioner as provided in this act or canceled by the company upon written notice to that effect filed with the commissioner. Any licensed insurance agent who is a stockholder, officer or agent of any such corporation may be authorized by it to act for such corporation. Nothing contained in this act shall vest in any individual stockholder, officer or agent of any such corporation, any vested interest, claim, title or proprietary right in the agency franchise or otherwise, separate and apart from the title, franchise or proprietary right of the said corporation.

An agent duly licensed and appointed by an insurer authorized to transact business in this State may transact business for any subsidiaries or affiliates of said insurer that are duly licensed in this State for the same line or lines of insurance without securing

additional licenses or certificates of authority, provided a certified copy of a resolution adopted by the board of directors of each of the insurers requesting such authority is filed with the commissioner by each of the insurers and renewed and refiled whenever deemed necessary by the commissioner. The resolution shall also designate the primary insurer for which all of the company's agents must be licensed pursuant to this section, and said license must be in full force and effect in order to transact business for any of the affiliated or subsidiary insurers.

19. Section 1 of P. L. 1962, c. 211 (C. 17:22–6.16a) is amended to read as follows:

C. 17:22-6.16a Penalty as alternative.

1. In any case in which the commissioner has the power to revoke, refuse to renew or suspend the license of any insurance broker, agent or solicitor, the commissioner shall also have the power to impose as an alternative to such revocation, refusal to renew, or suspension, a penalty which the licensee may elect to pay to the Department of Insurance in lieu of such revocation, refusal to renew, or suspension. The maximum penalty shall be $2,000.00 for each such separate offense.

20. Section 25 of P. L. 1944, c. 175 (C. 17:22–6.25) is amended to read as follows:

C. 17:22-6.25 Penalties for violations.

25. Any person, persons or corporation violating any of the provisions of this act shall be liable to a penalty not exceeding $2,000.00 for the first offense and not exceeding $3,000.00 for each succeeding offense to be recovered in a summary proceeding as provided in R. S. 17:33–2.

21. N. J. S. 17B:28–3 is amended to read as follows:

Certificate to sell.

17B:28–3. Certificate to sell. a. No agent or solicitor employed by an agent heretofore or hereafter licensed shall be authorized to sell or act or aid in any manner in the negotiation of a contract on a variable basis until he has received a certificate to sell contracts on a variable basis from the commissioner, which certificate shall not be issued by the commissioner until such agent or solicitor has qualified by personal examination, to the satisfaction of the commissioner, as to his trustworthiness and competence to act as such agent or solicitor.

b. Before a first-time applicant for a license to solicit and negotiate contracts on a variable basis shall be admitted to the examination, the applicant shall be required to concurrently hold an agent's license granting authority to solicit and negotiate contracts of life insurance in this State or hold a license to act as a solicitor for such an agent. Application for a license must be made on such forms as the commissioner may prescribe.

c. The examination fee shall be $25.00 for each examination scheduled and such examination fee shall not be returned for any reason. The license fee shall be $25.00. A renewal license shall be issued biennially subject to the payment of the renewal license fee as required by this section and upon request of the insurer. Licenses issued in accordance with this section shall expire on April 30 of each odd numbered year.

d. No written examination shall be required of:

(1) An applicant who is the holder of a valid agent's or solicitor's license issued pursuant to this section by the commissioner or an applicant for a renewal of such license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetence in the conduct of his business as such agent or solicitor to the detriment of the public;

(2) An applicant whose license to do business as an agent or solicitor issued pursuant to this section has expired less than three years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than three years he must submit to and pass an examination in the same manner as a new applicant, except where the applicant is a veteran who meets the requirements of paragraph (4) hereunder, when no re-examination shall be required;

(3) An applicant whose previous license issued pursuant to this section has been revoked or suspended; provided this examination exemption is only at the discretion of the commissioner;

(4) An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of a license in New Jersey which authorized the applicant to solicit or negotiate contracts on a variable basis;

(5) Any individual seeking a variable license who, in the discretion of the commissioner, has satisfied the requirements and

successfully passed all the examinations of the National Association of Securities Dealers required to secure a registration to sell securities by the National Association of Securities Dealers in compliance and conformity with the rules and regulations promulgated by the federal Securities and Exchange Commission.

e. The commissioner may issue a nonresident agent's or solicitor's license upon the application of a nonresident who is duly licensed under the law of the state of his residence or domicile to act as an agent or solicitor for contracts on a variable basis if said state does not prohibit residents of this State from acting as nonresident agents or solicitors therein, when:

(1) The applicant has shown by a statement from the proper official of the state in which he has his resident license that he is authorized to do business as an agent or solicitor in such state with authority for which the applicant is to be licensed under the New Jersey nonresident license.

(2) The applicant has paid the annual license fee as provided for in this section.

(3) The applicant has no place of business in this State.

(4) The commissioner may enter into reciprocal agreements with the appropriate supervisory insurance official of any other state waiving the written examination of any applicant resident in such other state, provided:

(a) A written examination is required of applicants for an agent's or solicitor's license in such other state.

(b) The appropriate supervisory insurance official of such other state certifies that the applicant holds a currently valid license as an agent or solicitor in such other state, and either,

(i) Passed a written examination,

(ii) Was the holder of an agent's or solicitor's license prior to the time a written examination was required, or

(iii) Was not required to take such examination by reason of provisions of the applicable agent's or solicitor's licensing law.

(c) That in such other state, a resident of this State is privileged to procure such an agent's or solicitor's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other state. If the laws of another state require the sharing of commissions with resident agents or solicitors of that state on applications for

contracts on a variable basis written by nonresident agents or solicitors, then the same provision shall apply when resident agents or solicitors of that state, licensed as nonresident agents or solicitors of New Jersey write applications for contracts on a variable basis in this State.

Repealer.

22. Sections 17B:22–1, 17B:22–10, 17B:22–14, 17B:22–15, 17B:22–16, 17B:22–17, 17B:22–18 and 17B:22–19 of the New Jersey Statutes are repealed.

23. This act shall take effect immediately but shall remain inoperative until the ninetieth day following the enactment of Assembly Bill No. 3570 of 1983.

Approved January 17, 1984.

CHAPTER 534

AN ACT concerning the sale and conveyance of public land to public entities, amending P. L. 1975, c. 75 and supplementing P. L. 1971, c. 199.

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

1. Section 1 of P. L. 1975, c. 75 (C. 40A:12–13.3) is amended to read as follows:

C. 40A:12-13.3 Conveyance to municipality.

1. Notwithstanding any provisions of law to the contrary, when any governing body of a county determines that all or any part of a tract of land, with or without improvements, owned by the county is not then needed for county purposes, it may, by resolution or ordinance, as appropriate, authorize a private sale and conveyance of the same, or any part thereof, to a municipality in the county without compliance with any other law governing disposal of lands by counties, for a consideration which may be nominal, and containing a limitation that such lands or buildings shall be used only for public purposes of such municipality, and that if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county without any entry or reentry made thereon on behalf of such county.

C. 40A:12-13.4 Conveyance to county.

2. (New section) Notwithstanding any law to the contrary, when the governing body of a municipality determines that all or part of a tract of land, with or without improvements, owned by the municipality is not then needed for municipal purposes, it may, by ordinance, authorize a private sale and conveyance of the property, or any part thereof, to the county in which it is located, without compliance with any other law governing disposal of lands by municipalities, for a consideration which may be nominal, and containing a limitation that the lands or buildings shall be used only for public purposes of the county, and that if the lands or buildings are not used in accordance with the limitation, title thereto shall revert to the municipality without any entry or reentry made thereon on behalf of the municipality.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 535

AN ACT concerning the performance of dissections or autopsies in certain circumstances.

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

C. 52:17B-88.1 Definitions.

1. As used in this act:

a. "Compelling public necessity" means

(1) That the dissection or autopsy is essential to the criminal investigation of a homicide of which the decedent is the victim; or

(2) That the discovery of the cause of death is necessary to meet an immediate and substantial threat to the public health and that a dissection or autopsy is essential to ascertain the cause of death; or

(3) That the death was that of an inmate of a prison, jail or penitentiary; or

(4) That the death was that of a child under the age of 12 years suspected of having been abused or neglected or suspected of being

a threat to public health, and the cause of whose death is not apparent after diligent investigation by the medical examiner; or

(5) That the need for a dissection or autopsy is established pursuant to the provisions of section 4 of this act.

b. "Friend" means any person who, prior to the decedent's death, maintained close contact with the decedent sufficient to render that person knowledgeable of the decedent's activities, health and religious beliefs; and who presents an affidavit stating the facts and circumstances upon which the claim that the person is a friend is based and stating that the person will assume responsibility for the lawful disposition of the body of the deceased.

C. 52:17B-88.2 Contrary to religious beliefs.

2. Notwithstanding any other provision of law to the contrary, no dissection or autopsy shall be performed, in the absence of a compelling public necessity, over the objection of a member of the deceased's immediate family or in the absence thereof, a friend of the deceased that the procedure is contrary to the religious beliefs of the decedent or if there is an obvious reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs.

C. 52:17B-88.3 48-hour notice.

3. Whenever, in the opinion of a medical examiner, there is a compelling public necessity under paragraphs (1), (2), (3), and (4) of subsection a. of section 1 of this act to perform an autopsy or dissection, and a member of the deceased's immediate family or, in the absence thereof, a friend objects that the autopsy or dissection is contrary to the religious beliefs of the deceased or there is an obvious reason to believe that the autopsy or dissection is contrary to the religious beliefs of the deceased, then no dissection or autopsy shall be performed until 48 hours after notice thereof is given by the medical examiner to the objecting party, or, if there is no objecting party, to such party as the court may name. During that 48-hour period, the objecting party or the party named by the court may institute action in the Superior Court to determine the propriety of the dissection or autopsy, but the court may dispense with the waiting period upon ex parte motion if it determines that the delay may prejudice the accuracy of the autopsy or dissection.

C. 52:17B-88.4 Show-cause order.

4. Whenever, in the opinion of a medical examiner, there is a compelling public necessity in circumstances not provided for in paragraphs (1), (2), (3) and (4) of section 1 of this act to perform an autopsy or dissection, and a member of the deceased's immedi-

ate family or, in the absence thereof, a friend objects that the autopsy or dissection is contrary to religious beliefs of the deceased or there is an obvious reason to believe that the autopsy or dissection is contrary to the religious beliefs of the deceased, then the medical examiner may institute an action in the Superior Court for an order authorizing the autopsy or dissection. The action shall be instituted by an order to show cause on notice to the member of the deceased's immediate family or friend, or if none is known, then to such party as the court may direct.

C. 52:17B-88.5 Summary proceeding.

5. Any action brought pursuant to the provisions of this act shall have preference over all other cases and shall be determined summarily upon the petition and oral or written proof, if any, offered by the parties. The court shall permit the autopsy or dissection to be performed if it finds that the medical examiner established a compelling public necessity for the autopsy or dissection under all of the circumstances of the case or if the objecting party or party named by the court fails to swear or affirm that an autopsy or dissection would be contrary to the deceased's religious beliefs. If permission to perform an autopsy or dissection is denied and no stay is granted by the court or by the Appellate Division, the body shall immediately be released for burial.

C. 52:17B-88.6 Least intrusive procedure.

6. A dissection or autopsy performed pursuant to this act shall be the least intrusive procedure consistent with the compelling public necessity.

7. This act shall take effect on the thirtieth day after enactment.

Approved January 17, 1984.

CHAPTER 536

A SUPPLEMENT to the "Relocation Assistance Act," approved December 21, 1971 (P. L. 1971, c. 362; C. 20:4–1 et seq.).

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

C. 20:4-4.1 Relocation costs.

1. a. In the case of any displacement of persons by housing or construction code enforcement, including any rehabilitation neces-

sitated by that enforcement, in which the owner of the real property has, in any final court adjudication, been held liable for a civil or criminal penalty, all relocation costs incurred pursuant to sections 4 and 6 of P. L. 1971, c. 362 (C. 20:4–4 and 20:4–6) shall be paid by the owner of the real property to the public agency making relocation assistance payments upon presentation to the owner by the public agency of a statement of those relocation costs and of the date upon which the relocation costs are due and payable.

b. In the event that the relocation costs to be paid to a public agency with regard to any parcel of real property shall not be paid within 10 days after the date due, interest shall accrue and be due to the public agency on the unpaid balance at the rate of 18% per annum until the costs, and the interest thereon, shall be fully paid to the public agency.

c. In the event that the relocation costs to be paid to a public agency with regard to any parcel of real property shall not be paid within 10 days after the date due, the unpaid balance thereof and all interest accruing thereon shall be a lien on the parcel. To perfect the lien granted by this section, a statement showing the amount and due date of the unpaid balance and identifying the parcel, which identification may be sufficiently made by reference to the assessment map of the municipality, shall be recorded with the clerk or register of deeds and mortgages of the county in which the affected property is located, and upon recording, the lien shall have the priority of a mortgage lien. Whenever relocation costs with regard to the parcel and all interest accrued thereon shall have been fully paid to the public agency, the statement shall be promptly withdrawn or cancelled by the public agency.

d. The tax collector or other officer of every municipality charged by law with the duty of enforcing municipal liens on real property shall enforce, with and as any other municipal liens on real property in the municipality, all relocation costs and the lien thereof shown in any statement filed with him by any public agency pursuant to subsection c. of this section, and shall deposit in the municipal treasury the sums realized upon enforcement or upon liquidation of any property acquired by the municipality by virtue of enforcement. If the public agency placing a lien is other than an agency of the municipality, the municipality shall forthwith pay over to that public agency the sums or a pro rata share of the sums realized upon enforcement or upon liquidation of any property acquired by the municipality by virtue of that enforcement.

e. The owner of any parcel of real property shall have the right to appeal the requirement that the owner pay the relocation costs incurred pursuant to sections 4 and 6 of P. L. 1971, c. 362 (C. 20:4–4 and 20:4–6) on the grounds that the cause of the violations was outside his control and the abatement of code violations is economically unfeasible. Appeal shall be to the Superior Court, Law Division, in summary proceedings.

f. This section shall not require a municipality to enforce a lien for relocation costs with respect to any real property the title to which it has acquired and which has been transferred pursuant to a rehabilitation agreement.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 537

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the amounts appropriated by P. L. 1983, c. 240, there is appropriated from the General Fund the following sum for the following purpose:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Economic Planning, Development and Security

55 Related Social Services Programs

05-8050	Human Resources	$150,000

State Aid:

International Youth Organization .... ($150,000)

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 538

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the amounts appropriated by P. L. 1983, c. 240, there is appropriated from the General Fund the following sum for the following purpose:

DEPARTMENT OF COMMUNITY AFFAIRS
Economic Planning, Development and Security
55 Related Social Services Programs

05-8050 Human Resources $150,000

Grants:
Newark Southward Boys and
Girls Club .....($150,000)

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 539

AN ACT concerning the formulation of urban enterprise zone development plans and amending P. L. 1983, c. 303.

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

1. Section 9 of P. L. 1983, c. 303 (C. 52:27H–68) is amended to read as follows:

C. 52:27H-68 Preliminary zone development plan.

9. Before applying for designation of an enterprise zone, the municipal governing body shall cause a preliminary zone develop-

ment plan to be formulated, either by a zone development corporation or by the governing body, with the assistance of those officers and agencies of the municipality as the governing body may see fit. The preliminary zone development plan shall set forth the boundaries of the proposed enterprise zone, findings of fact concerning the economic and social conditions existing in the area proposed for an enterprise zone, and the municipality's policy and intentions for addressing these conditions, and may include proposals respecting:

a. Utilizing the powers conferred on the municipality by law for the purpose of stimulating investment in and economic development of the proposed zone;

b. Utilizing State assistance through the provisions of this act relating to exemptions from, and credits against, State taxes;

c. Securing the involvement in, and commitment to, zone economic development by private entities, including zone neighborhood associations, voluntary community organizations supported by residents and businesses in the zone;

d. Utilizing the powers conferred by law to revise municipal planning and zoning ordinances and other land use regulations as they pertain to the zone, in order to enhance the attraction of the zone to prospective developers;

e. Increasing the availability and efficiency of support services, public and private, generally used by and necessary to the efficient functioning of commercial and industrial facilities in the area, and the extent to which the increase or improvement is to be provided and financed by the municipal government or by other entities.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 540

AN ACT concerning Sunday sales and amending P. L. 1959, c. 119.

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

1. Section 1 of P. L. 1959, c. 119 (C. 2A:171–5.8) is amended to read as follows:

C. 2A:171-5.8 Sunday sales ban.

1. On the first day of the week, commonly known and designated as Sunday, it shall be unlawful for any person whether it be at retail, wholesale or by auction, to sell, attempt to sell or offer to sell or to engage in the business of selling, as hereinafter defined, clothing or wearing apparel, building and lumber supply materials, furniture, home or business or office furnishings, household, business or office appliances, except as works of necessity and charity or as isolated transactions not in the usual course of the business of the participants.

Any person who violates any provision of this act is a disorderly person and upon conviction for the first offense, shall pay a fine of $250.00; and for the second offense, shall pay a fine of not less than $250.00 or more than $1,000.00 to be fixed by the court; and for the third offense, shall pay a fine of not less than $1,000.00 or more than $2,000.00 to be fixed by the court or, in the discretion of the court, may be imprisoned for a period of not more than 30 days, or both; and for the fourth or each subsequent offense, shall pay a fine of not less than $2,000.00 or more than $5,000.00 to be fixed by the court or, in the discretion of the court, may be imprisoned for a period of not less than 30 days or more than six months, or both. A single sale of an article or articles of merchandise of the character hereinabove set forth to any one customer, or a single offer to sell an article or articles of such merchandise to any one prospective customer, shall be deemed to be and constitute a separate and distinct violation of this act.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 541

AN ACT concerning the licensing of graduates of unapproved dental schools and amending R. S. 45:6–3.

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

1. R. S. 45:6–3 is amended to read as follows:

Dental license examination.

45:6–3. The board shall from time to time adopt rules for its own government and for the examination of candidates for licenses to practice dentistry. Any rule altering the nature or increasing the severity of the examination or the subjects to be included therein shall not be enforced until six months after its adoption and public promulgation. The examination of applicants shall be confined to written or oral, or both written and oral, examinations upon subjects properly relating to the science of dentistry, the knowledge of which is necessary to the proper and skillful practice of said science. The board may also require from applicants, as part of the examination, demonstration of their skill in operative and prosthetic dentistry. No person shall be examined by the board unless he is at least 18 years of age, of good moral character, and shall present to the board a certificate from the Commissioner of Education of this State, showing that before entering a dental college he had obtained an academic education consisting of a four-year course of study in an approved public or private high school or the equivalent thereof, unless he has been graduated in course with a dental degree from a dental school, college or department of a university approved by the board, or holds a diploma or license conferring full right to practice dentistry in some foreign country and granted by some authority recognized by the board. Any member of the board may inquire of any applicant for examination concerning his qualifications, and may take testimony of anyone in regard thereto, under oath, which he is hereby empowered to administer.

Notwithstanding any provision of law to the contrary, no person who is a graduate of an unapproved dental school shall be examined by the board unless he has successfully completed at least two years of study of a board approved curriculum at a dental school, college or department of a university approved by the board, with a dental degree having been conferred by the school.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 542

A SUPPLEMENT to "An act making appropriations for the support of State Government and the several public purposes for the fiscal year ending June 30, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the sums appropriated under P. L. 1983, c. 240, the following sum is appropriated out of the General Fund for the purpose specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

04-8030	Local Government Services	$75,000

Special Purpose:
Special Assistance to the Borough of Chesilhurst for police and fire safety ..... ($75,000)

Amounts appropriated under this act shall be paid to the municipality by the State Treasurer upon certification by the Commissioner of the Department of Community Affairs that the municipality is under the jurisdiction of the Municipal Finance Commission pursuant to R. S. 52:27–1 et seq. for the 1984 local fiscal year.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 543

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. The following additional sum is appropriated out of the General Fund for the purpose specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

04-8030	Local Government Services	$75,000

Special Purpose:
Special Assistance to the Borough of Lawnside for maintenance or construction of streets and roads ..... ($75,000)

Amounts appropriated under this act shall be paid to the municipality by the State Treasurer upon certification by the Commissioner of the Department of Community Affairs that the municipality is under the jurisdiction of the Municipal Finance Commission pursuant to R. S. 52:27-1 et seq. for the 1984 local fiscal year.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 544

AN ACT concerning county and municipal support of first aid and emergency or volunteer ambulance or rescue squad associations, and amending R. S. 40:5–2.

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

1. R. S. 40:5–2 is amended to read as follows:

Contributions to first aid squads.

40:5–2. Any county or municipality may make a voluntary contribution of not more than $25,000.00 annually to any duly incorporated first aid and emergency or volunteer ambulance or rescue squad association of the county, or of any municipality therein, rendering service generally throughout the county, or any of the municipalities thereof. In addition, if any such associations experience extraordinary need, the county or municipality may contribute an additional amount of not more than $25,000.00 annually; provided, however, that the need for such additional funds is established by the association and is directly related to the performance of said association's duties. The chief financial officer of the county or municipality shall receive an audit performed by a certified public accountant or a registered municipal accountant in any year in which any contribution is made of each association's financial records for the previous fiscal year and shall file a copy thereof with the clerk of the county or municipality.

Any county or municipality may appropriate such additional sums as it may deem necessary for the purchase of first aid vehicles, equipment, supplies and material for use by these associations, the title to which shall remain with the county or municipality, provided that the funds are controlled and disbursed by the county or municipality.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 545

A SUPPLEMENT to "An act making appropriations for the support of State Government and the several public purposes for the fiscal year ending June 30, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. The following additional sums are appropriated out of the General Fund for the purposes specified:

DIRECT STATE SERVICES

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management

04-8030	Local Government Services	$275,000
Special Purpose:		
	Local Authority Financial Regulation	($275,000)

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 546

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the sums appropriated under P. L. 1983, c. 240, the following sums are appropriated out of the General Fund for the purposes specified:

DIRECT STATE SERVICES

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Economic Planning, Development and Security

51 Economic Planning and Development

21-2850	International Trade	$50,000
22-2860	Travel and Tourism	1,000,000
	Total Appropriation, Economic Planning and Development	$1,050,000
Special Purpose:		
	Foreign trade	($50,000)
	Advertising and promotion	(1,000,000)
	Total Appropriation, Department of Commerce and Economic Development	$1,050,000

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management

04-8030	Local Government Services	$95,000
	Total Appropriation, Community Development Management	$95,000
Special Purpose:		
	Local Services	($95,000)

Economic Planning, Development and Security

55 Related Social Services Programs

05-8050	Human Resources	$250,000
	Total Appropriation, Related Social Services Programs	$250,000
Special Purpose:		
	Displaced homemakers	($250,000)
	Total Appropriation, Department of Community Affairs	$345,000

DEPARTMENT OF HEALTH

Physical and Mental Health

25 Health Administration

99-4210	Management and Administrative Services	$50,000
	Total Appropriation, Health Administration	$50,000
Special Purpose:		
	Choking awareness campaign ($50,000)	
	Total Appropriation, Department of Health	$50,000
	Total Appropriation, Direct State Services	$1,445,000

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Government Direction, Management and Control

76 Management and Administration—State Aid

99-8070	Management and Administrative Services	$80,000
	Total Appropriation, Management and Administrative Services	$80,000
State Aid:		
	Hackensack Meadowlands Development Commission: commission operations ($80,000)	
	Total Appropriation, Department of Community Affairs	$80,000
	Total Appropriation, State Aid	$80,000
	Total Appropriation, General Fund	$1,525,000

2. This act shall take effect immediately and shall be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 547

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the sums appropriated under P. L. 1983, c. 240, the following sum is appropriated out of the General Fund for the purpose specified:

STATE AID

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Community Development and Environmental Management

42 Natural Resource Management—State Aid

15-4890 Marine Lands Management $300,000

State Aid:
Borough of Keansburg—floodgate .. ($300,000)

2. This act shall take effect immediately and shall be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 548

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

DEPARTMENT OF HIGHER EDUCATION

Educational, Cultural and Intellectual Development

36 Higher Educational Services

5540 Montclair State College

16-5540	Student Services	$52,357
	Total Appropriation, Montclair State College	$52,357
	Personal Services:	
	Salaries and wages ($52,357)	
	Total Appropriation, Department of Higher Education	$52,357

DEPARTMENT OF LABOR

Economic Planning, Development and Security

54 Manpower and Employment Services

10-4545	Employment Development Services	$1,000,000
	Total Appropriation, Manpower and Employment Services	$1,000,000
	Special Purpose:	
	Private industry councils' planning grants ($1,000,000)	
	Total Appropriation, Department of Labor	$1,000,000
	Total Appropriation, Federal Funds	$1,052,357

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.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 549

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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:

DEPARTMENT OF HUMAN SERVICES

Educational, Cultural and Intellectual Development

33 Supplemental Education and Training Programs

7560 Commission for the Blind and Visually Impaired

11-7560	Habilitation and Rehabilitation	$1,128,970
12-7560	Instruction and Community Programs	87,312
99-7560	Management and Administrative Services	42,875
	Total Appropriation, Commission for the Blind and Visually Impaired	$1,259,157
	Special Purpose:	
	Migrant labor ($65,564)	
	State Aid and Grants:	
	Title VI–C (21,748)	
	Vocational rehabilitation (1,171,845)	
	Total Appropriation, Department of Human Services	$1,259,157

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.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 550

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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 sum is appropriated:

FEDERAL FUNDS

DEPARTMENT OF COMMUNITY AFFAIRS

Economic Planning, Development and Security

55 Related Social Services Programs

05-8050	Human Resources	$1,000,000
	Total Appropriation, Related Social Services Programs	$1,000,000

Special Purpose:
Home energy assistance program-weatherization programs ..... ($1,000,000)

	Total Appropriation, Department of Community Affairs	$1,000,000

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.

2. This act shall take effect immediately and be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 551

AN ACT providing for the distribution of certain funds to municipalities in certain cases for the purpose of offsetting property tax increases and establishing a "Pinelands Municipal Property Tax Stabilization Fund."

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

C. 54:1-68 Short title.

1. This act shall be known and may be cited as the "Pinelands Municipal Property Tax Stabilization Act of 1983."

C. 54:1-69 Findings.

2. The Legislature finds: a. that since enactment of the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A–1 et seq.) there is an apparent causal relationship to a decline in the value of vacant land in the Pinelands area and a resultant shift in property taxes to other classes of property; b. that such a shift in property taxes is an inequitable and undesirable circumstance; c. that it is the responsibility of the State Government to protect the property owners in municipalities affected by the "Pinelands Protection Act" from a shift in property tax burden from vacant land to other classes of property owing directly to the enactment of that act; and d. that this protection is best provided by direct payments to municipalities experiencing a shift of property tax burden in amounts representing the property tax otherwise payable on vacant land but not being assessed by reason of the decline in the value of vacant land.

C. 54:1-70 Definitions.

3. As used in this act:

a. "Base year" means the calendar year 1980.

b. "Board" means the Pinelands Municipal Property Tax Stabilization Board created pursuant to section 4 of this act.

c. "Current tax year" means the most recent year for which a report is filed pursuant to section 6 of this act.

d. "Director" means the Director of the Division of Taxation in the Department of the Treasury.

e. "Pinelands National Reserve" means the approximately 1,000,000 acre area so designated by section 502 of the "National

Parks and Recreation Act of 1978," Pub. L. 95-625 (16 U. S. C. § 471 i) and generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/80.011A and dated September, 1978.

f. "Qualified municipality" means any municipality located, in whole or in part, in the Pinelands area as designated in the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A–1 et seq.).

g. "Tax rate" means that portion of the effective property tax rate for the current tax year which reflects local taxes to be raised for district school purposes and local municipal purposes, calculated by dividing the total of column 12, section C by net valuation on which county taxes are apportioned in column 11, both as reflected in the Abstract of Ratables for the current tax year, and expressed as a rate per $100.00 of true value.

h. "True value of vacant land" or "true value" means the aggregate assessed value of vacant land divided by the average ratio of assessed-to-true value of real property (commonly known as the equalization rate) promulgated by the director and published in the table of equalized valuation.

i. "Valuation base" means the change in the aggregate true value of vacant land directly attributable to the implementation of the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A–1 et seq.) in a qualified municipality when comparing the current tax year to the base year.

C. 54:1-71 Property tax stabilization board.

4. a. There is established in the Department of the Treasury the "Pinelands Municipal Property Tax Stabilization Board," which shall comprise three members to be appointed by the Governor, with the advice and consent of the Senate, who shall be recognized experts in the field of taxation.

b. The board shall, within 90 days of the effective date of this act, establish procedures for determining the valuation base of a qualified municipality, whether fiscal stress has been caused by the implementation of the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A–1 et seq.) in a qualified municipality, and the amount due a qualified municipality to compensate for a decline in the aggregate true value of vacant land directly attributable to the implementation of the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A–1 et seq.).

C. 54:1-72 Fund established.

5. a. There is established in the General Fund, for the purpose of providing State aid to qualified municipalities a "Pinelands

Municipal Property Tax Stabilization Fund." All moneys appropriated for purposes of this act shall be deposited in the "Pinelands Municipal Property Tax Stabilization Fund." Every qualified municipality shall be entitled to a distribution from the fund as prescribed in this act.

b. The State Treasurer shall include in his annual budget request for State aid the amount required for deposit in the "Pinelands Municipal Property Tax Stabilization Fund."

C. 54:1-73 Assessor's report.

6. The assessor of every qualified municipality shall certify to the county tax board on a form to be prescribed by the director, and on or before December 1 annually, a report of the assessed value of each parcel of vacant land in the base year and the change in the assessed value of each such parcel in the current tax year attributable to successful appeals of assessed values of vacant land to the county tax board pursuant to R. S. 54:3–21 et seq. or attributable to a revaluation approved by the director and implemented or a reassessment approved by the county board of taxation. If a judgment or an appeal is overturned or modified, upon a final judgment an appropriate adjustment shall be made by the director in the payment of the entitlement due next following the judgment. For the purposes of qualifying for an entitlement, as prescribed in section 7 of this act, for the 1983 tax year the assessor shall file the report within 15 days of the effective date of this act.

C. 54:1-74 Valuation base.

7. a. Upon receipt of reports filed pursuant to section 6 of this act and using procedures developed by the board pursuant to section 4 of this act, the county tax board shall compute and certify to the director on or before December 20 of each year, in such manner as to identify for each qualified municipality the aggregate decline, if any, in the true value of vacant land, comparing the current tax year to the base year. The aggregate changes so identified for each qualified municipality shall constitute its valuation base for purposes of this act.

b. The director shall, on or before January 10 of each year, provide the board with all relevant information collected pursuant to the provisions of this act and any other information deemed necessary by the board to determine the valuation base.

c. Upon receipt of the information, the board shall make a final determination of the valuation base of each qualified municipality; calculate the amount due a qualified municipality, in accordance

with the procedures developed pursuant to section 4 of this act, to compensate for a decline, if any, by multiplying its valuation base by its tax rate; and certify to the director and the State Treasurer, on or before February 1 of each year, that amount to which each qualified municipality is entitled.

C. 54:1-75 Certification of entitlement amounts.

8. Upon receipt of the certification by the board, the State Treasurer shall certify to each qualified municipality, on or before February 15, its entitlement amount. A copy of the certified amounts shall be forwarded to the Director of the Division of Local Government Services.

C. 54:1-76 2 equal installments.

9. The State Treasurer, upon warrant of the Director of the Division of Budget and Accounting, shall pay to each qualified municipality its entitlement as State aid from the sums available in the "Pinelands Municipal Property Tax Stabilization Fund" in two equal installments on or before August 1 and on or before November 1, annually.

C. 54:1-77 Land use ordinance revision.

10. Beginning in tax year 1984, no qualified municipality shall be entitled to a payment pursuant to section 7 of this act unless the municipality has revised its land use ordinance in compliance with subsection b. of section 11 of P. L. 1979, c. 111 (C. 13:18A–12).

C. 54:1-78 Priority.

11. If an appropriation made for purposes of this act is insufficient to pay all entitlements, those municipalities located in whole or in part in the preservation area, as designated in P. L. 1979, c. 111 (C. 13:18A–1 et seq.) and which have suffered fiscal stress as a result of the implementation of P. L. 1979, c. 111 (C. 13:18A–1 et seq.) shall have first priority in the disbursement of the amount due a qualified municipality under the procedures developed pursuant to section 4 of this act, and the entitlement for each qualified municipality not located in whole or in part in the preservation area shall be reduced in the same proportion as the remaining appropriation made is to the full entitlement amount.

C. 54:1-79 Anticipation in budget.

12. Any municipality receiving a certification from the State Treasurer pursuant to section 8 of this act shall anticipate such sums in its annual budget or any amendments or supplements thereto as a direct offset to the amount to be raised by taxation.

C. 54:1-80 Changes authorized.

13. a. The Director of the Division of Taxation in reviewing the reports filed pursuant to section 6 of this act may make such changes therein as he deems necessary to ensure that such reports accurately reflect the change in the assessed value of vacant land.

b. The Director of the Division of Local Government Services shall make such changes in the budget of any qualified municipality to ensure that all sums received pursuant to this act are utilized as a direct offset to the amount to be raised by taxation and shall make such changes therein as he deems necessary to ensure that such offset occurs.

C. 54:1-81 Not exemption.

14. Any sum received by a qualified municipality pursuant to this act shall not be considered as an exception or exemption under P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.).

C. 54:1-82 Commission established.

15. a. There is established a "Pinelands Municipal Property Tax Stabilization Commission" which shall comprise 10 members as follows: the Commissioner of Environmental Protection, the Director of the Division of Taxation in the Department of Treasury and the Chairman of the Pinelands Commission, or their designees, who shall serve ex officio; three members of the general public residing in the Pinelands National Reserve, appointed by the Governor with the advice and consent of the Senate; and four members of the Legislature, two to be appointed by the President of the Senate, each from a different political party and two to be appointed by the Speaker of the General Assembly, each from a different political party.

b. The Pinelands Commission shall submit a report to this commission documenting the long-term fiscal and economic impacts of the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A–1 et seq.) on or before June 30, 1985. It shall be the duty of this commission to study and review this report, to conduct hearings as it deems necessary, and to submit a report to the Governor and the Legislature on or before December 31, 1985 on its findings and recommendations for appropriate executive or legislative action, to provide additional financial assistance which may be needed to stabilize property tax bases in qualified municipalities.

C. 54:1-83 Anticipation of entitlement.

16. Notwithstanding the provisions of the "Local Budget Law" (N. J. S. 40A:4–1 et seq.), a municipality which qualifies for an

entitlement pursuant to section 7 of this act may anticipate the amount of the entitlement in its annual budget for the year in which the entitlement is made. The Director of the Division of Local Government Services in the Department of Community Affairs shall, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) establish rules and regulations necessary to effectuate the provisions of this section.

17. This act shall take effect immediately and shall expire December 31, 1987.

Approved January 17, 1984.

CHAPTER 552

AN ACT concerning firearms and amending N. J. S. 2C:39–6.

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

1. N. J. S. 2C:39–6 is amended to read as follows:

Exemptions.

2C:39–6. Exemptions. a. Section 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, a motor vehicle inspector;

(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, inspectors and investigators of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, 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 such a 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 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, or any special policeman authorized to carry a revolver or other similar weapons while off duty within the municipality where he is employed, as provided in N. J. S. 40A:14–146, or a special policeman or airport security officer appointed by the governing body of any county or municipality, except as provided in this paragraph, 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; or

(8) A paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time to an arson investigation unit created pursuant to section 1 of P. L. 1981, c. 409 (C. 40A:14–7.1), while engaged in the actual performance of arson investigation duties and when specifically authorized by the governing body to carry weapons.

b. Subsections a., b. and c. of section 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 any such weapon is carried in the manner specified in subsection g. of this section.

c. Subsections b. and c. of section 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, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6–4.2 et seq.) 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 powers of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) A full-time member of the marine patrol force or a special marine patrolman authorized to carry such a weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(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; or

(9) A railway policeman, 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.

d. (1) Subsections c. and d. of section 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 of such 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 of such and that the

transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of section 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 section 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 such 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 such 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 of the firearms to the public or to the members of such organization or club, provided, however, that not less than 30 days prior to such exhibition or display, notice of such 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 subsection b. (2), e. or f. (1) or (3) 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 the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of section 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 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.

i. Nothing in subsection d. of 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.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 553

AN ACT to extend the registration period for public accountants for six months and supplementing P. L. 1977, c. 144 (C. 45:2B–1 et seq.).

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

1. Any person who met the requirements for registration as a public accountant on August 4, 1977, may apply for registration with the board as a public accountant on or before the sixtieth day following the effective date of this act.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 554

AN ACT concerning the permissible duration of certain contracts entered into by boards of education, and amending N. J. S. 18A:18A–42.

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

1. N. J. S. 18A:18A–42 is amended to read as follows:

Duration of certain contracts.

18A:18A–42. Duration of certain contracts. Any board of education may enter into a contract exceeding the fiscal year for the

a. Supplying of:

(1) Fuel for heating purposes, for any term not exceeding in the aggregate, three years;

(2) Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years;

(3) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 20 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam; or

b. The plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or

c. The collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or

d. Data processing service, for any term of not more than five years; or

e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, for any term of not more than three years; or

f. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every

nature and kind, for any term not exceeding the aggregate, five years; provided, however, such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or

g. The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities, for a term not exceeding five years; or

h. Materials, supplies or services that are required on a recurring basis from year to year, for any term not exceeding in the aggregate, two years; however, such contract may be renewed yearly for a period not exceeding three additional years without any further solicitation for bids or bidding upon a finding by the board that the services are being performed in an effective and efficient manner, or that the materials and supplies continue to meet the original specifications. If a board of education elects to renew an existing contract, the terms and conditions of the existing contract shall remain substantially unchanged and any increase in the contract cost over the three year period shall be no greater than a total of 20% over the initial cost; or

i. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years.

All multiyear leases and contracts entered into pursuant to this section 18A:18A–42, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities and except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, or contracts for thermal energy authorized pursuant to subsection a. above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 555

AN ACT concerning education and amending N. J. S. 18A:20–7.

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

1. N. J. S. 18A:20–7 is amended to read as follows:

Sale of property by board of education.

18A:20–7. a. In the case of public sales the board may by resolution fix a minimum price with or without the reservation of the right, upon the completion of said public sale, to accept or reject the highest bid made thereat, a statement whereof shall be included in the advertisement of sale of the lands and public notice thereof shall be given at the time of sale, or it may by resolution provide without fixing a minimum price, that upon the completion of the public sale, the highest bid made thereat shall be subject to acceptance or rejection by the board, but the acceptance or rejection thereof shall be made not later than the second regular meeting of the board following the sale, and, if the board shall fail or refuse to accept or reject any such highest bid, as aforesaid, the said bid shall be deemed to have been rejected.

b. If no bid is received or if the bids which are received are rejected by the board, the board may enter into negotiations with any interested party or parties for the sale or other disposal of the property. The acceptance or rejection of the price arrived at through negotiations shall be by recorded roll call majority vote of the full membership of the board at a regularly scheduled meeting.

The board may reject any bid if it determines it to be in the public interest to do so, but shall afford the bidder a hearing upon his request before entering into negotiations as provided in this subsection.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 556

AN ACT concerning judges of the Superior Court in certain counties and the jurisdiction of the family part of the Superior Court, amending N. J. S. 2A:2–1 and P. L. 1983, c. 405.

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

1. N. J. S. 2A:2–1 is amended to read as follows:

Superior Court judges.

2A:2–1. a. The Superior Court shall consist of not less than 327 judges. Each judge shall receive such annual salary as shall be fixed by law.

b. (1) The Superior Court shall at all times consist of the following number of judges of each county who at the time of their appointment and reappointment were residents of that county:

Atlantic	7
Bergen	24
Burlington	5
Camden	14
Cape May	3
Cumberland	5
Essex	26
Gloucester	8
Hudson	14
Hunterdon	2
Mercer	8
Middlesex	16
Monmouth	12
Morris	11
Ocean	10
Passaic	14
Salem	2
Somerset	5
Sussex	3
Union	16
Warren	2

(2) Additionally, a number of those judges of the Superior Court satisfying the residency requirements set forth above equal to the

number of judges of the county court authorized in each of the counties on December 6, 1978 shall at all times sit in the county in which they reside.

2. Section 5 of P. L. 1983, c. 405 (C. 2A:2–20) is amended to read as follows:

C. 2A:2-20 Family part jurisdiction.

5. a. Jurisdiction of the family part of the Superior Court shall include but not be limited to all cases formerly heard by the juvenile and domestic relations courts. In those cases within the jurisdiction of the family part where it is charged that a juvenile has committed an act of delinquency or in all matters relating to juvenile-family in crisis cases, as defined by section 3 of P. L. 1982, c. 77 (C. 2A:4A–22), the jurisdiction of the court shall extend over the juvenile, his parents or guardian or a family member found to be contributing to the family crisis.

b. There shall be established in each county a court intake service, which shall have among its responsibilities the screening of juvenile delinquency complaints and juvenile-family crisis referrals. The intake service shall operate in compliance with standards established by the Supreme Court, but in no instance shall the standards for personnel employed as counselors hired after the effective date of this act be less than a master's degree from an accredited institution in a mental health or social or behavioral science discipline including degrees in social work, counseling, counseling psychology, mental health counseling or education. Equivalent experience is acceptable when it consists of a minimum of an associate's degree with a concentration in one of the behavioral sciences and a minimum of five years' experience working with troubled youth and their families or a bachelor's degree in one of the behavioral sciences and two years' experience working with the troubled youth and their families. Intake personnel should also receive training in drug and alcohol abuse.

3. Section 11 of P. L. 1983, c. 405 (C. 2A:2–1.3) is amended to read as follows:

C. 2A:2-1.3 County responsibility for salaries.

11. a. Each county shall be responsible for 50% of the cost of the salary of the judges of the juvenile and domestic relations courts or family court and county district courts transferred pursuant to this act until December 31, 1984.

b. In any county where the required number of judges set forth in N. J. S. 2A:2–1b. is increased after January 17, 1984 and the

number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 100% of the cost of the salary of any judge who has been assigned in the first year following the date of increase; 75% in the second year; 50% in the third year; 25% in the fourth year; and in the fifth year, the State shall be responsible for the entire cost of the salary of any judge so assigned.

c. In any county where the required number of judges set forth in N. J. S. 2A:2-1b. is increased after December 31, 1983 but before January 18, 1984 and the number of judges assigned to the Superior Court to that county is thereby increased, the county shall be responsible for funding 50% of the cost of the salary of any judge so assigned until December 31, 1984.

4. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 557

AN ACT concerning the appointment of additional judges of the municipal courts of certain municipalities and supplementing chapter 8 of Title 2A of the New Jersey Statutes.

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

C. 2A:8-6.7 Additional municipal judges.

1. The governing body of every municipality having a population of not less than 50,000, nor more than 140,000 inhabitants in a county of the second class having a population of not less than 410,000 nor more than 465,000, according to the most recent federal decennial census, may provide for the appointment, as the need may appear, of one additional judge of the municipal court of the municipality. This provision shall not limit the appointment of additional judges in municipalities included within the provisions of any other law.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 558

AN ACT concerning solar energy retrofit installations on State-owned buildings, and appropriating $297,775.00 from the Energy Conservation Fund.

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

1. There is appropriated to the Department of Energy from the "Energy Conservation Fund" created pursuant to the "Energy Conservation Bond Act of 1980," P. L. 1980, c. 68, the sum of $297,775.00 for the purpose of solar energy retrofit installations on State-owned buildings.

2. The appropriations made pursuant to this act shall be subject to the provisions of P. L. 1980, c. 68.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 559

A SUPPLEMENT to the "Department of Energy Act," approved July 11, 1977 (P. L. 1977, c. 146; C. 52:27F–1 et seq.).

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

C. 52:27F-16.1 Findings, declarations.

1. The Legislature finds and determines that the prospects of the occurrence of periodic energy emergencies due to the volatility and unpredictability of energy markets necessitates the systematic preparation for such emergencies; that the Department of Energy possesses the expertise and ability to plan for such emergencies; and that formulation of energy emergency preparedness plans will contribute to the security of the State of New Jersey in energy matters.

The Legislature, therefore, declares it to be in the best interest of the citizens of this State to require the Department of Energy

to periodically review the situation with regard to the energy preparedness of the State and to prepare and submit a report thereon to the Governor and the Legislature.

C. 52:27F-16.2 Report on energy preparedness.

2. In order to evaluate the energy preparedness of the State, the commissioner shall, within one year of the effective date of this act and at least once every three years thereafter, prepare and submit to the Governor and the Legislature a comprehensive report on the status of the emergency allocation plan adopted pursuant to section 14 of P. L. 1977, c. 146 (C. 52:27F–16). The report shall provide for:

a. A means to identify, monitor and evaluate situations and conditions which may give rise to a critical energy shortage, which shall include but not be limited to methods of evaluating supply and demand conditions which may trigger a critical energy shortage;

b. The evaluation of various emergency response measures, based on the relative technical and economic impact and effectiveness of each;

c. The evaluation of existing emergency response plans of other agencies and instrumentalities of the State government, including the Board of Public Utilities. The commissioner shall have the authority to require these plans to conform with the conclusions and recommendations of the report, and to require the development or modification of those plans or portions thereof which do not comply with the report;

d. A means for establishing a comprehensive energy information service to function during an energy emergency;

e. The development, in advance of and during an energy emergency, of a coordinated public and private sector plan to mitigate the effects of an energy emergency.

C. 52:27F-16.3 Implementation of responsibilities.

3. In order to implement the responsibilities required by section 2 of this act, the commissioner shall:

a. Review and evaluate, every three years, existing State programs and policies concerning energy emergency preparedness; and

b. Hold public hearings, as the commissioner deems necessary, concerning energy supply shortages, energy emergency preparedness and related matters.

4. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 560

AN ACT establishing an Open Lands Management Program, supplementing Title 13 of the Revised Statutes, and making an appropriation.

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

C. 13:1B-15.133 Short title.

1. This act shall be known and may be cited as the "Open Lands Management Act."

C. 13:1B-15.134 Definitions.

2. As used in this act:

a. "Commissioner" means the Commissioner of Environmental Protection;

b. "Department" means the Department of Environmental Protection;

c. "Program" means the Open Lands Management Program.

C. 13:1B-15.135 Findings, declarations.

3. The Legislature finds and declares that opportunities for access to recreational open space are rapidly diminishing and that, in an effort to explore alternative techniques to provide that access, the State should aid private landowners permitting public recreational use of their land.

The Legislature further finds and declares that administering a program to aid private landowners, informing the public of recreational opportunities and evaluating the operation of the program would best be implemented by establishing an Open Lands Management Program, and by empowering the Department of Environmental Protection to provide financal assistance and in kind services to assist private landowners in maintaining and increasing public recreational opportunities, all as hereinafter provided.

C. 13:1B-15.136 Open Lands Management Program.

4. There is established in the Division of Parks and Forestry in the Department of Environmental Protection the Open Lands Management Program.

The purpose of this program shall be to provide financial assistance and in kind services for the development and maintenance of privately owned land for recreational purposes in accordance with

the provisions of this act. It shall further be the purpose of this program to evaluate the operation of State efforts to provide opportunities for recreational access to privately owned open space.

C. 13:1B-15.137 Rules, regulations.

5. The commissioner is authorized to adopt and enforce, 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.

C. 13:1B-15.138 Public meetings.

6. The department shall undertake an informational and educational effort to acquaint landowners with the basic objectives and details of the program by conducting public meetings in the various geographical regions of the State.

C. 13:1B-15.139 Access covenant.

7. a. Voluntary offers to undertake certain projects shall be solicited by the department from private landowners. The department may provide a landowner with any appropriate assistance and guidance in the development of recreational opportunity proposals particularly suited to the topographical characteristics of the land.

b. A landowner may file an application with the department, on forms prescribed by the commissioner, requesting financial assistance for a specific project or projects for public recreational access to his privately owned open space. The department shall evaluate the application and, within 30 days of receipt of the application, either deny the application citing the reasons therefor or grant preliminary approval thereof.

c. If preliminary approval has been granted, the landowner and the commissioner may enter into an agreement, hereinafter referred to as an "access covenant," which guarantees public access for a specified period of time, for specified recreational purposes to a specified parcel or parcels of land in return for appropriate and reasonable financial assistance or in kind services, or both, as determined by the commissioner.

d. If an access covenant has been signed by a landowner and the commissioner, the landowner shall cause a statement containing the conditions of the covenant to be attached to and recorded with the deed to the land in the same manner as the deed was originally recorded.

C. 13:1B-15.140 Eligible projects.

8. Projects eligible for consideration by the commissioner shall include but not necessarily be limited to:

a. Installation, repair or replacement of existing protective structures, such as fencing, water bars, berms or stiles;

b. Installation, repair or replacement of any facility which provides or improves public recreational access to privately owned land, such as parking areas, access roads, trails, signs, picnic areas, rest areas or boat or canoe launch areas;

c. Planting, restoration or maintenance of trees or shrubs for the purpose of screening or increasing the value of scenic areas; and

d. Repair or restoration of any vandalized crops or improvements located on, or adjacent to, agricultural land which is subject to an access covenant.

C. 13:1B-15.141 Liability limited.

9. a. An owner, lessee or occupant of land for which an access covenant has been entered into and who is participating in the program and thereby guarantees access pursuant to subsection c. of section 7 of this act does not thereby: (1) extend any assurance that the premises, including any natural or man-made conditions, are safe for these purposes; (2) constitute the person to whom access is guaranteed an invitee or licensee to whom a duty of care is owed; or (3) assume responsibility for, or incur liability for, any injury to person or property caused by any act of persons to whom access is guaranteed.

b. This section shall not limit the liability which would otherwise exist for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity.

C. 13:1B-15.142 Assessment, taxation unaffected.

10. The access covenant for recreational purposes shall not affect the assessment and taxation of agricultural land which is taxed pursuant to the "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4–23.1 et seq.), nor shall it affect the assessment and taxation of vacant land or agricultural land which is not taxed pursuant to the "Farmland Assessment Act of 1964."

C. 13:1B-15.143 Employees.

11. Subject to the provisions of Title 11 of the Revised Statutes, and within the limits of funds appropriated or otherwise made available, the commissioner may appoint any officer or employee to the department necessary to carry out the provisions of this act, fix and determine their qualifications, which may include a

knowledge of and familiarity with the Pinelands area and the residents thereof.

C. 13:1B-15.44 Report.

12. The commissioner shall submit a written report to the Governor and to the Legislature within one year of the effective date of this act. The report shall detail the effectiveness of the Open Lands Management Program in increasing recreational opportunities and the advisability of continuing the program at its current level, expanding the program Statewide or terminating the program.

C. 13:1B-15.145 Funding.

13. The department may apply for, accept and expend funds from any public or private source for the purposes of planning and implementing the program in accordance with the provisions of this act.

14. There is appropriated to the Department of Environmental Protection from the State General Fund the sum of $250,000.00 to implement the provisions of this act.

15. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 561

AN ACT concerning fireworks and amending R. S. 21:2–35 and R. S. 21:3–8.

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

1. R. S. 21:2–35 is amended to read as follows:

Crime of 4th degree.

21:2–35. Any person who fails to comply with or violates any of the provisions of this chapter shall be guilty of a crime of the fourth degree.

2. R. S. 21:3–8 is amended to read as follows:

Disorderly persons offenses.

21:3–8. Any person who sells, offers or exposes for sale, or possesses with intent to sell any fireworks as herein mentioned is

guilty of a disorderly persons offense. Any person who uses, discharges, causes to be discharged, ignites, fires, or otherwise sets in action, or possesses any fireworks is guilty of a petty disorderly persons offense.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 562

AN ACT concerning historic preservation, reconstituting the membership of the New Jersey Historic Trust, amending P. L. 1967, c. 124, and repealing section 5 of P. L. 1967, c. 124.

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

1. Section 4 of P. L. 1967, c. 124 (C. 13:1B–15.111) is amended to read as follows:

C. 13:1B-15.111 New Jersey Historic Trust.

4. There is hereby created and established in the Department of Environmental Protection a body corporate and politic with corporate succession, to be known as the New Jersey Historic Trust. The trust is hereby constituted an instrumentality exercising public and essential governmental functions, and the exercise by the trust of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

2. Section 6 of P. L. 1967, c. 124 (C. 13:1B–15.113) is amended to read as follows:

C. 13:1B-15.113 No compensation.

6. The trustees shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duties.

C. 13:1B-15.112a Board of trustees.

3. (New section) The powers and duties of the New Jersey Historic Trust shall vest in and be exercised by a board of eleven trustees, three of whom shall be the Commissioner of Environmental Protection, the State Treasurer, and the Executive Director of the New Jersey Historical Commission or their respective

designees, who shall serve ex officio and eight citizens of the State, representing the several geographic regions of the State, to be appointed by the Governor with the advice and consent of the Senate.

The citizen members shall serve for three year terms, provided, however, that of those members first appointed, four shall serve for three year terms, two shall serve for two year terms, and two for one year terms. Each of these members shall hold office for the term of the appointment and until a successor shall have been appointed and qualified.

The chairman of the Board of Trustees of the Historic Trust shall be elected by its members.

Six members of the board shall constitute a quorum, and the concurrence of six members of the board shall be necessary to validate all acts of the board.

Repealer.

4. Section 5 of P. L. 1967, c. 124 (C. 13:1B–15.112) is repealed.

5. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 563

AN ACT concerning peace officers and amending R. S. 39:5–25.

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

1. R. S. 39:5–25 is amended to read as follows:

Arrest without warrant.

39:5–25. Any constable, sheriff's officer, police officer, peace officer, or the director may, without a warrant, arrest any person violating in his presence any provision of chapter 3 of this Title, or any person, other than a motorman or person having control of a street car or auto bus, running upon a route approved by the Board of Public Utilities, violating in his presence any provision of chapter 4 of this Title. The exemption from arrest of a motorman or person having control of a street car or auto bus, as conferred herein, shall not operate to prevent his arrest, however, for a

violation of R. S. 39:4–50. The arresting officer shall bring any person so arrested before any judge of the municipal court of the municipality wherein the offense was committed, or before the director at any place designated as his office. If the arrest is for a violation of R. S. 39:4–50, the arresting officer may, if no judge, clerk or deputy clerk is available, detain the person arrested, either in any police station, lockup or other place maintained by any municipality for the detention of offenders or in the common jail of the county, for such reasonable time as will permit the arresting officer to obtain a warrant for the offender's further detention, which temporary detention shall not exceed 24 hours from the time of the arrest. If the arrest is for a violation of any other provision of this subtitle, the person arrested shall be detained in the police station or municipal court until the arresting officer makes a complaint and a warrant issues.

Any constable, sheriff's officer, police officer, peace officer or the director may, instead of arresting an offender as herein provided, serve upon him a summons.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 564

AN ACT providing for interpreters for the hearing impaired in official proceedings and repealing P. L. 1971, c. 230.

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

C. 34:1-69.7 Finding, declaration.

1. The Legislature finds and declares that it shall be the policy of this State to secure the rights of hearing impaired persons who, because of impairment of hearing or speech, are unable to readily understand or communicate spoken language and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

C. 34:1-69.8 Definitions.

2. As used in this act:

a. "Appointing authority" means the presiding judge or justice

of any court, the chairman of any board, commission, or authority, the director or commissioner of any department or agency, or any other person presiding at any hearing or other proceeding in which a qualified interpreter is required pursuant to this act.

b. "Hearing impaired person" means a person whose hearing is impaired so as to prohibit the person from understanding oral communication. The term further includes a person who, because of loss of hearing, cannot communicate spoken language.

c. "Principal party in interest" means a person who is a named party in any proceeding or who will be directly affected by the decision or action which may be made or taken.

d. "Qualified interpreter" means an interpreter certified by the National Registry of Interpreters for the Deaf, Inc. and listed by the State Division of the Deaf in the Department of Labor or the New Jersey Registry of Interpreters for the Deaf.

e. "Intermediary interpreter" means a certified interpreter who, because of his intimate acquaintance with hearing impaired persons with minimal language skills, can be used as an intermediary between the hearing impaired person and a qualified interpreter.

C. 34:1-69.9 Intermediary interpreter.

3. If a qualified interpreter or the hearing impaired client states that the interpretation is not satisfactory and that an intermediary interpreter will improve the quality of interpretation, the appointing authority shall appoint an intermediary interpreter to assist the qualified interpreter. An intermediary interpreter shall be subject to the same provisions that govern a qualified interpreter under this act.

C. 34:1-69.10 Qualified interpreter.

4. The appointing authority shall appoint a qualified interpreter to assist a hearing impaired person throughout the proceedings and in preparation with counsel as follows:

a. In any case before any court or grand jury in which a hearing impaired person is a party, either as a complainant, defendant or witness, or as hearing impaired parent of a juvenile;

b. At all stages in any proceeding of a judicial or quasi-judicial nature before any State agency or county or municipal governing body or agency in which a hearing impaired person is a principal party in interest, either as a complainant, defendant, witness or supplicant, or as hearing impaired parent of a juvenile;

c. In any proceedings in which a hearing impaired person may be subject to confinement or criminal sanction or in any proceed-

ing preliminary thereto, including a coroner's inquest, grand jury proceedings and proceedings related to mental health commitments. A hearing impaired person who has been arrested and who is otherwise eligible for release shall not be held in custody pending the arrival of an interpreter.

(1) When a hearing impaired person is arrested for an alleged violation of a criminal law, a qualified interpreter shall be appointed prior to reading of Miranda warnings, interrogating or taking a statement from the hearing impaired person.

(2) Any statement, written or oral, made by a hearing impaired person in reply to a question from a law enforcement officer or any other person having a prosecutorial function in any criminal or quasi-criminal proceeding shall not be used against that hearing impaired person unless either the statement was made or elicited through a qualified interpreter and was made knowingly, voluntarily and intelligently, or the hearing impaired person has requested a waiver pursuant to section 10 of this act and the court makes a finding that any statement made by the hearing impaired person was made knowingly, voluntarily and intelligently.

(3) The provisions of this subsection shall not apply to apprehensions, arrests or statements involving a violation of Title 39 of the Revised Statutes (Motor Vehicles and Traffic Regulation).

C. 34:1-69.11 Interpreter in full view.

5. In any action or proceeding in which an interpreter is required to be appointed, the court or administrative authority may not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the hearing impaired person involved as a participant.

C. 34:1-69.12 List of qualified interpreters.

6. Whenever an appointing authority is required to appoint an interpreter, the appointing authority shall request a list of qualified interpreters from either the State Division of the Deaf in the Department of Labor or the New Jersey Registry of Interpreters for the Deaf.

If the appointing authority's choice of a qualified interpreter does not meet the needs or wishes of the hearing impaired person, the appointing authority shall appoint another qualified interpreter.

C. 34:1-69.13 Maintenance of list.

7. a. The State Division of the Deaf in the Department of Labor, created pursuant to P. L. 1941, c. 197 (C. 34:1–69.1 et seq.) shall

maintain a list of qualified interpreters and provide the list to appointing authorities upon request.

b. The division shall regularly obtain a list of qualified interpreters from the New Jersey Registry of Interpreters for the Deaf and ensure that the list contains the most current information available from the registry.

C. 34:1-69.14 Oath.

8. Every appointed interpreter before entering upon his duties, shall take an oath that he will make a true interpretation in an understandable manner to the person for whom he is appointed and that he will repeat the statements of the person in the English language to the best of his skill and judgment.

C. 34:1-69.15 Fee.

9. a. An appointed interpreter shall receive a reasonable fee for his services, together with his actual expenses for travel and waiting time.

b. The Supreme Court shall establish rules governing the method for payment and the amount of the fee. In the case of any civil or criminal proceeding before a court in this State the fee shall be paid by the court and in the case of any proceeding before a State agency or a county or municipal governing body or agency the fee shall be paid that agency or governing body.

C. 34:1-69.16 Waiver.

10. The right of a hearing impaired person to an interpreter shall not be waived unless the hearing impaired person requests a waiver in writing. The waiver shall be granted if the hearing impaired person's counsel and the appointing authority approve the request for a waiver.

C. 34:1-69.17 Privileged information.

11. Any information that the interpreter gathers from the hearing impaired person pertaining to any proceeding then pending shall at all times remain confidential and privileged on an equal basis with the attorney-client privilege.

Repealer.

12. P. L. 1971, c. 230 (C. 2A:11–28.1) is repealed.

13. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 565

AN ACT concerning certain documents and forms, amending R. S. 33:1–77 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:21-2.1 Simulated documents.

1. (New section) A person who knowingly sells, offers or exposes for sale a document, printed form or other writing which simulates a driver's license or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age is guilty of a disorderly persons offense.

2. R. S. 33:1–77 is amended to read as follows:

Defenses of sellers.

33:1–77. Anyone who sells any alcoholic beverage to a person under the legal age for purchasing alcoholic beverages is a disorderly person; provided, however, that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the purchaser falsely represented by producing a driver's license bearing a photograph of the licensee or by producing a photographic identification card issued pursuant to section 1 of P. L. 1968, c. 313 (C. 33:1–81.2) or a similar card issued pursuant to the laws of another state or the federal government that he or she was of legal age to make the purchase, (b) that the appearance of the purchaser was such that an ordinary prudent person would believe him or her to be of legal age to make the purchase, and (c) that the sale was made in good faith relying upon such production of a driver's license bearing a photograph of the licensee or production of a photographic identification card issued pursuant to section 1 of P. L. 1968, c. 313 (C. 33:1–81.2) or a similar card issued pursuant to the laws of another state or the federal government and appearance and in the reasonable belief that the purchaser was actually of legal age to make the purchase.

3. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 566

AN ACT concerning safe deposit companies, revising parts of the statutory law and enacting chapter 14A of Title 17 of the Revised Statutes.

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

1. TITLE 17

CHAPTER 14A

SAFE DEPOSIT COMPANIES

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17:14A–1. Definitions.

As used in this chapter:

a. "Commissioner" means the Commissioner of Banking of New Jersey;

b. "Department" means the Department of Banking of New Jersey;

c. "Safe deposit company" means a corporation organized for the purpose of keeping, maintaining and renting for hire safe deposit boxes for the safekeeping of personal property;

d. "Safe deposit box" means a receptacle for the safekeeping of personal property;

e. "Lessor" means a safe deposit company;

f. "Safe" means a place for the storage and safekeeping of personal property;

g. "Vault" means a room or compartment that is designed for

the storage and safekeeping of personal property, including safes and safe deposit boxes and having a size and shape which permit entrance and movement within by one or more persons.

Source: New.

17:14A–2. Applicability of chapter.

This chapter shall apply to all corporations organized prior to and after the effective date of this chapter.

Source: R. S. 17:14–1.

17:14A–3. Carrying on safe deposit business.

A corporation organized under any law other than this chapter shall not be authorized to carry on a safe deposit business, but this section shall not apply to State or federally chartered banks, savings banks, savings and loan associations or credit unions.

Source: R. S. 17:14–1.

17:14A–4. Use of words "safe deposit."

A corporation organized under any law other than this chapter shall not use the words "safe deposit" as part of its name.

Source: R. S. 17:14–1.

17:14A–5. Reservation of power.

This chapter may be supplemented, altered, amended or repealed by the Legislature, and every corporation to which this chapter applies shall be bound thereby.

Source: New.

17:14A–6. Incorporators.

Any five or more persons who are residents of this State, hereinafter referred to as incorporators, may associate to form a corporation for the purposes of a safe deposit company upon the terms and conditions set forth in this chapter.

Source: R. S. 17:14–1.

17:14A–7. Certificate of incorporation.

The incorporators shall personally sign and prove or acknowledge as is required for deeds of real estate, a certificate of incorporation, which shall state:

a. The name of the corporation, which shall contain the words "safe deposit," and the name of the corporation shall not be one already in use by another corporation nor so similar thereto as to deceive the public or lead to uncertainty or confusion;

b. The street, street number, if any, and the municipality in this State where its business is to be carried on;

c. Its purposes and objects;

d. The amount of its capital stock, which shall not be less than $200,000.00 and shall be divided into shares having a par value of not less than $2.00 per share and be fully subscribed for in the certificate;

e. The name, residence (including street and number, if any), post office address and occupation of each incorporator;

f. The number of shares subscribed for by each incorporator;

g. The period, if any, limited for the duration of the company; and

h. The certificate may contain any provisions, consistent with the provisions of this chapter, which the incorporators may choose to insert for the regulation of its business, the conduct of its affairs, or for the defining, limiting and regulating the powers of its directors.

Source: R. S. 17:14–2.

17:14A–8. Original bylaws.

The original bylaws of the corporation shall be adopted by the incorporators.

Source: New.

17:14A–9. Application to commissioner for approval; notice of hearing.

The certificate of incorporation and the bylaws shall be submitted to the commissioner for his approval. Within 10 days thereafter, the commissioner shall give written notice to each incorporator of the time and place designated by him for a hearing, by mailing the notice to each incorporator at the post office address stated in the certificate of incorporation. The time designated for the hearing shall be not less than six weeks nor more than eight weeks after the date after receipt by the commissioner of the application.

Source: New.

17:14A–10. Publishing notice of application and hearing by incorporators.

The incorporators shall give public notice of the application and of the time and place designated by the commissioner for the hearing thereon, by publishing it prior to the time of hearing at least

once a week for four weeks in at least one newspaper published and circulating in the municipality where the principal office of the safe deposit company will be located. If there is no newspaper published in the municipality, the notice shall be published in a newspaper having a general circulation in the municipality.

The notice shall also state the proposed name of the company, the name of the municipality where the principal office of the company will be located, the names and addresses, both residence and post office, of the incorporators, and the aggregate amount which they have agreed to invest in the company before it commences business.
Source: New.

17:14A–11. Mailing copy of notice to other companies; request to commissioner to furnish names.

The incorporators shall also mail or cause to be mailed, at least three weeks prior to the time designated for the hearing, a copy of the notice to all safe deposit companies having principal or branch offices within the county where the principal office of the proposed company is to be located.

The commissioner shall, upon the request of the incorporators, furnish a written list showing the names and street addresses of all safe deposit companies to which the notice shall be sent.
Source: New.

17:14A–12. Hearing; examination or investigation by commissioner.

At the hearing on the application to approve the certificate of incorporation or at any adjournment granted by the commissioner, anyone desiring to be heard shall be given the opportunity to be heard. The commissioner shall also make an independent examination or investigation of the application as the circumstances shall require. The commissioner may, in writing, waive a hearing on the application to approve the certificate of incorporation.
Source: New.

17:14A–13. Commissioner's findings.

The commissioner shall approve the application and issue a certificate of approval which shall be endorsed upon or annexed to the certificate of incorporation if he finds that:

a. The establishment of the company is in the public interest; and

b. Will be of benefit to the area proposed to be served; and

c. The amount of the capital stock appears adequate or if he deems it inadequate the amount of capital stock or other form of capital investment he deems appropriate; and

d. The company will have a reasonable prospect of success; and

e. The character, responsibility and general fitness of the incorporators command confidence and warrant belief that the business of the company will be honestly and efficiently conducted; and

f. The name proposed for the company conforms with the requirements of this chapter and that the proposed bylaws are proper; and

g. The company has filed proofs as to the mailing of notice and publication required by the chapter.

Source: New.

17:14A–14. Commissioner's decision.

Within 30 days after the close of the hearing, the commissioner shall announce his decision upon such application and file in his office a written memorandum stating the reasons therefor which shall be open to public inspection; and he shall forthwith thereafter give written notice thereof to the incorporators.

Source: New.

17:14A–15. Filing certificate of incorporation; certificate as evidence.

If the application is approved by the commissioner, he shall endorse upon or annex to the certificate of incorporation a certificate of approval and the certificate of incorporation shall be filed in the department. The certificate or a copy thereof duly certified by the commissioner shall be evidence in all courts and places.

Source: New.

17:14A–16. Beginning of corporate existence; transaction of business.

Upon the filing of the certificate of incorporation as provided in R. S. 17:14A–15, the subscribers to the certificate, their successors and assigns shall be a corporation by the name stated in the certificate, subject to the provisions of this chapter, but a safe deposit company shall not transact any business whatsoever, except that relating to its organization, until it has received a certificate

of authority from the commissioner to transact business as hereinafter provided.

Source: New.

17:14A–17. Payment of capital; filing proof with commissioner.

The full amount of capital shall be paid in, in cash, before a safe deposit company transacts any business, except that which relates to its organization. The payment shall be certified to the commissioner under oath of two of its officers.

Source: R. S. 17:14–3.

17:14A–18. Certificate of authority to transact business.

The commissioner shall issue a certificate of authority to a safe deposit company in which it shall be stated that the safe deposit company therein named has complied with the provisions of this chapter and is authorized to begin the transaction of business specified in the certificate of incorporation when he shall have verified by examination that:

a. The certificate of incorporation has been filed as provided in R. S. 17:14A–15;

b. The entire capital stock as stated in the certificate of incorporation has been fully paid in cash, unconditionally and without reservation;

c. The cash paid in or the capital stock is on deposit in a banking institution in this State, without offset, claim or demand whatsoever, and subject to withdrawal upon demand; and

d. Proof to the satisfaction of the commissioner that the proposed officers of the safe deposit company who will have control or supervision of the company's operations possess the qualifications, experience and character required for the duties and responsibilities with which they will be charged.

A copy of the certificate of authority shall be filed in the department.

Source: New.

17:14A–19. Time within which to issue certificate or notify company of refusal.

The commissioner shall, within 30 days after receipt of the company's certificate of incorporation and the verified certificate certifying as to the payment of capital, issue the certificate of au-

thority to transact business or notify the safe deposit company in writing of his reasons for refusing it.
Source: New.

17:14A–20. Review of refusal to issue certificate of authority.

The commissioner's failure to issue the certificate of authority or to notify the company in writing of his reasons for refusal to issue the certificate of authority within the time specified in R. S. 17:14A–19 shall be subject to review by appeal to the Appellate Division of the Superior Court.
Source: New.

17:14A–21. Dissolution for failure to obtain certificate of authority or commence business.

If a safe deposit company shall fail to obtain a certificate of authority within six months from the date of the commissioner's approval of its certificate of incorporation or within the extended time hereinafter provided, or if the safe deposit company shall fail to commence business within six months after the issuance of the certificate of authority or within the extended time hereinafter provided, the commissioner may make an order, to be filed in the department, forfeiting the safe deposit company's rights, powers and privileges as a corporation, and upon the filing of the order the corporate rights, powers and privileges of the safe deposit company shall cease. The commissioner may, upon good cause shown, extend the time to obtain a certificate of authority or commence business. The extension or extensions shall be for a period or periods as the commissioner may specify, not exceeding 12 months in all, and shall be evidenced by a certificate or certificates of the commissioner filed in the department.
Source: New.

17:14A–22. Tolling of time to obtain certificate of authority or commence business.

If proceedings are instituted to review the commissioner's approval of an application to file a certificate of incorporation or to review the commissioner's failure to issue a certificate of authority, the period from the date of the commissioner's approval or failure to issue a certificate of authority to the entry of the final judgment in the proceedings shall not be considered in computing any 12-month period limited in R. S. 17:14A–21.
Source: New.

17:14A–23. Powers.

In addition to the powers conferred by Title 14A of the New Jersey Statutes, Corporations, General, so far as they are not inconsistent with the provisions of this chapter, a safe deposit company may, as lessor, lease vaults, safe deposit boxes and other receptacles for the storage and safekeeping of personal property upon terms and conditions as may be prescribed by the safe deposit company with the lessees of the vaults, safe deposit boxes and other receptacles, but a safe deposit company shall not make any loans or advances upon any property left with it for storage nor have the power to transact the business of a bank, savings bank or savings and loan association or any other business except that of a safe deposit company.

Source: R. S. 17:14–5.

17:14A–24. Directors; number; election; term.

The affairs of a safe deposit company shall be managed by a board of at least five directors elected by the stockholders of the company at each annual meeting. The persons receiving the greatest number of votes shall be the directors. The directors shall hold office for one year and until their successors are elected and qualified.

Source: R. S. 17:14–6.

17:14A–25. Directors; voting rights of stockholders.

At a meeting of stockholders for the election of directors, a stockholder shall be entitled to one vote for each share of stock owned. A stockholder may vote by a proxy in writing signed by him.

Source: R. S. 17:14–6.

17:14A–26. Directors; oath.

Each director shall, following his election and before the assumption of any duties as a director, take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the safe deposit company, and that he will not knowingly violate or knowingly permit to be violated any provision of this chapter. The oath subscribed by the director and certified by the officer before whom it is taken shall be transmitted to and filed in the office of the commissioner.

Source: New.

17:14A–27. Bonding of directors, officers and employees.

Every safe deposit company shall, at its own expense, cause to be bonded, by a surety company or companies authorized to transact business in New Jersey, each director, all officers and employees of the company in an amount as shall be approved by the board of directors. The bonds may be individual bonds or may be one or more blanket bonds. The board of directors shall annually examine all the bonds, shall pass upon their sufficiency and may require a new bond or bonds or increases in the amounts thereof. The commissioner may from time to time order an increase in the amounts of the bonds. A bond shall not be deemed to comply with this section unless the bond contains a provision that it shall not be cancellable for any cause unless notice of intention to cancel is filed in the office of the commissioner at least five days before the day upon which cancellation is to take effect.

Source: New.

17:14A–28. Bonding of directors, officers and employees; waiver.

If a safe deposit company is unable to obtain the bond or bonds required by R. S. 17:14A–27, the commissioner may, in his discretion, waive the requirements of R. S. 17:14A–27 for a period of one year, upon terms as he may deem appropriate, that the company is adequately capitalized and that a waiver will not otherwise endanger the financial condition of the company.

Source: New.

17:14A–29. Branch offices; capital requirements; location.

A safe deposit company may, pursuant to a resolution of its board of directors and by an amendment to its certificate of incorporation to increase its capital stock in an amount of at least $100,000.00 for each branch office to be established and maintained, establish and maintain a branch office or offices as hereinafter provided.

Source: New.

17:14A–30. Branch offices; application, approval.

Before a branch office shall be established, the safe deposit company shall file a written application in the department for the commissioner's approval. The commissioner shall, within 90 days after the filing of the application, approve the application if he finds, after investigation or hearings or both, that:

a. The safe deposit company has complied with R. S. 17:14A–29;

b. The interests of the public will be served to advantage by the establishment of the branch office; and

c. The conditions in the locality in which the proposed branch is to be established afford reasonable promise of successful operation.

Source: New.

17:14A–31. Branch offices; failure to open and operate.

The failure of a safe deposit company to open and operate a branch office within six months after the commissioner approves the application therefor shall automatically terminate the right of safe deposit company to open the branch office, and it shall make no further application to establish a branch office at the location, or in the area which would be served by a safe deposit company doing business at the location, until after the expiration of one year from the date of such approval; except that, for good cause shown, the commissioner may, in his discretion, on application of the safe deposit company made before the expiration of the six-month period, extend for additional periods, not in excess of six months each, the time within which the branch office may be opened.

Source: New.

17:14A–32. Branch offices; discontinuance.

By resolution of its board of directors, a safe deposit company may discontinue a branch office. Upon adoption of the resolution, the safe deposit company shall file a certificate in the department specifying the location of the branch office to be discontinued, and the date upon which the discontinuance shall be effective.

Source: New.

17:14A–33. Change of principal or branch office; application.

A safe deposit company may change the location of its principal office or of a branch office to a location by filing an application in the department.

Source: New.

17:14A–34. Change of principal or branch office; approval.

The commissioner shall approve the application for a change of location of the principal office of a safe deposit company or a branch office if it shall appear from the application or from any investigation he may make that the area to be served by the office after its

change in location would not be substantially different from the area previously served by the office.

Source: New.

17:14A–35. Merger.

Any safe deposit company may, with the approval of the commissioner, merge with any other safe deposit company, bank, savings bank or savings and loan association subject to any applicable law relating to the merger of banks, savings banks or savings and loan associations as hereinafter provided. In a merger with a bank, savings bank or savings and loan association, the surviving company shall be a bank, savings bank or savings and loan association.

Source: New.

17:14A–36. Merger agreement; authorization.

The boards of directors of each company proposing to merge shall authorize the execution of a merger agreement which shall contain:

a. The names of the safe deposit companies proposing to merge and the location of the principal office and branch offices of the merging company;

b. The name of the company into which they propose to merge, which is hereinafter designated as the surviving company;

c. The location of the principal office of the surviving company;

d. The names of the persons who will be the directors of the surviving company;

e. The names of the persons who will be the officers of the surviving company;

f. The locations then occupied by the principal offices, branch offices of the merging companies and the surviving company which will be continued as branch offices of the surviving company;

g. The effective date of the merger;

h. The amount of capital stock, the number of shares into which it will be divided, the par value of each share, which the surviving company will have after the merger is effected;

i. The manner and basis of converting the shares of each merging company into shares, other securities, or obligations of the surviving company, or into cash or other consideration which may include shares or other securities or obligations of a corporation not a party to the merger, or into any combinations thereof;

j. A statement of any amendments in the certificate of incorporation of the surviving company to be effected by the merger; and

k. Any other provisions, not inconsistent with this chapter, which may be necessary or appropriate to effect the merger.

Source: New.

17:14A–37. Consolidation.

Any two or more safe deposit companies may, with the approval of the commissioner, consolidate into a new company as hereinafter provided.

Source: New.

17:14A–38. Consolidation plan; authorization.

The boards of directors of each safe deposit company proposing to consolidate into a new company shall authorize the execution of a plan of consolidation which shall contain:

a. The names of the safe deposit companies proposing to consolidate;

b. The name of the new company into which the safe deposit companies propose to consolidate, which is hereinafter designated as the new company;

c. The location of the principal office of the new company;

d. The names of the persons who will be directors of the new company;

e. The names of the persons who will be officers of the new company;

f. The effective date of the consolidation;

g. The amount of capital stock, the number of shares into which it will be divided, the par value of each share, which the new company will have after the consolidation is effected;

h. The manner and basis of converting the shares of each company into shares, other securities or obligations of the new company, or into cash or other consideration which may include shares or other securities or obligations of a corporation not a party to the consolidation, or any combination thereof;

i. With respect to the new corporation, all of the statements required to be set forth in the certificate of incorporation for companies organized under this chapter, except it will not be necessary to set forth the names and addresses of each incorporator; and

j. Any other provisions, not inconsistent with this chapter, which may be necessary or appropriate to effect the consolidation.
Source: New.

17:14A–39. Approval or disapproval of merger agreement or consolidation plan by commissioner.

The merger agreement or consolidation plan, executed by all the parties thereto, shall be submitted to the commissioner who shall, within 60 days from the date of submission, endorse thereon his approval or disapproval. If the commissioner shall disapprove the agreement or plan, he shall forthwith file a memorandum in the department stating the reasons for his disapproval, and shall mail a copy of the memorandum to each of the companies which is a party to the merger agreement or consolidation plan. The commissioner shall not withhold his approval unless he shall find that the merger agreement or consolidation plan contains provisions which do not conform to this chapter, or that the merger or consolidation will not be in the public interest.
Source: New.

17:14A–40. Review of commissioner's disapproval of merger agreement or consolidation plan.

The commissioner's disapproval of a merger agreement or consolidation plan, as provided in R. S. 17:14A–39, shall be subject to review by appeal to the Appellate Division of the Superior Court.
Source: New.

17:14A–41. Submission of merger agreement or consolidation plan to stockholders.

If the commissioner approves the merger agreement or consolidation plan, or if the merger agreement or consolidation plan is approved after review as provided in R. S. 17:14A–40, it shall, within 180 days after the date of approval, be submitted to the stockholders of each of the companies which are parties to the agreement or plan, at separate meetings called for that purpose upon at least 20 days' notice prior to the meeting, by mail, postage prepaid, addressed to each stockholder at his address as it appears on the books of the company. The notice shall specify the place, day and the hour of the meeting and the nature of the business to be transacted. A copy of the merger agreement or consolidation plan shall be mailed to each stockholder of each company, together with the notice of the meeting.
Source: New.

17:14A–42. Approval by stockholders; filing agreement or plan.

If the merger agreement or consolidation plan is approved by the affirmative vote of two-thirds of the stockholders of each company, that fact shall be certified as to each company by its president or a vice president and the certifications shall be attached to the merger agreement or consolidation plan and filed in the department at which time it shall become effective.

Source: New.

17:14A–43. Merger agreement or consolidation plan as evidence.

A copy of the merger agreement or consolidation plan, certified by the commissioner, shall be evidence in all courts and places.

Source: New.

17:14A–44. Recording copy of merger agreement or consolidation plan with county recording officer.

A copy of the merger agreement or consolidation plan, certified by the commissioner, may be recorded in the office of the county recording officer charged with the duty of recording instruments affecting title to real property in the county, and the record shall have the same effect as if duly executed and acknowledged deeds to real property and assignments of mortgages affecting real or personal property owned by the merging or consolidating companies had been made and delivered by the merging companies to the surviving company and the consolidating companies to the new company, and had been duly recorded.

Source: New.

17:14A–45. Effect of merger or consolidation.

Upon the merger or consolidation of two or more safe deposit companies:

a. The parties to the merger agreement or plan of consolidation shall be a single company, which, in the case of a merger, shall be the corporation designated in the merger agreement as the surviving company, and in the case of a consolidation, shall be the new company provided for in the consolidation plan;

b. The separate existence of all parties to the merger agreement or consolidation plan, except the surviving company or new company, shall cease;

c. The surviving or new company shall, to the extent consistent with its certificate of incorporation as amended or established by the merger or consolidation, possess all the rights, privileges,

powers, immunities, purposes and franchises, both public and private, of each of the merging or consolidating companies;

d. All real property and personal property, tangible and intangible, of every kind and description, belonging to each of the companies so merged or consolidated shall be vested in the surviving or new company without further act or deed, and the title to any real estate, or any interest therein, vested in any of the companies shall not revert or be in any way impaired by reason of the merger or consolidation;

e. The surviving or new company shall be liable for all the obligations and liabilities of each of the companies so merged or consolidated, and any claim existing or action or proceeding pending by or against any of the companies may be enforced as if the merger or consolidation had not taken place and neither the rights of creditors nor any liens upon, or security interests in, the property of any of the companies shall be impaired by the merger or consolidation;

f. In the case of a merger, the certificate of incorporation of the surviving company shall, without further act or deed, be amended to the extent, if any, stated in the plan of merger, and, in the case of a consolidation, the statements set forth in the certificate of consolidation and which are required or permitted to be set forth in the certificate of incorporation of companies organized under this chapter shall be the certificate of incorporation of the new company; and

g. The directors named in the merger agreement or consolidation plan shall be the directors of the surviving company or new company and shall serve until the time new directors are elected at the annual meeting of stockholders following the effective date of the merger or consolidation.

Source: New.

17:14A–46. Merger or consolidation; issuance of new stock certificates.

A surviving company or the new company resulting from a merger or consolidation shall require each stockholder of a company participating in a merger or consolidation to surrender his certificates of capital stock of each participating company, and shall upon the surrender thereof, issue or deliver in lieu thereof, certificates for the number of its own shares of capital stock, or other securities or obligations of the surviving company or new company,

or cash or other consideration including shares or other securities or obligations of a corporation not a party to the merger or consolidation, as the stockholder is entitled to receive pursuant to the terms of the merger agreement or consolidation plan.

Source: New.

17:14A–47. Liability of stockholders.

The holders of shares of capital stock of a safe deposit company shall not be liable, by reason of their owning the stock, for any debts, contracts or obligations of the safe deposit company.

Source: New.

17:14A–48. Language in rental agreement.

An agreement for the rental of vaults, safe deposit boxes, and other receptacles for the storage and safekeeping of personal property shall be written in simple, clear, understandable and easily readable language as provided in P. L. 1980, c. 125 (C. 56:12–1 et seq.).

Source: New.

17:14A–49. Notice to lessee as to insurance and contents of vaults, etc.

An agreement for the rental vaults, safe deposit boxes or other receptacles for the storage and safekeeping of personal property shall contain language in bold face type substantially as follows:

Important Notice

The contents of your vault, safe deposit box or storage receptable are not protected against loss by the lessor unless specifically indicated in this notice, and for your protection you may wish to secure your own insurance for protection against loss with an insurance company of your own choice.

You should keep a complete list and description of all your property stored in your vault, safe deposit box or storage receptacle and any available proof of ownership.

A copy of the notice shall be posted in the principal office of the company and in each branch office and shall be given to each lessee before the lessee enters into an agreement for the rental of a vault, safe deposit box or other receptacle for the storage and safekeeping of personal property.

Source: New.

17:14A–50. Books and records.

A safe deposit company shall keep and maintain all books and records required by law and in addition thereto shall keep and maintain all books and records as may be required under rules and regulations promulgated by the commissioner pursuant to P. L. 1958, c. 66 (C. 17:1–8.1 et seq.), and a list setting forth the names and addresses of all lessees, together with the numbers of their respective safe deposit boxes.

Source: New.

17:14A–51. Proceedings for unpaid rental.

If the amount due for the rental of any vault, safe deposit box or receptacle for the storage and safekeeping of personal property of any safe deposit company or bank, savings bank, or savings and loan association authorized to conduct a safe deposit business under the laws of this State has not been paid for one year, the safe deposit company, bank, savings bank, savings and loan association may at any time after the expiration of the year send a written notice by registered mail addressed to the lessee or lessees in whose name the vault, safe deposit or receptacle stands on its records, directed to the address on its records, that if the rental for the vault, safe deposit box or receptacle is not paid within 30 days after the date of the mailing of the notice, it will have the vault, safe deposit box or receptacle opened in the presence of one of its officers and of a notary public not in its employ, and the contents thereof, if any, placed in a sealed package by the notary public, marked by him with the name of the lessee or lessees in whose name the vault, safe deposit box or receptacle stands and the estimated value thereof, and the package so sealed and marked will be placed in one of the general vaults, safes or boxes of the safe deposit company, bank, savings bank or savings and loan association. The notary's proceedings shall be set forth in a certificate under his official seal, and the certificate shall be delivered to the savings and loan association, bank, savings bank or safe deposit company. The safe deposit company, bank, savings bank or savings and loan association shall have a lien on the contents of the vault, safe deposit box or receptacle so removed for the amount due to it for the rental of the vault, safe deposit box or receptacle up to the time of the removal of the contents, and for the costs and expenses, if any incurred in its opening, repairing and restoration for use. If the lien is not paid and discharged within one year from the opening of the vault, safe deposit box or receptacle and the

removal of its contents, the safe deposit company, bank, savings bank or savings and loan association may sell the contents at public auction, or so much thereof as is required, to pay and discharge the lien and expenses of sale. A notice of the date, time and place of the sale shall be advertised in a newspaper having a general circulation in the county within which the principal office of the safe deposit company, bank, savings bank or savings and loan association is located, at least once a week for two successive weeks prior to the sale. The safe deposit company, bank, savings bank or savings and loan association may retain from the proceeds of sale the amount due to it for its lien and the expenses of sale. The balance of the proceeds of the sale and the unsold contents, if any, shall be held to be paid and delivered to the lessee or owner of the contents of the vault, safe deposit box or receptacle so sold.

If after commencement and completion of an action by the State of New Jersey to escheat any balance of the proceeds of sale or unsold contents, any balance of the proceeds of sale or unsold contents not taken by the State of New Jersey in the action may thereafter be abandoned or destroyed by the safe deposit company, bank, savings bank or savings and loan association holding the balance of the proceeds of sale or unsold contents, and the safe deposit company, bank, savings bank or savings and loan association shall be released and discharged from all claims, demands or liability to any person with respect to any unpaid balance of proceeds of sale or unsold contents not so taken by the State of New Jersey.

Source: R. S. 17:14–7 amended 1958, c. 44.

17:14A–52. Accessibility to vault, safe deposit box or receptacle.

The right of access to a vault, safe deposit box or receptacle rented to a lessee by a safe deposit company shall be governed by the rental agreement, the provisions of P. L. 1955, c. 151 (C. 46:39–1 et seq.), R. S. 54:35–19 and R. S. 54:35–20.

Source: New.

17:14A–53. Control of safe deposit company.

It shall be unlawful for any person or company, except with the approval of the commissioner, to acquire control of a safe deposit company incorporated under this chapter.

Source: New.

17:14A–54. Control of safe deposit company; "control" defined.

As used in R. S. 17:14A–53, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a safe deposit company, whether by means of the ownership of the stock or equity interest of the safe deposit company, by means of a contractual arrangement, or otherwise. Control shall be presumed to exist if any person or company, directly or indirectly, owns, controls or holds with power to vote 10% or more of the stock of the safe deposit company or of any company which owns, controls or holds with power to vote 10% or more of the stock of the safe deposit company, but a person shall not be deemed to control a safe deposit company solely by reason of his being an officer or director of the safe deposit company.

Source: New.

17:14A–55. Control of safe deposit company; "company" defined.

As used in R. S. 17:14A–53, "company" means a corporation, joint stock company, business trust, investment trust, general or limited partnership, voting trust, association, and any similar organized group of persons, whether incorporated or not, and whether or not organized or incorporated under the laws of this State or any other state or any territory or possession of the United States or under the laws of a foreign country, territory, colony or possession thereof.

Source: New.

17:14A–56. Control of safe deposit company; application to commissioner.

A person or company seeking to acquire control of a safe deposit company shall file a written application therefor with the commissioner which shall be in such form and contain such information as the commissioner may require.

Source: New.

17:14A–57. Control of safe deposit company; investigation by commissioner.

After the filing of the application as provided in R. S. 17:14A–56, the commissioner shall conduct an investigation to determine whether:

a. The acquisition of control of the safe deposit company is not contrary to law;

b. The acquisition of control of the safe deposit company is in the best interest of the public;

c. The character, responsibility and general fitness of the person or company seeking to acquire control of the safe deposit company are such as to command confidence and warrant belief that the business of the safe deposit company will be honestly and efficiently conducted in a manner consistent with the public interest, the interests of lessees and creditors of the safe deposit company; and

d. The exercise of control of the safe deposit company may impair the safe and sound conduct of the business of the safe deposit company, the conservation of its assets or public confidence in its business.

Source: New.

17:14A–58. Control of safe deposit company; approval or disapproval of application.

The commissioner shall notify the applicant in writing of his approval or disapproval of the application to acquire control within 90 days after its filing unless he shall advise the applicant in writing before the expiration of the 90-day period of his determination to extend the period for an additional 90 days. If the commissioner shall disapprove the application, he shall set forth his reasons therefor in the notification to the application.

Source: New.

17:14A–59. Control of safe deposit company; review of commissioner's disapproval.

The commissioner's disapproval of an application to acquire control of a safe deposit company shall be subject to review by appeal to the Appellate Division of the Superior Court.

Source: New.

17:14A–60. Communications received from the commissioner.

Every official communication directed to and received by a safe deposit company or any of its officers or directors shall be submitted to the board of directors at the board's next meeting following receipt and noted in the minutes of the meeting.

Source: New.

17:14A–61. Examination of safe deposit company affairs; by whom made.

The board of directors of a safe deposit company shall have an examination of the company's affairs made, from time to time, by or under the supervision of a person who is a certified public accountant, a public accountant or a person whose qualifications for making the examination have been approved by the commissioner. A person who is an officer, director or employee of the company or who was an officer, director or employee of the company within a period of 13 months preceding the commencement of the examination shall not participate in any examination required by this section.

Source: New.

17:14A–62. Examination of safe deposit company affairs; scope. The scope of examinations made as required by R. S. 17:14A–61 shall be as determined by regulations of the commissioner or, in the absence of regulations, by the board of directors of the company.

Source: New.

17:14A–63. Examination of safe deposit company affairs; when made.

An examination pursuant to R. S. 17:14A–61 shall be made at least once in each calendar year and shall be commenced not less than six months and not more than 15 months following the commencement of the preceding examination made pursuant to R. S. 17:14A–61, but an examination shall not be commenced when an examination is being made pursuant to R. S. 17:14A–70. The board of directors may, whenever it deems it advisable, have examinations made of the company's affairs other than as required by this section.

Source: New.

17:14A–64. Examination of safe deposit company affairs; report; statement by directors; filing.

Within 60 days after completion of an examination made pursuant to R. S. 17:14A–61, a report thereof, in a form prescribed by the commissioner, certified by the person by whom and under whose supervision the examination was made, shall be presented to the directors at a meeting of the board. The board of directors shall have a statement prepared setting forth in detail the assets

and their values, liabilities and net worth of the company. Within the time specified in this section, the directors shall file a copy of the statement and a certified copy of the report with the commissioner.

Source: New.

17:14A–65. Examination of safe deposit company affairs; curtailment or extension of time by commissioner.

The commissioner shall have power, for good cause shown, to curtail the six-month period, and to extend the 15-month period specified in R. S. 17:14A–63 for a period not exceeding one month in either case, and to extend the 60-day period specified in R. S. 17:14A–64 for a period not exceeding 30 days. An extension or curtailment shall not be allowed by the commissioner which will result in the lapse of a calendar year without the commencement of an examination pursuant to R. S. 17:14A–63.

Source: New.

17:14A–66. Reports to commissioner as to assets and liabilities.

A safe deposit company shall make and file with the commissioner, in the form prescribed by the commissioner, periodic reports as the commissioner may from time to time request setting forth in detail and under appropriate headings the assets and liabilities of the company at the close of business on any day specified by the commissioner. The report shall be filed by the company within 10 days after receipt of the request. The report shall be attested by at least three directors who are not officers of the company, and shall be verified by the oaths of at least two officers of the company. The commissioner may extend the time within which the report shall be filed for not more than 10 days.

Source: New.

17:14A–67. Special reports as to condition of company.

The commissioner shall have the power to call for special reports from a safe deposit company when, in his judgment, a special report is necessary to obtain a full and complete knowledge as to the company's condition. The special report shall be filed with the commissioner within 10 days after receipt of the request.

Source: New.

17:14A–68. Penalty for failure to make and file report.

A safe deposit company which fails to make and file a report as required pursuant to R. S. 17:14A–66 and R. S. 17:14A–67 shall

be subject to a penalty of $100.00 for each day during which the failure continues, to be recovered by the State in a civil action prosecuted by the Attorney General.

Source: New.

17:14A–69. Publication of report.

A summary of each report filed pursuant to R. S. 17:14A–66, in a form prescribed by the commissioner, shall be published by the safe deposit company once in a newspaper having a general circulation in the county in which the company's principal office is located within two weeks after the report is filed. The cost of publication shall be paid by the company and a proof of publication filed with the commissioner. A copy of the report shall be made available to any person requesting it.

Source: New.

17:14A–70. Examination of safe deposit companies by commissioner.

The commissioner shall, whenever and as often as he shall deem it advisable, cause the affairs of every safe deposit company to be examined to determine whether the company is conducting its business in conformity with the laws of this State and its certificate of incorporation, and with safety to its lessees, creditors and the public.

The officers and employees of every safe deposit company being examined shall exhibit to the examiners all its securities, books, records and accounts and shall otherwise facilitate the examination so far as it may be in their power.

Source: New.

17:14A–71. Examination of safe deposit companies by commissioner; examination of witnesses.

The commissioner, a deputy commissioner, and every examiner assigned by the commissioner or by a deputy commissioner to examine the affairs of a company may administer an oath to any person whose testimony is required for the purposes of the examination. The commissioner or deputy commissioner may compel the appearance of any person for the purposes of examination, by subpena ad testificandum and the production of books, papers, documents or records by subpena duces tecum.

Source: New.

17:14A–71.1. Examinations confidential.

Every report and copy of a report of examination of a safe deposit company made by or under the supervision of the commissioner shall be confidential and shall not be made public by any officer, director or employee of a safe deposit company.

Source: New.

17:14A–71.2. Examinations confidential; evidence; subpenas.

Every report and copy of a report of examination of a safe deposit company made by or under the supervision of the commissioner shall not be subject to subpena or to admission into evidence in any court, except pursuant to an order of the court made upon notice of the commissioner affording the commissioner an opportunity to advise the court of reasons for excluding the report or any portion thereof from evidence. The court shall order the issuance of a subpena for the production of or the admission into evidence of a report or portion thereof only after it is satisfied that it is material and relevant to the issues in the proceedings, and the ends of justice and the public interest will be served thereby. This section shall not apply to any action or proceeding instituted by the commissioner or the Attorney General pursuant to any law of this State.

Source: New.

17:14A–72. Commissioner's powers on ultra vires, unlawful and unsafe practices.

If the commissioner finds that a safe deposit company is violating the provisions of its certificate of incorporation, or is conducting its business in violation of any law of this State, or in an unsafe manner, he shall order the safe deposit company to cease its ultra vires, unlawful or unsafe practices, as the case may be.

Source: New.

17:14A–73. Review of commissioner's order to cease ultra vires, unlawful or unsafe practices.

An order of the commissioner made pursuant to R. S. 17:14A–72 shall be subject to review by appeal to the Appellate Division of the Superior Court. The institution of proceedings for review shall suspend the accrual of the penalties provided for by R. S. 17:14A–74 until the final determination of the proceedings.

Source: New.

17:14A–74. Penalty for failure to comply with commissioner's order as to ultra vires, unlawful and unsafe practices.

A safe deposit company which continues to violate the provisions of its certificate of incorporation or which continues to conduct its business in violation of any law of this State, or in an unsafe manner, after having been ordered by the commissioner to cease those practices, shall be liable to a penalty of $1,000.00 to be recovered with costs by the State in a court of competent jurisdiction in a civil action prosecuted by the Attorney General, and it shall be liable to a like penalty for each day's additional default from and after the time specified in the order. The penalty provided by this section shall be in addition to and not in lieu of any other provision of law applicable upon a safe deposit company's failure to comply with an order of the commissioner.

Source: New.

17:14A–75. Removal of director or officer.

Whenever, in the opinion of the commissioner, any director or officer of a safe deposit company has and continues to violate any law relating to a safe deposit company or has or continues unsafe or unsound practices in conducting the business of the safe deposit company after having been directed by the commissioner to discontinue the violation of law or the unsafe or unsound practices, the commissioner may cause notice to be served upon the director or officer to appear and show cause before him why he should not be removed from office. A copy of a notice so served shall be sent to each of the other directors of the safe deposit company by registered mail. If, after granting the director or officer a reasonable opportunity to be heard, the commissioner finds that he has and continues to violate any law relating to the safe deposit company, or has and continues unsafe or unsound practices in conducting the business of the safe deposit company, after having been directed by the commissioner to discontinue the violation of law or the unsafe or unsound practices, the commissioner may make an order removing the director or officer from office. A copy of the order shall be served upon the director or officer and upon the safe deposit company of which he is a director or officer. After the service of the copies of the order, the director or officer shall cease to be a director or officer of the safe deposit company.

Source: New.

17:14A–76. Participation in management of company after removal from office.

Any director or officer who, after service upon him of a copy of the order removing him from office, participates in any manner in the management of the safe deposit company is guilty of a disorderly persons offense.

Source: New.

17:14A–77. Record of proceedings to remove director or officer not to be made public; exception.

No part of the record of any proceedings under R. S. 17:14A–75 shall be made public or disclosed to anyone except the director or officer involved and the other directors of the safe deposit company involved, except in connection with proceedings brought pursuant to R. S. 17:14A–76.

Source: New.

17:14A–77.1. Review of commissioner's order to remove director or officer.

An order by the commissioner made pursuant to R. S. 17:14A–75 shall be subject to review by appeal to the Appellate Division of the Superior Court.

Source: New.

17:14A–78. Costs of examination of safe deposit company.

Every safe deposit company shall pay to the commissioner for the use of the State the reasonable costs of each examination of its affairs made pursuant to this chapter. The Attorney General may prosecute an action in the name of and for the benefit of the State, in a court of competent jurisdiction, against any safe deposit company which fails to pay the costs of examination.

Source: New.

17:14A–79. Filing documents and reports.

All documents and reports which are required to be filed by a corporation pursuant to the provisions of Title 14A, Corporations, General, of the New Jersey Statutes and which apply to a safe deposit company shall be filed in the department.

Source: New.

17:14A–80. Custodial possession by commissioner; causes.

The commissioner shall have the authority to institute an action in the Superior Court to take custodial possession of the property of any safe deposit company:

a. Which has filed for bankruptcy or has been adjudicated a bankrupt;

b. Which is insolvent or has been placed in receivership;

c. Against which any proceedings have been instituted for bankruptcy, insolvency, receivership, agreement of composition or assignment for the benefit of creditors;

d. Against which a summary dispossess action has been instituted;

e. Against which has been issued a judgment, writ of execution, levy or sale;

f. Which has violated the provisions of its certificate of incorporation or any law of this State;

g. Which has refused to submit its books, papers, records, documents, and things to the inspection of the commissioner or any examiner appointed by him;

h. Whose officer or director has refused to be examined upon oath concerning the affairs of the safe deposit company or has refused to answer questions under oath or to produce any books, papers, records, or documents of the safe deposit company in his possession, custody or control;

i. Which has suspended its business for want of funds to carry on its business;

j. Which is, in the opinion of the commissioner, in an unsafe or unsound condition to transact business.

Source: New.

17:14A–81. Custodial possession by commissioner; purpose.

Possession by the commissioner shall be for the sole purpose of serving as a custodian of the safe deposit company until the lessees of the vaults, safe deposit boxes and other receptacles have removed their personal property therefrom after notice from the commissioner or upon removal by the commissioner to a place of safe storage.

Source: New.

17:14A–82. Custodial possession by commissioner; return of property to management of safe deposit company.

If and when the commissioner determines that the cause or causes for his taking custodial possession of a safe deposit company have been removed or remedied, he may return the property of the safe deposit company to the control and management of its officers and directors.

Source: New.

17:14A–83. Custodial possession by commissioner; corporate title and existence.

Notwithstanding the taking of custodial possession of the property of a safe deposit company by the commissioner:

a. Title to all the property of the safe deposit company, including property held in fiduciary capacities, shall remain in the safe deposit company;

b. The corporate existence of the safe deposit company shall continue unless terminated as provided in R. S. 17:14A–80; and

c. The stockholders and directors of the safe deposit company shall be entitled to meet and the stockholders, directors and officers of the safe deposit company shall be entitled to act upon any matter which does not infringe upon the powers granted to the commissioner by R. S. 17:14A–80.

Source: New.

17:14A–84. Custodial possession by commissioner; notice to commissioner.

A safe deposit company shall immediately notify the commissioner in writing of any of the actions or proceedings set forth in subsections a. through e. of R. S. 17:14A–80 instituted by or against the safe deposit company.

Source: New.

17:14A–85. Custodial possession by commissioner; surety bond.

A safe deposit company shall file and keep on file with the commissioner a surety bond obtained from a surety company authorized to transact business in this State in an amount of not less than $25,000.00 and in form prescribed by regulation of the commissioner. The bond shall be conditioned for payment to the State for the benefit of the Department of Banking of the costs and expenses incurred by the commissioner in taking custodial possession of the property of a safe deposit company pursuant to R. S.

17:14A–80 in the event the safe deposit company is unable to reimburse the department for those costs and expenses.

Source: New.

17:14A–86. Standards for vaults.

Vaults shall have walls, floors and ceiling of reinforced concrete at least 12 inches in thickness constructed as follows:

a. Two grids of #5 (⅝″ diameter) deformed steel bars located in horizontal and vertical rows in each direction to form grids not more than four inches on center; or

b. Two grids of expanded steel bank vault mesh placed parallel to the face of the walls, weighing at least six pounds per square foot to each grid, having a diamond pattern not more than 3″ x 8″; or

c. Two grids of any other fabricated steel placed parallel to the face of the walls, weighing at least six pounds per square foot to each grid and having an open area not exceeding four inches on the center;

d. Grids are to be located not less than six inches apart and stagger in each direction;

e. The concrete shall develop an ultimate compression strength of at least 3,000 pounds per square inch;

f. Electric conduits into the vault shall not exceed 1½ inches in diameter and shall be offset within the walls, floor or ceiling so as not to form a direct path of entry; and

g. A vault ventilator, if provided, shall be designed with consideration of safety to life without significant reduction of the strength of the vault wall to burglary attack.

Source: New.

17:14A–87. Standards for vault doors.

Vault doors shall be made of steel at least 3½ inches in thickness, or other drill and torch resistant material, and be equipped with a dial combination lock, a time lock, and a substantial lockable day-gate gate.

Source: New.

17:14A–88. Standards for safes.

A safe shall weigh at least 750 pounds empty, or be securely anchored to the premises where located. The body shall consist of steel, at least one inch in thickness, either cast or fabricated, with an ultimate tensile strength of at least 50,000 pounds per square

inch and be fastened in a manner equal to a continuous ¼ inch penetration weld having an ultimate tensile strength of at least 50,000 pounds per square inch. The door shall be made of steel that is at least 1½ inches in thickness and at least equivalent in strength to that specified for the body, and the door shall be equipped with a combination lock, or time lock, and with a relocking device that will effectively lock the door if the combination lock or time lock is punched. One hole not exceeding ½ inch diameter may be provided in the body to permit insertion of electrical conductors, but shall be located so as not to permit a direct view of the door or locking mechanism.

Source: New.

17:14A–89. Safe deposit box standards.

A safe deposit box used to store and safeguard a lessee's personal property shall be enclosed in a vault or safe meeting the minimum standards set forth in R. S. 17:14A–86 and R. S. 17:14A–87 or R. S. 17:14A–88.

Source: New.

17:14A–90. Surveillance systems.

A surveillance system shall be provided for each office of a safe deposit company which shall:

a. Be equipped with one or more photographic, recording, monitoring, or like devices capable of reproducing images of persons in the safe deposit company office with sufficient clarity to facilitate (through photographs capable of being enlarged to produce a one-inch vertical head-size of persons whose images have been reproduced) the identification and apprehension of robbers or other suspicious persons.

Any camera used in the system shall be capable of taking at least one picture every two seconds and, if it uses film, should contain enough unexposed film at all times to be capable of operating for not less than three minutes, and the film shall be at least 16mm, and

(1) Located so as to reproduce identifiable images of persons either leaving the safe deposit company office or in a position to transact business at the office; and

(2) Capable of actuation by initiating devices located throughout the office;

b. Be reasonably silent in operation; and

c. Be so designed and constructed that necessary services, repairs or inspections can readily be made.

Source: New.

17:14A–91. Robbery alarm systems.

A robbery alarm system shall be provided for each office of a safe deposit company at which the police ordinarily can arrive within five minutes after an alarm is actuated. Robbery alarm systems shall be:

a. Designed to transmit to the police, either directly or through an intermediary, a signal (not detectable by unauthorized persons) indicating that a crime against the office has occurred or is in progress;

b. Capable of actuation by initiating devices located throughout the office;

c. Safeguarded against accidental transmission of an alarm;

d. Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

e. Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 24 hours in the event of failure of the usual source of power.

Source: New.

17:14A–92. Burglary alarm systems.

A burglary alarm system shall be provided for each office of a safe deposit company. Burglary alarm systems shall be:

a. Capable of detecting promptly an attack on the outer door, walls, floor, or ceiling of each vault, and each safe not stored in a vault, in which personal property of lessees are stored when the office is closed, and any attempt to move a safe;

b. Designed to transmit to the police, either directly or through an intermediary, a signal indicating that an attempt is in progress; and for offices at which the police ordinarily cannot arrive within five minutes after an alarm is actuated, designed to actuate a loud sounding bell or other device that is audible inside the office and for a distance of approximately 500 feet outside the office;

c. Safeguarded against accidental transmission of an alarm;

d. Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

e. Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 80 hours in the event of failure of the usual source of power.

Source: New.

17:14A–93. Notice of crime.

The board of directors of a safe deposit company shall promptly notify the commissioner of any crime committed or attempted to be committed against the safe deposit company by any person even though the crime or attempted crime has not resulted in a loss.

Source: New.

17:14A–94. Rules and regulations.

In addition to other powers and duties vested in him by this chapter or by any other law, the commissioner is authorized and empowered to make reasonable rules and regulations not inconsistent with the provisions of this chapter, and specific rulings, demands and findings as he may deem necessary for the proper operation and enforcement of this chapter.

The commissioner's authority to make rules and regulations may include higher or equivalent modifications in the standards for the construction of vaults, vault doors, safes, safe deposit box standards, surveillance, robbery and burglary alarm systems when the commissioner deems those modifications are warranted and continue to maintain protection of the safe deposit company.

Source: New.

17:14A–95. Dissolution.

A safe deposit company may be dissolved in the manner provided by chapter 12 of Title 14A, Corporations, General of the New Jersey Statutes, except that filings thereunder shall be made in the department.

Source: New.

17:14A–96. Filing fees.

A safe deposit company shall pay to the commissioner for the use of the State:

a. For filing an application for charter	$2,500.00
b. For the issuance by the commissioner for a certificate of authority	100.00

c. For filing the original certificate of incorporation	50.00
d. For filing a certificate of amendment of a certificate of incorporation or an amended certificate of amendment	50.00
e. For filing any other certificate	10.00
f. For filing an application of the establishment of a branch office	500.00
g. For filing an agreement of merger, per company	1,500.00
h. For filing a plan for consolidation, per company	1,500.00
i. For filing a report required by this chapter or any other law	25.00
j. For filing an affidavit	10.00
k. For filing proof of publication and mailing or other proof required by this chapter or any other law	10.00
l. For filing application for approval of a change of principal office or branch office	250.00
m. For the issuance of a certified copy of any certificate of incorporation or agreement of merger or plan for consolidation or any other certificate or affidavit	10.00 plus $1.00 per page
n. For application for control of safe deposit company	1,000.00
o. For filing certificate of dissolution	35.00

Source: New.

17:14A–97. Statutes repealed.

The following are repealed:

R. S. 17:14–1 to R. S. 17:14–8 inclusive.

2. This act shall take effect 180 days after enactment.

Approved January 17, 1984.

TITLE 17. CORPORATIONS AND INSTITUTIONS FOR FINANCE AND INSURANCE

Treatment of Source Material

Revised Section	*Source*	*Treatment of Source*
17:14A–1	New	Definitions
17:14A–2	R. S. 17:14–1	Revised section derived from source
17:14A–3	R. S. 17:14–1	Revised section derived from source
17:14A–4	R. S. 17:14–1	Revised section derived from source
17:14A–5	New	Reserves power to supplement, alter, amend or repeal chapter
17:14A–6	R. S. 17:14–1	Revised section derived from source
17:14A–7	R. S. 17:14–2	Editorial
17:14A–8	New	Original bylaws to be adopted by incorporators
17:14A–9	New	Application to commissioner for approval
17:14A–10	New	Public notice of application and hearing
17:14A–11	New	Mailing notice of hearing
17:14A–12	New	Hearing and investigation by commissioner
17:14A–13	New	Finding by commissioner for approval
17:14A–14	New	Prescribes time within which commissioner must make decision on application for approval
17:14A–15	New	Provides for filing of certificate of incorporation in the department
17:14A–16	New	States when corporate existence begins
17:14A–17	R. S. 17:14–3	Revised section derived from source
17:14A–18	New	Provides for issuance of certificate to transact business

Revised Section	*Source*	*Treatment of Source*
17:14A–19	New	Specifies time within which to issue certificate to transact business
17:14A–20	New	Provides for review to issue certificate to transact business
17:14A–21	New	Corporation to be dissolved for failure to obtain certificate of authority or commence business
17:14A–22	New	Tolling of time to obtain certificate or commence business
17:14A–23	R. S. 17:14–5	Editorial
17:14A–24	R. S. 17:14–6	Revised section derived from source
17:14A–25	R. S. 17:14–6	Revised section derived from source
17:14A–26	New	Prescribes oath of directors
17:14A–27	New	Provides bonding of directors, officers and employees
17:14A–28	New	Provides for waiver of bonds
17:14A–29	New	Establishment of branch offices
17:14A–30	New	Application to and approval of commissioner to establish branch office
17:14A–31	New	Effect of failure to open and operate branch office within time.
17:14A–32	New	Discontinuance of branch office
17:14A–33	New	Filing application for change of principal or branch office
17:14A–34	New	Approval by commissioner of change of principal or branch office
17:14A–35	New	Authorizes merger of safe deposit companies
17:14A–36	New	Contents of merger agreement

Revised Section	*Source*	*Treatment of Source*
17:14A–37	New	Authorizes consolidation of safe deposit companies
17:14A–38	New	Contents of consolidation plan
17:14A–39	New	Approval or disapproval of merger agreement or consolidation plan by commissioner
17:14A–40	New	Review of commissioner's disapproval of merger agreement or consolidation plan
17:14A–41	New	Submission of merger agreement or consolidation plan to stockholders
17:14A–42	New	Votes required for approval of merger or consolidation
17:14A–43	New	Copies of merger agreement or consolidation plan as evidence
17:14A–44	New	Recording copy of merger agreement or consolidation plan
17:14A–45	New	Effect of merger or consolidation
17:14A–46	New	Issuance of new stock certificates upon merger or consolidation
17:14A–47	New	Stockholders' liability
17:14A–48	New	Provides for plain language in rental agreement
17:14A–49	New	Provides for notice in rental agreement as to insurance and ownership of property
17:14A–50	New	Books and records to be maintained
17:14A–51	R. S. 17:14–7 as am. L. 1958, c. 44	Editorial
17:14A–52	New	Accessibility to vaults, safe deposit boxes or receptacles
17:14A–53	New	Prohibits acquisition of control of safe deposit company
17:14A–54	New	Defines "control"

Revised Section	*Source*	*Treatment of Source*
17:14A–55	New	Defines "company"
17:14A–56	New	Filing application to acquire control of safe deposit company
17:14A–57	New	Investigation by commissioner on application
17:14A–58	New	Time to approve or disapprove application
17:14A–59	New	Review of commissioner's disapproval of application
17:14A–60	New	Disposition of communications received from commissioner
17:14A–61	New	Directs by whom examination of company affairs shall be made
17:14A–62	New	Provides for scope of company affairs
17:14A–63	New	Prescribes times for making examination of company affairs
17:14A–64	New	Provides for filing copy of report and statement by directors
17:14A–65	New	Authorizes commissioner to curtail or extend periods relating to examination of company affairs
17:14A–66	New	Reports to be filed with commissioner as to assets and liabilities
17:14A–67	New	Special reports as to condition of company
17:14A–68	New	Prescribes penalty for failure to file report
17:14A–69	New	Publishing summary of report
17:14A–70	New	Authorizes commissioner to examine affairs of safe deposit companies

Revised Section	*Source*	*Treatment of Soruce*
17:14A–71	New	Authorizes examination of witnesses in examining safe deposit company affairs
17:14A–71.1	New	Examinations by commissioner confidential
17:14A–71.2	New	Examinations by commissioner not subject to subpena or as evidence except by court order
17:14A–72	New	Authorizes commissioner to issue cease and desist orders
17:14A–73	New	Review of commissioner's cease and desist orders
17:14A–74	New	Penalty for failure to obey commissioner's cease and desist orders
17:14A–75	New	Authority to remove director or officer
17:14A–76	New	Prohibits participation in company management after removal
17:14A–77	New	Prohibits making removal proceedings public; exception
17:14A–77.1	New	Review of commissioner's order to remove director or officer
17:14A–78	New	Cost of examination by commissioner to be paid by company
17:14A–79	New	Documents and reports to be filed in department
17:14A–80	New	Causes authorizing commissioner to take custodial possession of company property
17:14A–81	New	Sets forth purpose for taking custodial possession of property
17:14A–82		Provides for return of property when cause for custodial possession no longer exists

Revised Section	*Source*	*Treatment of Soruce*
17:14A–83	New	Corporate title remains in company and corporate existence continues during custodial possession
17:14A–84	New	Requires company to notify commissioner of causes for custodial possession
17:14A–85	New	Company required to file surety bond for costs and expenses incurred in taking custodial possession
17:14A–86	New	Sets forth standards for construction of vaults
17:14A–87	New	Sets forth standards for construction of vault doors
17:14A–88	New	Sets forth standards for construction of safes
17:14A–89	New	Sets forth standards for safe deposit boxes
17:14A–90	New	Sets forth standards for surveillance systems
17:14A–91	New	Sets forth standards for robbery alarm systems
17:14A–92	New	Sets forth standards for burglary alarm systems
17:14A–93	New	Requires directors to notify commissioner of crimes
17:14A–94	New	Authorizes commissioner to promulgate rules and regulations
17:14A–95	New	Procedure to dissolve company
17:14A–96	New	Filing fees
17:14A–97	New	Statutes repealed

TITLE 17. CORPORATIONS AND INSTITUTIONS FOR FINANCE AND INSURANCE

Schedule of Allocations of Source Material

Source Sections		*Revised Sections*
R. S. 17:14–1		17:14A–2 17:14A–3 17:14A–4 17:14A–6
R. S. 17:14–2		17:14A–7
R. S. 17:14–3		17:14A–17
R. S. 17:14–4		Not Enacted
R. S. 17:14–5		17:14A–23
R. S. 17:14–6		17:14A–24 17:14A–25
R. S. 17:14–7	As am. L. 1958, c. 44, s. 1	17:14A–51
R. S. 17:14–8		Not Enacted

CHAPTER 567

AN ACT providing for the establishment of an Advisory Commission on Hispanic Affairs, providing for appointment of its members and prescribing the powers, functions and duties of the commission, and establishing similar advisory commissions in certain municipalities and counties.

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

C. 52:9W-1 Advisory Commission on Hispanic Affairs.

1. There is established an Advisory Commission on Hispanic Affairs to consist of 10 members, two to be appointed by the President of the Senate from the members thereof, no more than one of whom shall be from the same political party; two to be appointed by the Speaker of the General Assembly from the members thereof, no more than one of whom shall be from the same political party; the Commissioner of Community Affairs, or his designee; and five public members to be appointed by the Governor, with the advice and consent of the Senate, who are residents of the

State and who represent various Hispanic communities within the State. Legislative members shall serve during their terms of office. Public members shall serve for a term of three years from the dates of their appointments and until their successors are appointed and qualified; except that of the first appointments hereunder: one shall be for a term of one year, two for two years, and two for three years. Vacancies resulting from causes other than by expiration of term shall be filled for the unexpired terms only and shall be filled in the same manner as the original appointments were made.

C. 52:9W-2 No compensation.

2. All members of the commission shall serve without compensation, but they shall be entitled to be reimbursed for all necessary expenses incurred in the performance of their duties.

C. 52:9W-3 Chairperson, secretary.

3. The commission shall select from among its members a chairperson and also shall select a secretary who need not be a member of the commission.

C. 52:9W-4 Duty; subcommittee.

4. It shall be the duty of the commission to advise the Governor and the Legislature on the needs, concerns, accomplishments and contributions as well as the impact of legislation which affects the State's Hispanic community. The commission shall establish a subcommittee whose function is to elicit input from Hispanic communities by visiting community centers, meeting with community leaders, attending and sponsoring community meetings and taking any other actions it deems necessary to carry out its purposes. The subcommittee shall consist of five members, two legislative members, not more than one of whom shall be from the same political party, and three public members all of whom shall be appointed by the chairperson of the commission from the members thereof. The subcommittee shall report to the commission at the request of the chairperson, on its findings and recommendations.

C. 52:9W-5 Services of employees.

5. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission or agency as it may require and as may be available to it to carry out its purposes, and to employ such stenographic, clerical, technical and expert assistance and incur travel and other miscellaneous expenses as it may deem necessary, in order to perform its duties

and as may be within the limits of funds appropriated or otherwise made available to it to accomplish its objectives.

C. 40:10C-1 Municipal, county commissions.

6. A municipality or a county with an Hispanic population of 10% or more, according to the latest federal decennial census, may by resolution establish a municipal or county Hispanic advisory commission, as appropriate, which shall advise the municipal and county governing bodies on matters concerning the needs of the Hispanic community and the impact of local legislation on the Hispanic community in the municipality or the county. A municipal or county Hispanic advisory commission so established shall consist of five members, to be appointed by majority vote of the governing body of the municipality or county. The members of the commission shall be residents of the municipality or county and shall represent the Hispanic community within the municipality or county. The members shall serve for a term of three years from the dates of their appointments and until their successors are appointed and qualified; except that of the first appointments hereunder: one shall be for a term of one year, two for two years, and two for three years. Vacancies resulting from causes other than by expiration of term shall be filled for the unexpired terms only and shall be filled in the same manner as the original appointments were made. The municipal or county advisory commission shall periodically report to and meet with the commission. The governing body of the municipality or county may provide for the employment of officers and employees as may be necessary or desirable for the proper functioning of the municipal or county Hispanic advisory commission.

7. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 568

AN ACT concerning the manner in which certain property tax refunds are processed by municipalities, and supplementing Title 54 of the Revised Statutes.

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

C. 40A:5-17.1 Refund of less than $3.

1. Notwithstanding the provisions of any law to the contrary, the governing body of a municipality may adopt a resolution authorizing a municipal employee chosen by the governing body to process, without further action on the part of the governing body, any property tax refund of less than $3.00.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 569

AN ACT to amend the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39), as said short title was amended by P. L. 1975, c. 326.

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

1. Section 9 of P. L. 1970, c. 39 (C. 13:1E–9) is amended to read as follows:

C. 13:1E-9 Enforcement of codes, rules, regulations.

9. a. All codes, rules and regulations adopted by the department related to solid waste collection and disposal shall have the force and effect of law. Such codes, rules and regulations shall be observed throughout the State and shall be enforced by the department and by every local board of health, or county health department, as the case may be.

The department and the local board of health, or the county health department, as the case may be, shall have the right to enter a solid waste facility at any time in order to determine compliance with the registration statement and engineering design, and with the provisions of all applicable laws or rules and regulations adopted pursuant thereto.

The municipal attorney or an attorney retained by a municipality in which a violation of such laws or rules and regulations adopted pursuant thereto is alleged to have occurred shall act as counsel to a local board of health

The county counsel or an attorney retained by a county in which a violation of such laws or rules and regulations adopted pursuant

thereto is alleged to have occurred shall act as counsel to the county health department.

Any county health department may charge and collect from the owner or operator of any sanitary landfill facility within its jurisdiction such fees for enforcement activities as may be established by ordinance or resolution adopted by the governing body of any such county. Such fees shall be established in accordance with a fee schedule regulation to be adopted by the department, pursuant to law, within 60 days of the effective date of this amendatory act and shall be utilized exclusively to fund such enforcement activities.

All enforcement activities undertaken by county health departments pursuant to this subsection shall conform to all applicable performance and administrative standards adopted pursuant to section 10 of the "County Environmental Health Act," P. L. 1977, c. 443 (C. 26:3A2–28).

b. The commissioner, a local board of health or county health department may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver for any solid waste collection or disposal facility or operation, which is established or operated in violation of this act, or of any code, rule or regulation promulgated pursuant to this act and said court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief, notwithstanding the provisions of R. S. 48:2–24.

Such relief may include, singly or in combination:

(1) A temporary or permanent injunction;

(2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection;

(3) Assessment of the violator for any cost incurred by the State in removing, correcting or terminating the adverse effects upon water and air quality resulting from any violation of any provision of this act or any rule, regulation or condition of approval for which the action under this subsection may have been brought;

(4) Assessment against the violator of compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by any violation of this act or any rule, regulation or condition of approval established pursuant to this act for which the action under this subsection may have

been brought. Assessments under this subsection shall be paid to the State Treasurer, or to the local board of health, or to the county health department, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation.

If a proceeding is instituted by a local board of health or county health department, notice thereof shall be served upon the commissioner in the same manner as if the commissioner were a named party to the action or proceeding. The department may intervene as a matter of right in any proceeding brought by a local board of health or county health department.

c. Any person who violates the provisions of this act or any code, rule or regulation promulgated pursuant to this act shall be liable to a penalty of not more than $25,000.00 per day, to be collected in a civil action commenced by a local board of health, a county health department, or the commissioner by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) in the Superior Court, county district court, or a municipal court, all of which shall have jurisdiction to enforce "the penalty enforcement law" in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given by which the violation must be eliminated in accordance with the order of the department shall constitute an additional, separate and distinct offense.

d. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including a rebate of any such penalty paid up to 90% thereof, where such person satisfies the department within 1 year or such other period as the department may deem reasonable that such violation has been eliminated or removed or that such order or injunction has been met or satisfied, as the case may be.

e. Any person who knowingly:

(1) Transports any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(2) Generates and causes or permits to be transported any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(3) Disposes, treats, stores or transports hazardous waste without authorization from the department;

(4) Makes any false or misleading statement to any person who prepares any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department; or

(5) Makes any false or misleading statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department shall, upon conviction, be guilty of a crime of the third degree and, notwithstanding the provisions of N. J. S. 2C:43–3, shall be subject to a fine of not more than $25,000.00 for the first offense and not more than $50,000.00 for the second and each subsequent offense and restitution, in addition to any other appropriate disposition authorized by subsection b. of N. J. S. 2C:43–2.

f. Any person who recklessly:

(1) Transports any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(2) Generates and causes or permits to be transported any hazardous waste to a facility or any other place which does not have authorization from the department to accept such waste;

(3) Disposes, treats, stores or transports hazardous waste without authorization from the department;

(4) Makes any false or misleading statement to any person who prepares any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department; or

(5) Makes any false or misleading statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department, shall, upon conviction, be guilty of a crime of the fourth degree.

g. Any person who, regardless of intent, generates and causes or permits any hazardous waste to be transported, transports, or receives transported hazardous waste without completing and submitting to the department a hazardous waste manifest in accordance with the provisions of this act or any rule or regulation adopted pursuant hereto shall, upon conviction, be guilty of a crime of the fourth degree.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 570

AN ACT concerning transboundary pollution, revising parts of the statutory law and enacting Chapter 58A of Title 2A of the New Jersey Stautes.

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

1. TITLE 2A

CHAPTER 58A

TRANSBOUNDARY POLLUTION

2A:58A–1. Short title.
2A:58A–2. Definitions.
2A:58A–3. Forum.
2A:58A–4. Right to relief.
2A:58A–5. Applicable law.
2A:58A–6. Equality of rights.
2A:58A–7. Right additional to other rights.
2A:58A–8. Uniformity of application and construction.

2A:58A–1. Short title. This chapter shall be known and may be cited as the "Uniform Transboundary Pollution Reciprocal Access Law."

Source: New.

2A:58A–2. Definitions. As used in this chapter:

a. "Reciprocating jurisdiction" means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States of America, which has enacted this law or provides substantially equivalent access to its courts and administrative agencies;

b. "Person" means an individual person, corporation, business trust, estate, trust, partnership, association, joint venture, government in its private or public capacity, governmental subdivision or agency, or any other legal entity.

Source: New.

2A:58A–3. Forum. An action or other proceeding for injury or threatened injury to property or person in a reciprocating juris-

diction caused by pollution originating, or that may originate, in this jurisdiction may be brought in this jurisdiction.

Source: New.

2A:58A–4. Right to relief. A person who suffers, or is threatened with, injury to his person or property in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this jurisdiction has the same rights to relief with respect to the injury or threatened injury, and may enforce those rights in this jurisdiction as if the injury or threatened injury occurred in this jurisdiction.

Source: New.

2A:58A–5. Applicable law. The law to be applied in an action or other proceeding brought pursuant to this chapter, including what constitutes "pollution," is the law of this jurisdiction excluding choice of law rules.

Source: New.

2A:58A–6. Equality of rights. This chapter does not accord a person injured or threatened with injury in another jurisdiction any rights superior to those that the person would have if injured or threatened with injury in this jurisdiction.

Source: New.

2A:58A–7. Right additional to other rights. The right provided in this chapter is in addition to and not in derogation of any other rights.

Source: New.

2A:58A–8. Uniformity of application and construction. This chapter shall be applied and construed to carry out its general purpose to make uniform the law with respect to the subject of this chapter among the jurisdictions enacting it.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 571

AN ACT concerning certain exclusions from gross income, amending N. J. S. 54A:5–1 and supplementing Chapter 6 of Title 54A of the New Jersey Statutes.

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

1. N. J. S. 54A:5–1 is amended to read as follows:

New Jersey gross income defined.

54A:5–1. New Jersey Gross Income Defined. New Jersey gross income shall consist of the following categories of income:

a. Salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered whether in cash or in property.

b. Net profits from business. The net income from the operation of a business, profession, or other activity, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the method of accounting allowed for federal income tax purposes but without deduction of taxes based on income.

c. Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real or personal, whether tangible or intangible as determined in accordance with the method of accounting allowed for federal income tax purposes. For the purpose of determining gain or loss, the basis of property shall be the adjusted basis used for federal income tax purposes.

For the tax year 1976, any taxpayer with a tax liability under this subsection, or under the "Tax on Capital Gains and Other Unearned Income Act" (P. L. 1975, c. 172), shall not be subject to payment of an amount greater than the amount he would have paid if either return had covered all capital transactions during the full tax year 1976; provided, however, that the rate which shall apply to any capital gain shall be that in effect on the date of the transaction. To the extent that any loss is used to offset any gain under P. L. 1975, c. 172, it shall not be used to offset any gain under the "New Jersey Gross Income Tax Act" (P. L. 1976, c. 47).

The term "net gains or income" shall not include gains or income derived from obligations which are referred to in clause (1) or (2) of section 54A:6–14 of this act. The term "net gains or net income" shall not include gains or income from transactions to the extent to which nonrecognition is allowed for federal income tax purposes. The term "sale, exchange or other disposition" shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. For purposes of this clause, stock or securities issued for services shall not be considered as issued in return for property.

For purposes of this clause, the term "reorganization" means—

(i) A statutory merger or consolidation;

(ii) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(iii) The acquisition by one corporation, in exchange solely for all or part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(iv) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred;

(v) A recapitalization;

(vi) A mere change in identity, form, or place of organization however effected; or

(vii) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subclause as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under subclause (i) if such transaction would have qualified under subclause (i) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction;

(viii) A transaction otherwise qualifying under subclause (i) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this subclause as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

For purposes of this clause, the term "control" means the ownership of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporation.

For purposes of this clause, the term "a party to a reorganization" includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under subclause (i) by reason of subclause (vii) the term "a party to a reorganization" includes the controlling corporation referred to in such subclause (vii).

Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's basis for the stock or securities received shall be the same as the taxpayer's actual or attributed basis for the stock, securities or property surrendered in exchange therefor.

d. Net gains or net income derived from or in the form of rents, royalties, patents, and copyrights.

e. Interest, except interest referred to in clause (1) or (2) of N. J. S. 54A:6–14, or interest on savings certificates issued pursuant to the provisions of chapter 6 of this act.

f. Dividends. "Dividends" means any distribution in cash or property made by a corporation, association or business trust, (1) out of accumulated earnings and profits, or (2) out of earnings and profits of the year in which such dividend is paid.

g. Gambling winnings.

h. Net gains or income derived through estates or trusts.

i. Income in respect of a decedent.

j. Amounts distributed or withdrawn from an employee trust attributable to contributions to the trust which were excluded from gross income under the provisions of chapter 6 of Title 54A of the New Jersey Statutes and pensions and annuities except to the extent of exclusions in section 54A:6–10 hereunder, notwithstanding the provisions of N. J. S. 18A:66–51, P. L. 1973, c. 140, s. 41 (C. 43:6A–41), P. L. 1954, c. 84, s. 53 (C. 43:15A–53), P. L. 1944, c. 255, s. 17 (C. 43:16A–17), P. L. 1965, c. 89, s. 45 (C. 53:5A–45), R. S. 43:10–14, P. L. 1943, c. 160, s. 22 (C. 43:10–18.22), P. L. 1948, c. 310, s. 22 (C. 43:10–18.71), P. L. 1954, c. 218, s. 32 (C. 43:13–22.34), P. L. 1964, c. 275, s. 11 (C. 43:13–22.60), R. S. 43:10–57, P. L. 1938, c. 330, s. 13 (C. 43:10–105), R. S. 43:13–44, and P. L. 1943, c. 189, s. 5 (C. 43:13–37.5).

k. Distributive share of partnership income.

l. Amounts received as prizes and awards, except as provided in sections 54A:6–8 and 54A:6–11 hereunder.

m. Rental value of a residence furnished by an employer or a rental allowance paid by an employer to provide a home.

n. Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

C. 54A:6-21 Contributions to certain employee trusts.

2. (New section) Contributions to certain employee trusts. Gross income shall not include amounts contributed by an employer on behalf of and at the election of an employee to a trust which is part of a qualified cash or deferred arrangement which meets the requirements of section 401(k) of the 1954 Internal Revenue Code, as amended.

3. This act shall take effect Janauary 1, 1984.

Approved January 17, 1984.

CHAPTER 572

AN ACT concerning alcoholic beverages and amending R. S. 33:1–43.

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

1. R. S. 33:1–43 is amended to read as follows:

Unlawful interests.

33:1–43. a. It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person whatsoever interested in any way whatsoever in any brewery, winery, distillery or rectifying and blending plant, or any wholesaler of alcoholic beverages, to conduct, own either in whole or in part, or be directly or indirectly interested in the retailing of any alcoholic beverages except as provided in this chapter, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said brewery, winery, distillery, rectifying and blending plant or wholesaler.

b. It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person whatsoever, interested in any way whatsoever in the retailing of alcoholic beverages to conduct, own either whole or in part, or to be a shareholder, officer or director of a corporation or association, directly or indirectly, interested in any brewery, winery, distillery, rectifying and blending plant, or wholesaling or importing interest of any kind whatsoever.

No interest in the retailing of alcoholic beverages shall be deemed to exist by reason of the ownership, delivery or loan of interior signs designed for and exclusively used for advertising the product of or product offered for sale by such brewery, winery, distillery or rectifying and blending plant or wholesaler.

c. Nothing in this section shall prohibit:

(1) The exercise of limited retail privileges by Class A or Class B licensees conferred pursuant to R. S. 33:1–10, R. S. 33:1–11, by rule or regulation or by special permit issued by the director;

(2) Any owner, part owner, stockholder, officer or director of any corporation, or any other person whatsoever interested in any way whatsoever in any brewery, winery, distillery, rectifying and

blending plant or any wholesaler of alcoholic beverages, from conducting, owning, either in whole or in part, or being directly or indirectly interested in the retailing of any alcoholic beverages, under any retail consumption license or State issued permit, in conjunction with and as a part of the operations of a hotel or motel; or

(3) Any owner, part owner, stockholder or officer or director of any corporation, or any other person or corporation interested in any way whatsoever in the retailing of alcoholic beverages, under a retail consumption license or State issued permit, in conjunction with and as a part of the operations of a hotel or motel from conducting, owning, either in whole or in part, or being a shareholder, officer or director of a corporation or association, directly or indirectly interested in any brewery, winery, distillery, rectifying and blending plant, or wholesaling or importing interest of any kind whatsoever.

No more than 20% of the total gross annual revenues of a hotel or motel described in paragraphs (2) and (3) shall be derived from the sale of alcoholic beverages by the hotel or motel. A retail licensee described in paragraphs (2) and (3) shall not purchase or sell any alcoholic beverage product produced or sold by the brewery, winery, distillery, rectifying and blending plant or wholesaler that has any interest in the retail license of the hotel or motel, and shall, within 30 days following the effective date of this act, file with the Division of Alcoholic Beverage Control a list of all alcoholic beverage products which shall not be purchased or sold by the hotel or motel. Thereafter, the retail licensee shall file a new or amended list with the division within 30 days of any changed circumstances which affect the information on the list. This list shall be made available to the public upon request.

For purposes of this subsection "hotel" or "motel" means an establishment containing at least 100 guest room accommodations where the relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest.

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 573

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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 sum is appropriated:

FEDERAL FUNDS

DEPARTMENT OF HUMAN SERVICES

Economic Planning, Development and Security

53 Economic Assistance and Security

7550 Division of Public Welfare

99-7550	Management and Administrative Services	$12,392,623

Special Purpose:

	For implementation of family assistance management information system	($7,192,931)
	To reimburse the General Fund for advance State funding of family assistance management information system	(2,600,000)
	For automated child support enforcement system	(2,599,692)
	Total Appropriation, Department of Human Services	$12,392,623

The Director of the Division of Budget and Accounting shall provide the Legislative Budget Officer with quarterly reports detailing the expenditure of all funds hereinabove appropriated

for data processing projects and programs within 20 working days after the end of each quarter. These reports shall detail these expenditures by department and agency and by specific projects and program.

Total Appropriation, Federal Funds $12,132,623

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 574

AN ACT concerning alcoholic beverages and amending R. S. 33:1–81.

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

1. R. S. 33:1–81 is amended to read as follows:

Alcoholic beverage purchases by minors.

33:1–81. It shall be unlawful for (a) a person under the legal age for purchasing alcoholic beverages to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage; or

(b) A person under the legal age for purchasing alcoholic beverages to consume any alcoholic beverage on premises licensed for the retail sale of alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him any alcoholic beverage; or

(c) Any person to misrepresent or misstate his age, or the age of any other person for the purpose of inducing any licensee or any employee of any licensee, to sell, serve or deliver any alcoholic beverage to a person under the legal age for purchasing alcoholic beverages; or

(d) Any person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or to purchase alcoholic beverages, for another person who does not because of his age have the right to purchase and consume alcoholic beverages.

Any person who shall violate any of the provisions of this section 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. In addition, the court shall suspend the person's license to operate a motor vehicle for one year or prohibit the person from obtaining a license to operate a motor vehicle in this State for one year beginning on the date he becomes eligible to obtain a license or on the date of conviction, whichever is later. In addition to the general penalty prescribed for an offense, the court may require any person under the legal age to purchase alcoholic beverages who violates this act to participate in an alcohol education or treatment program authorized by the Department of Health for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 575

AN ACT requiring certification of acceptable levels of radon gas or radon progeny contamination in certain residential properties and supplementing Title 13 of the Revised Statutes.

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

C. 13:1K-14 Certification of radon levels.

1. a. The Department of Environmental Protection shall, upon a determination after inspection and testing that the premises of any residential property are not significantly contaminated with radon gas or radon progeny and require no remedial action, provide the owner of the property with written certification that, as of the date of the testing, any radon gas or radon progeny contamination present was within acceptable limits as established by the United States Environmental Protection Agency and the department.

b. The department shall, upon completion of any project undertaken to remove radium from any residential property and to remedy excessive levels of radon gas or radon progeny there-

from, provide the owner of the property with written certification that, as of the date of the completion of the project, any radon gas or radon progeny contamination present was within acceptable limits as established by the United States Environmental Protection Agency and the department.

c. The costs incurred by the department in providing the certifications required by this section shall be covered by sums which may be appropriated or otherwise made available to the department to remedy radon gas or radon progeny contamination.

2. This act shall take effect immediately and shall be applicable to those residences covered by Executive Order No. 56 of 1983, or by other Executive Orders issued for similar purposes.

Approved January 17, 1984.

CHAPTER 576

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, 1984 and regulating the disbursement thereof," approved June 30, 1983 (P. L. 1983, c. 240).

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

1. In addition to the amounts appropriated by P. L. 1983, c. 240, there is appropriated the following amount for the purpose specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

04-8030	Local Government Services	$94,000
State Aid:		
	Special assistance payment to the city of Camden	($94,000)

The amounts paid the municipality pursuant to the provisions of this act shall be used by the municipality to maintain, improve and upgrade the collection of taxes within the taxing district.

2. This act shall take effect immediately and shall be retroactive to July 1, 1983.

Approved January 17, 1984.

CHAPTER 577

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, 1982 and regulating the disbursement thereof," approved June 30, 1981 (P. L. 1981, c. 190).

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

1. There is appropriated out of the General Fund for the purpose specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

Interlocal Services—Jersey City- Hoboken joint disaster service program	($51,000)
Total Appropriation, Community Development Management	$51,000

2. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 578

AN ACT concerning transportation services or benefits to senior citizens and disabled residents and making an appropriation.

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

C. 27:25-25 Short title.

1. This act shall be known and may be cited as the "Senior Citizen and Disabled Resident Transportation Assistance Act."

C. 27:25-26 Findings, declarations.

2. The Legislature finds and declares that many senior citizens and disabled residents in the State require assistance in meeting their need for available and accessible transportation so that they may obtain the necessities of life, including but not limited to employment, post-secondary education, social and recreational activities, shopping and medical service; and that the voters of this State recognized the need for such assistance when in 1981 they approved an amendment of the State Constitution which provides that State revenues derived from the taxation of gambling establishments in Atlantic City may be used, in addition to the purposes for which they were originally dedicated, for additional or expanded transportation services or benefits to senior citizens and the disabled.

The Legislature further finds and declares that it is appropriate that the New Jersey Transit Corporation, in conjunction with its advisory bodies, representatives or associations of counties, and other interested parties, develop a plan for transportation assistance to senior citizens and the disabled; that the instrumentalities of local government, particularly the counties of this State, should play a major role in facilitating the provision of that transportation assistance; and that the New Jersey Transit Corporation in conjunction with the New Jersey Department of Transportation's Office of Coordination, as well as the counties, should coordinate the assistance with existing transportation services, including but not limited to those services funded by any other State agency, at the local level and coordinate inter-county transportation services.

C. 27:25-27 Definitions.

3. As used in this act:

a. "Corporation" means the New Jersey Transit Corporation.

b. "Board" means Board of Directors of the New Jersey Transit Corporation.

c. "Eligible counties" means counties submitting a proposal meeting the program guidelines.

d. "New Jersey Special Services Citizen Advisory Committee" means a committee representing advocacy groups from senior citizens and the disabled and other interested parties appointed by the Executive Director of New Jersey Transit.

e. "Accessible" means a service that can be used by all individuals including those who cannot negotiate steps or who can negotiate steps with great difficulty.

f. "Disabled" means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected.

g. "Geographic region" means one of the following regions of the State: the southern region encompassing the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem; the central region encompassing the counties of Hunterdon, Mercer, Middlesex, Monmouth, Ocean and Somerset; and the northern region encompassing those counties remaining in the State.

C. 27:25-28 Transportation assistance program.

4. The board shall establish and administer a program to be known as "The Senior Citizen and Disabled Resident Transportation Assistance Program" for the following purposes:

a. To assist counties (1) to develop and provide accessible feeder transportation service to accessible fixed-route transportation services where such services are available, and accessible local transit service to senior citizens and the disabled, which may include but not be limited to door-to-door service, fixed route service, local fare subsidy, and user-side subsidy, which may include but not be limited to private ride or taxi fare subsidy; and (2) to coordinate the activities of the various participants in this program in providing the services to be rendered at the county level and between counties.

b. To enable the corporation (1) to develop, provide and maintain capital improvements that afford accessibility to fixed route and other transit services in order to make rail cars, rail stations, bus shelters and other bus equipment accessible to senior citizens

and the disabled; (2) to render technical information and assistance to counties eligible for assistance under this act; and (3) to coordinate the program within and among counties.

C. 27:25-29 Guidelines; public hearings; report.

5. The corporation, in conjunction with the New Jersey Transit Special Services Citizen Advisory Committee, appropriate advisory committees of the corporation and with representatives or associations of counties in this State and other interested parties, as determined by the board, shall develop program guidelines to implement the program. The guidelines shall set implementation criteria and shall be adopted by the board at a public meeting. Commencing on the first anniversary of the effective date of this act, the corporation shall annually conduct at least one public hearing in each geographic region in order to gather information from interested parties as to the efficacy of the program. The corporation shall submit an annual report to the Legislature by October 1 of each year covering the period of the previous State fiscal year. The report shall cover the status of this program including any recommendations concerning the general improvement of mass transit for the senior citizens and the disabled.

C. 27:25-30 County plans.

6. In order for a county to be eligible for assistance under this program, the governing body of that county or a group or groups authorized by the governing body shall develop a county plan for that assistance in accordance with the program guidelines. The county plan shall be subject to approval by the board. The county plan shall include, but not be limited to, information as to what transportation services will be provided, the methods that will be utilized to deliver these services, and the anticipated financial costs to be incurred from the implementation of the services and shall also include provision for the coordination of existing or future transportation providers at the county level and for intercounty transportation services.

C. 27:25-31 Allocation of funds.

7. a. Moneys under this program shall be allocated by the corporation in the following manner:

(1) 75% shall be available to be allocated to eligible counties for the purposes specified under subsection a. of section 4 of this act.

(2) 25% shall be available for use by the corporation for the purposes specified under subsection b. of section 4 of this act and

for the general administration of the program, but no more than 10% of the total moneys allocated under this program shall be used for the general administration of the program.

b. The amount of money which each eligible county may receive shall be based upon the number of persons resident in that county of 60 years of age or older expressed as a percentage of the whole number of persons resident in this State of 60 years or older, as provided by the U. S. Bureau of the Census. As similar data become available for the disabled population, such data shall be used in conjunction with the senior citizen data to determine the county allocation formula. No eligible county shall receive less than $150,000.00 during a fiscal year under this program, except that during the first fiscal year no county shall receive less than $50,000.00 nor more than $150,000.00.

c. The governing body of an eligible county, or a group or groups designated as an applicant or as applicants by the county after a public hearing in which senior citizens and the disabled shall have the opportunity to comment on the appropriateness of such designation, may make application to the board for moneys available under subsection b. of this section. The application shall be in the form of a proposal to the board for transportation assistance and shall specify the degree to which the proposal meets the purposes of the program under subsection a. of section 4 of this act and the implementation criteria under the program guidelines and the proposal shall have been considered at a public hearing. The board shall allocate moneys based upon a review of the merits of the proposals in meeting the purposes of the program, and the implementation criteria, under the program guidelines. The governing body of an eligible county shall schedule a public hearing annually for interested parties to provide the governing body with any facts, materials, or recommendations that would be of assistance regarding the efficacy of the program established under subsection a. of section 4 of this act.

C. 27:25-32 Rules, regulations.

8. a. The board shall promulgate, in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act.

b. The corporation shall be entitled to call upon the assistance, or contract for services, of any State department, board, bureau, commission or agency as may be necessary to implement the provisions of this act.

c. Notice of any public hearing required to be held pursuant to this act shall be published at least 30 days prior to the date in at least two newspapers circulating in the specific geographic area in which the meeting is to be held. Notice of any hearing shall also be transmitted, at least 30 days in advance thereof, to every municipal clerk within the specified geographic area where the meeting will be held.

d. All public hearings held pursuant to this act shall be held at locations which are accessible to senior citizens and the disabled.

C. 27:25-33 Annual audit.

9. The board shall cause an annual audit to be made of this program and shall, if not conducted by the corporation, employ a recognized accounting firm for that purpose. The expenses of conducting the audit shall be considered as part of the cost of the general administration of the program, pursuant to subsection a. (2) of section 7 of this act.

C. 27:25-34 Insurance pool.

10. The corporation shall prepare a comprehensive study designed to determine the feasibility of lowering insurance costs by means of the development of a Statewide insurance pool for transit vehicles, regardless of owner, that are utilized at the county level and for inter-county transportation services. The corporation shall submit the final report to the Senate and General Assembly Transportation and Communications Committees, or their successors, within one year following the effective date of this act.

11. There is appropriated to the New Jersey Transit Corporation from the revenues deposited in the Casino Revenue Fund established pursuant to section 145 of P. L. 1977, c. 110 (C. 5:12–145) the sum of $3,000,000.00 to effectuate the purposes and provisions of this act during the first fiscal year in which this legislation is enacted. In the fiscal year following the effective date of this legislation there shall be appropriated to the New Jersey Transit Corporation from the Casino Revenue Fund to effectuate the purposes and provisions of this act a sum of $10,000,000.00, and in each subsequent fiscal year there shall be appropriated to the corporation from the Casino Revenue Fund a sum equal to 7.5% of the revenues deposited in the Casino Revenue Fund during the preceding fiscal year, as determined by the State Treasurer.

12. This act shall take effect immediately.

Approved January 17, 1984.

CHAPTER 579

AN ACT concerning election related financial information and the disclosure thereof and revising parts of the statutory law.

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

1. R. S. 19:13–4 is amended to read as follows:

Contents of petition.

19:13–4. Contents of petition. Such petition shall set forth the names, places of residence and post-office addresses of the candidates for the offices to be filled, the title of the office for which each candidate is named, that the petitioners are legally qualified to vote for such candidates and pledge themselves to support and vote for the persons named in such petition and that they have not signed any other petition of nomination for the primary or for the general election for such office.

In the case of a petition or petitions nominating electors of president and vice president of the United States, the names of the candidates for president and vice president for whom such electors are to vote may be included in the petition or petitions, but the petition or petitions shall not include the names of any candidates for president or vice president who have been nominated at a convention of a political party as defined by this title.

The petition shall also state in not more than three words the designation of the party or principles which the candidates therein named represent; but such designation shall not contain the designation, name, derivative, or any part thereof as a noun or an adjective of any political party entitled to participate in the primary election.

The petition shall also include the request that the names of the candidates and their designations of party or principles be printed upon the ballots to be used at the ensuing general election.

No such petition shall undertake to nominate any candidate who has accepted the nomination for the primary for such position.

Any form of a petition of nomination which is provided to candidates by the Secretary of State, the county clerk, or the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New

Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

2. R. S. 19:13-9 is amended to read as follows:

Filing.

19:13-9. All such petitions and acceptances thereof shall be filed with the officer or officers to whom they are addressed before 4:00 o'clock p.m. of the fortieth day next preceding the day of the holding of the primary election for the general election in this Title provided. All petitions when filed shall be open under proper regulations for public inspection.

The officer or officers shall transmit to the Election Law Enforcement Commission the names of all candidates nominated by petition and any other information required by the commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination.

The county clerks shall certify to the Secretary of State, within 20 days after the primary election for the general election, the names, places of residence and post office addresses of the several candidates nominated for Senator and members of the General Assembly together with the designation of the party nominating the candidates, whether by petition or at the primary election and the dates of filing the certificates of nomination and petitions.

3. R. S. 19:23-7 is amended to read as follows:

Qualifications for signers.

19:23-7. Each such petition shall set forth that the signers thereof are qualified voters of the State, congressional district, county, or county election district, municipality, ward or election district, as the case may be, in which they reside and for which they desire to nominate candidates; that they are members of a political party (naming the same), and that at the last general election preceding the execution of the petition they voted for a majority of the candidates of such political party, and that they intend to affiliate with that political party at the ensuing election; that they indorse the person or persons named in their petition as candidate or candidates for nomination for the office or offices therein named, and that they request that the name of the person or persons therein mentioned be printed upon the official primary ballots of their political party as the candidate or candidates for such nomination. The

petition shall further state the residence and post-office address of each person so indorsed, and shall certify that the person or persons so indorsed is or are legally qualified under the laws of this State to be nominated, and is or are a member or members of the political party named in the petition.

Accompanying the petition each person indorsed therein shall file a certificate, stating that he is qualified for the office mentioned in the petition, that he is a member of the political party named therein, that he consents to stand as a candidate for nomination at the ensuing primary election of such political party, and that, if nominated, he consents to accept the nomination, to which shall be annexed the oath of allegiance prescribed in R. S. 41:1–1 duly taken and subscribed by him before an officer authorized to take oaths in this State.

Any form of a petition of nomination which is provided to candidates by the Secretary of State, the county clerk, or the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

4. R. S. 19:23–14 is amended to read as follows:

Information to commission.

19:23–14. Petitions addressed to the Secretary of State, the county clerks, or the municipal clerks shall be filed with such officers, respectively, before 4:00 p.m. of the fortieth day next preceding the day of the holding of the primary election for the general election.

Within six days after the last day for filing the petitions for nomination at the primary election for the general election, the municipal clerk shall certify to the county clerk the full and correct names and addresses of all candidates for nomination for public and party office and the name of the political party of which such persons are candidates together with their slogan and designation. The county clerk shall transmit this information to the Election Law Enforcement Commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination.

5. R. S. 19:23–21 is amended to read as follows:

Certification of Secretary of State.

19:23–21. The Secretary of State shall certify the names of the persons indorsed in the petitions filed in his office to the clerks of counties concerned thereby at least 34 days prior to the holding of the primary election, specifying in such certificate the political parties to which the persons so nominated in the petitions belong. The Secretary of State shall also transmit this information to the Election Law Enforcement Commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination.

6. R. S. 19:23–22 is amended to read as follows:

Certification of county clerk.

19:23–22. The county clerk shall certify all of the persons so certified to him by the Secretary of State and in addition the names of all persons indorsed in petitions filed in his office to the clerk of each municipality concerned thereby in his respective county at least 33 days prior to the time fixed by law for the holding of the primary election, specifying in such certificate the political party to which the person or persons so nominated belong. The county clerk shall also transmit this information with respect to persons indorsed in petitions filed in his office to the Election Law Enforcement Commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination filed in his offce.

7. Section 3 of P. L. 1973, c. 83 (C. 19:44A–3) is amended to read as follows:

C. 19:44A-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

a. The term "allied candidates" means candidates in any election who are (1) seeking nomination or election (A) to an office or offices in the same county or municipal government or school district or (B) to the Legislature representing in whole or part the same constituency, and who are (2) either (A) nominees of the same political party or (B) publicly declared in any manner, including the seeking or obtaining of any ballot position or common ballot slogan, to be aligned or mutually supportive.

b. The term "allied campaign organization" means any political committee, any State, county or municipal committee of a political party or any campaign organization of a candidate which is in support or furtherance of the same candidate or any one or more

of the same group of allied candidates or the same public question as any other such committee or organization.

c. The term "candidate" means an individual seeking or having sought election to a public office of the State or of a county, municipality or school district at an election; except that the term shall not include an individual seeking party office.

d. The terms "contributions" and "expenditures" include all loans and transfers of money or other thing of value to or by any candidate, political committee or continuing political committee, and all pledges or other commitments or assumptions of liability to make any such transfer; and for purposes of reports required under the provisions of this act shall be deemed to have been made upon the date when such commitment is made or liability assumed.

e. The term "election" means any election described in section 4 of this act.

f. The term "paid personal services" means personal, clerical, administrative or professional services of every kind and nature including, without limitation, public relations, research, legal, canvassing, telephone, speech writing or other such services, performed other than on a voluntary basis, the salary, cost or consideration for which is paid, borne or provided by someone other than the committee, candidate or organization for whom such services are rendered. In determining the value, for the purpose of reports required under this act, of contributions made in the form of paid personal services, the person contributing such services shall furnish to the treasurer through whom such contribution is made a statement setting forth the actual amount of compensation paid by said contributor to the individuals actually performing said services for the performance thereof. But if any individual or individuals actually performing such services also performed for the contributor other services during the same period, and the manner of payment was such that payment for the services contributed cannot readily be segregated from contemporary payment for the other services, the contributor shall in his statement to the treasurer so state and shall either (1) set forth his best estimate of the dollar amount of payment to each such individual which is attributable to the contribution of his paid personal services, and shall certify the substantial accuracy of the same, or (2) if unable to determine such amount with sufficient accuracy, set forth the total compensation paid by him to each such individual for the period of time during which the services contributed by him were performed. If any candidate is a holder of public office to whom

there is attached or assigned, by virtue of said office, any aide or aides whose services are of a personal or confidential nature in assisting him to carry out the duties of said office, and whose salary or other compensation is paid in whole or part out of public funds, the services of such aide or aides which are paid for out of public funds shall be for public purposes only; but they may contribute their personal services, on a voluntary basis, to such candidate for election campaign purposes.

g. (Deleted by amendment, P. L. 1983, c. 579.)

h. The term "political information" means any statement including, but not limited to, press releases, pamphlets, newsletters, advertisements, flyers, form letters, or radio or television programs or advertisements which reflects the opinion of the members of the organization on any candidate or candidates for public office, on any public question, or which contains facts on any such candidate, or public question whether or not such facts are within the personal knowledge of members of the organization.

i. The term "political committee" means any two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for public office, or which is organized to, or does, aid or promote the passage or defeat of a public question in any election, if the persons, corporation, partnership or incorporated or unincorporated association raises or expends $1,000.00 or more to so aid or promote the nomination, election or defeat of a candidate or candidates or the passage or defeat of a public question; provided that for the purposes of this act, the term "political committee" shall not include a "continuing political committee," as defined by subsection n. of this section.

j. The term "public solicitation" means any activity by or on behalf of any candidate, political committee or continuing political committee whereby either (1) members of the general public are personally solicited for cash contributions not exceeding $20.00 from each person so solicited and contributed on the spot by the person so solicited to a person soliciting or through a receptacle provided for the purpose of depositing contributions, or (2) members of the general public are personally solicited for the purchase of items having some tangible value as merchandise, at a price not exceeding $20.00 per item, which price is paid on the spot in cash by the person so solicited to the person so soliciting, when the net

proceeds of such solicitation are to be used by or on behalf of such candidate, political committee or continuing political committee.

k. The term "testimonial affair" means an affair of any kind or nature including, without limitation, cocktail parties, breakfasts, luncheons, dinners, dances, picnics or similar affairs directly or indirectly intended to raise campaign funds in behalf of a person who holds, or who is or was a candidate for nomination or election to a public office in this State, or directly or indirectly intended to raise funds in behalf of any State, county or municipal committee of a political party or in behalf of a political committee.

l. The term "other thing of value" means any item of real or personal property, tangible or intangible, but shall not be deemed to include personal services other than paid personal services.

m. The term "qualified candidate" means:

(1) Any candidate for election to the office of Governor whose name appears on the general election ballot and who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32); or

(2) Any candidate for election to the office of Governor whose name does not appear on the general election ballot but who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32); or

(3) Any candidate for nomination for election to the office of Governor whose name appears on the primary election ballot and who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32); or

(4) Any candidate for nomination for election to the office of Governor whose name does not appear on the primary election ballot but who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32).

n. The term "continuing political committee" means:

(1) The State committee, or any county or municipal committee, of a political party; or

(2) Any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least $2,500.00 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office, or the passage or

defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined to be a continuing political committee under subsection b. of section 8 of P. L. 1973, c. 83 (C. 19:44A–8).

8. Section 4 of P. L. 1973, c. 83 (C. 19:44A–4) is amended to read as follows:

C. 19:44A-4 Applicability.

4. The provisions of this act shall apply:

a. (Deleted by amendment; P. L. 1981, c. 151.)

b. (Deleted by amendment; P. L. 1983, c. 579.)

c. In any election at which a public question it to be voted upon by the voters of the State or any political subdivision thereof;

d. In any election for any public office of the State or any political subdivision thereof; provided, however, that this act shall not, except for paragraph (2) of subsection a. of section 8 of the act (C. 19:44A–8), apply to elections for party office.

9. Section 5 of P. L. 1973, c. 83 (C. 19:44A–5) is amended to read as follows:

C. 19:44A-5 Election Law Enforcement Commission.

5. There is hereby created a commission consisting of four members which shall be designated as the New Jersey Election Law Enforcement Commission. The members shall be appointed by the Governor by and with the advice and consent of the Senate for a term of three years, beginning on July 1 and ending June 30, except as hereinafter provided. The Governor shall designate one of the commission members to serve as chairman of the commission. No more than two members shall belong to the same political party, and no person holding a public office or an office in any political party shall be eligible for appointment to the commission. Of the members initially appointed, two shall be appointed for a term of three years, one for a term of two years and one for a term of one year. Each member shall serve until his successor has been appointed and qualified. In case of a vacancy, however, the successor shall be appointed in like manner for the unexpired term only. The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties under this act. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1

of the New Jersey Constitution, the Election Law Enforcement Commission is hereby allocated within the Department of Law and Public Safety; but, notwithstanding said allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof, it being the intention of this act that the assignment, direction, discipline and supervision of all the employees of the commission shall be so far as possible, and except as otherwise provided in this act, fully determined by the commission or by such officers and employees thereof to whom the commission may delegate the powers of such assignment, direction, discipline and supervision.

10. Section 6 of P. L. 1973, c. 83 (C. 19:44A–6) is amended to read as follows:

C. 19:44A-6 Employees; duties, powers.

6. a. The commission shall appoint a full-time executive director, legal counsel and hearing officers, all of whom shall serve at the pleasure of the commission and shall not have tenure by reason of the provisions of chapter 16 of Title 38 of the Revised Statutes. The commission shall also appoint such other employees as are necessary to carry out the purposes of this act, which employees shall be in the classified service of the civil service and shall be appointed in accordance with and shall be subject to the provisions of Title 11, Civil Service.

b. It shall be the duty of the commission to enforce the provisions of this act, to conduct hearings with regard to possible violations and to impose penalties; and for the effectual carrying out of its enforcement responsibilities the commission shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this act or enjoining violations thereof or recovering any penalty prescribed by this act. The commission shall promulgate such regulations and official forms and perform such duties as are necessary to implement the provisions of this act. Without limiting the generality of the foregoing, the commission is authorized and empowered to:

(1) Develop forms for the making of the required reports;

(2) Prepare and publish a manual for all candidates, political committees and continuing political committees, prescribing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to the length of time that any person required to keep any records pursuant to the provisions

of this act shall retain such records, or any class or category thereof, or any other documents, including canceled checks, deposit slips, invoices and other similar documents, necessary for the compilation of such records;

(3) Develop a filing, coding and cross-indexing system;

(4) Permit copying or photo-copying of any report required to be submitted pursuant to this act as requested by any person;

(5) Prepare and make available for public inspection summaries of all said reports grouped according to candidates, parties and issues, containing the total receipts and expenditures, and the date, name, address and amount contributed by each contributor;

(6) Prepare and publish, prior to May 1 of each year, an annual report to the Legislature;

(7) Ascertain whether candidates, committees, organizations or others have failed to file reports or have filed defective reports; extend, for good cause shown, the dates upon which reports are required to be filed; give notice to delinquents to correct or explain defects; and make available for public inspection a list of such delinquents;

(8) Ascertain the total expenditures for candidates and determine whether they have exceeded the limits set forth in this act; notify candidates, committees or others if they have exceeded or are about to exceed the limits imposed;

(9) Hold public hearings, investigate allegations of any violations of this act, and issue subpenas for the production of documents and the attendance of witnesses;

(10) Forward to the Attorney General or to the appropriate county prosecutor information concerning any violations of this act which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General.

c. The commission shall take such steps as may be necessary or appropriate to furnish timely and adequate information, in appropriate printed summaries and in such other form as it may see fit, to every candidate or prospective candidate for public office who becomes or is likely to become subject to the provisions of this act, and to every treasurer and depository duly designated under the provisions of this act, informing them of their actual or prospective obligations and responsibilities under this act. Such steps shall include, but not be limited to, furnishing to every person on whose

behalf petitions of nomination are filed for any public office a copy of such printed summary as aforesaid, which shall be furnished to such person by the commission through the public official charged with the responsibility of receiving and accepting such petitions of nomination, at the time when such petitions are filed. The commission shall also make available copies of such printed summary to any other person requesting the same. The commission shall also take such steps as it may deem necessary or effectual to disseminate among the general public such information as may serve to guide all persons who may become subject to the provisions of this act by reason of their participation in election campaigns or in the dissemination of political information, for the purpose of facilitating voluntary compliance with the provisions and purposes of this act. In the dissemination of such information, the commission shall to the greatest extent practicable enlist the cooperation of commercial purveyors, within and without the State, of materials and services commonly used for political campaign purposes.

d. If the nomination for or election to any public office or party position becomes void under the terms of subsection c. of section 21 of this act, the withholding or revocation of his certificate of election, the omission of his name from the ballot or the vacation of the office into which he has been inducted as a result of such void election, as the case may be, shall be subject to the provisions of chapter 3, articles 2 and 3, of this Title (R. S. 19:3–7 et seq.).

e. The commission shall be assigned suitable quarters for the performance of its duties hereunder.

f. The commission through its legal counsel is authorized to render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of any of the provisions of this act, or whether a given set of facts and circumstances would render any person subject to any of the reporting requirements of this act.

Unless an extension of time is consented to by any person requesting an advisory opinion, the commission shall render its advisory opinion within 10 days of receipt of the request therefor. Failure of the commission to reply to a request for an advisory opinion within the time so fixed or agreed to shall preclude it from instituting proceedings for imposition of a penalty upon any person for a violation of this act arising out of the particular facts and circumstances set forth in such request, except as such facts and circumstances may give rise to a violation when taken in conjunction with other facts and circumstances not set forth in such request.

11. Section 8 of P. L. 1973, c. 83 (C. 19:44A–8) is amended to read as follows:

C. 19:44A-8 Political committee reports.

8. a. (1) Each political committee shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement Commission, of all contributions in the form of moneys, loans, paid personal services, or other things of value made to it and all expenditures made, incurred, or authorized by it in furtherance of the nomination, election or defeat of any candidate, or in aid of the passage or defeat of any public question, or to provide political information on any candidate or public question, during the period ending 48 hours preceding the date of the report and beginning on the date on which the first of those contributions was received or the first of those expenditures was made, whichever occurred first. The cumulative report, except as hereinafter provided, shall contain the name and address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed since 48 hours preceding the date on which the previous such report was made and the amount contributed by each person or group. In the case of any loan reported pursuant to this section, the report shall contain the name and address of each person who has co-signed such loan since 48 hours preceding the date on which the previous such report was made. The cumulative report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid since 48 hours preceding the date on which the previous such report was made and the amount and purpose of each such expenditure. The cumulative report shall be filed with the Election Law Enforcement Commission on the dates designated in section 16 hereof.

The campaign treasurer of the political committee reporting shall certify to the correctness of each report.

Each campaign treasurer of a political committee shall file written notice with the commission of a contribution in excess of $250.00 received during the period between the 13th day prior to the election and the date of the election. The notice shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution and the name and address of the contributor.

(2) When a political committee or an individual seeking party office makes or authorizes an expenditure on behalf of a candidate,

it shall provide immediate written notification to the candidate of the expenditure.

b. (1) A group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least $2,500.00 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office or the passage or defeat of a public question or public questions and which expects to make contributions toward such aid or promotion, or toward such passage or defeat, during a subsequent election, shall certify that fact to the commission, and the commission, upon receiving that certification and on the basis of any information as it may require of the group, corporation, partnership, association or other organization, shall determine whether the group, corporation, partnership, association or other organization is a continuing political committee for the purposes of this act. If the commission determines that the group, corporation, partnership, association or other organization is a continuing political committee, it shall so notify that continuing political committee.

(2) A continuing political committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question.

The cumulative quarterly report shall contain the name and address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group. In the case of any loan reported pursuant to this section, the report shall contain the name and address of each person who co-signs such loan. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the

amount and purpose of each such expenditure. The treasurer of the continuing political committee reporting shall certify to the correctness of each cumulative quarterly report.

Each continuing political committee shall provide immediate written notification to each candidate of all expenditures made or authorized on behalf of the candidate.

If any continuing political committee submitting cumulative quarterly reports as provided under this subsection receives a contribution from a single source of more than $250.00 after the final day of a quarterly reporting period and on or before a primary, general, municipal, school or special election which occurs after that final day but prior to the final day of the next reporting period it shall, in writing or by telegram, report that contribution to the commission within 48 hours of the receipt thereof.

A continuing political committee which at any point expects to cease making contributions toward the aiding or promoting of the candidacy of an individual, or of the candidacies of individuals, for elective public office in this State or the passage or defeat of a public question or public questions in this State shall certify that fact in writing to the commission, and that certification shall be accompanied by a final accounting of any fund relating to such aiding or promoting, including the final disposition of any balance in such fund at the time of dissolution. Until that certification has been filed, the committee shall continue to file the quarterly reports as provided under this subsection.

c. In any report filed pursuant to the provisions of this section the organization or committee reporting may exclude from the report the names and addresses of contributors whose contributions during the period covered by the report did not exceed $100.00, provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that it was made with respect to any person whose contributions relating to the same election or issue and made to the reporting organization or committee or to an allied campaign organization or organizations aggregate, in combination with the contribution in respect of which such exclusion is made, more than $100.00 and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identification of a contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this proviso shall be construed as requir-

ing any committee or organization reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other organization or political committee, committee of a political party or campaign organization of a candidate.

Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affairs held since the date of the most recent report filed, which accounting shall include the name and address of each contributor in excess of $100.00 to such testimonial affair and the amount contributed by each, the expenses incurred, and the disposition of the proceeds of such testimonial affair.

A political committee shall be exempt from any requirement to file reports pursuant to this section of contributions received or expenditures made in behalf of two or more joint candidates in any election if the committee files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended on behalf of their candidacies shall not exceed $4,000.00; provided, that if a committee which has filed such a sworn statement receives contributions from any one source aggregating more than $100.00, it shall forthwith report that fact, including the identity of the source and the aggregate total of contributions therefrom to the commission. Any sworn statement under this subsection may be filed with the notice of designation by a political committee of a campaign treasurer and campaign depository under section 10 of P. L. 1973, c. 83 (C. 19:44A–10), if that committee knows or has reason to believe, at the time when the notice of designation is given, that the total amount to be so expended shall not exceed $4,000.00.

12. Section 9 of P. L. 1973, c. 83 (C. 19:44A–9) is amended to read as follows:

C. 19:44A-9 Campaign treasurer, depository.

9. Each candidate in an election shall appoint one campaign treasurer and shall designate one campaign depository. Any bank authorized by law to transact business in the State may be designated as the campaign depository. Notification of the designation of the campaign treasurer and the campaign depository shall be made by the candidate's filing the name and address of such campaign treasurer and such depository with the Election Law Enforcement Commission no later than the tenth day after receipt by the candidate, or by any political committee or continuing political

committee which he has authorized to act in his behalf, of any contribution on behalf of his candidacy, or after the making or incurring by the candidate, or by a political committee or continuing political committee, of any expenditure on behalf of that candidacy, whichever comes first.

A campaign treasurer of the candidate may appoint deputy campaign treasurers as required and may designate additional campaign depositories in each county in which the campaign is conducted. The candidate shall file the names and addresses of deputy campaign treasurers and additional campaign depositories with the Election Law Enforcement Commission.

A candidate may remove a campaign treasurer or deputy campaign treasurer. In the case of the death, resignation or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and shall file his name and address with the Election Law Enforcement Commission within three days. A candidate may serve as his own campaign treasurer.

13. Section 10 of P. L. 1973, c. 83 (C. 19:44A–10) is amended to read as follows:

C. 19:44A-10 Organizational treasurer, depository.

10. Each State, county and municipal committee of a political party shall, on or before July 1 in each year, designate a single organizational treasurer and an organizational depository and shall, not later than the tenth day after the designation of the organizational depository file the name and address of that depository, and of the organizational treasurer, with the Election Law Enforcement Commission.

Every political committee and every continuing political committee shall, not later than the date on which it first receives any contribution or makes or incurs any expenditure in the furtherance or aid of the election or defeat of any candidate, or to aid the passage or defeat of any public question, appoint, in the case of a political committee, a single campaign treasurer, or, in the case of a continuing political committee, a single organizational treasurer, and designate, in the case of a political committee, a campaign depository or, in the case of a continuing political committee, an organizational depository. Not later than the tenth day after the initial designation of the campaign or organizational depository, the committee shall file the name and address of the depository, and of the campaign or organizational treasurer, with the Election Law Enforcement Commission.

An organizational treasurer of a State, county or municipal committee of a political party or other continuing political committee and a campaign treasurer of a political committee may appoint deputy organizational or campaign treasurers as may be required and may designate additional organizational or campaign depositories. Such committees shall file the names and addresses of such deputy treasurers and additional depositories with the Election Law Enforcement Commission not later than the fifth day after their appointment or designation, respectively.

Any State, county or municipal committee of a political party, any political committee, and any continuing political committee may remove its organizational or campaign treasurer or deputy treasurer. In the case of the death, resignation or removal of its organizational or campaign treasurer, the committee shall appoint a successor as soon as practicable and shall file his name and address with the Election Law Enforcement Commission within three days.

14. Section 11 of P. L. 1973, c. 83 (C. 19:44A–11) is amended to read as follows:

C. 19:44A-11 Procedures for contributions, expenditures.

11. No contribution of money or other thing of value, nor obligation therefor, including but not limited to contributions, loans or obligations of a candidate himself or of his family, shall be made or received, and no expenditure of money or other thing of value, nor obligation therefor, including expenditures, loans or obligations of a candidate himself or of his family, shall be made or incurred, directly or indirectly, to support or defeat a candidate in any election, or to aid the passage or defeat of any public question, except through:

a. The duly appointed campaign treasurer or deputy campaign treasurers of the candidate;

b. The duly appointed organizational treasurer or deputy organizational treasurers of a political party committee or other continuing political committee;

c. The duly appointed campaign treasurer or deputy campaign treasurers of a political committee.

It shall be lawful, however, for any person, not acting in concert with any other person or group, to expend personally from his own funds a sum which is not to be repaid to him for any purpose not prohibited by law, or to contribute his own personal services and personal traveling expenses, to support or defeat a candidate or to

aid the passage or defeat of a public question; provided, however, that any person making such expenditure shall be required to report all such expenditures and expenses, except personal traveling expenses, if the total of the money so expended, exclusive of such traveling expenses, exceeds $100.00, either:

a. To the campaign treasurer of the candidate, political party committee or political committee on whose behalf such expenditure or contribution was made, or to his deputy, who shall cause the same to be included in his report to the Election Law Enforcement Commission subject to the provisions of sections 8 and 9 of this act; or

b. Directly to the Election Law Enforcement Commission at the same time and in the same manner as a political committee subject to the provisions of section 8 of this act.

No contribution of money shall be made in currency, except contributions in response to a public solicitation, provided that cumulative currency contributions of up to $100.00 may be made to a candidate, political committee or continuing political committee if the contributor submits with the currency contribution a written statement of a form as prescribed by the commission, indicating his name and address and the amount of his contribution, and including his signature.

Any anonymous contribution received by a campaign treasurer or deputy campaign treasurer shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the State.

Any State, county or municipal committee of any political party, after a primary election, but not prior thereto, may receive and expend funds to be spent in furtherance and in aid of the candidacy of all the candidates of such party, or of any one or more of such candidates, in accordance with the provisions of this act.

15. Section 12 of P. L. 1973, c. 83 (C. 19:44A–12) is amended to read as follows:

C. 19:44A-12 Records of contributions.

12. An organizational or campaign treasurer or deputy organizational or campaign treasurer of a candidate, of a political committee, or of a continuing political committee shall make a written record of all funds which he receives as contributions to the candidate, political committee or continuing political committee, including in that record the name and address of the contributor and the

amount and date of the contribution, and shall retain that record for a period of not less than four years. All funds so received shall be deposited by the campaign or organizational treasurer or deputy campaign or organizational treasurer in a campaign depository of the candidate, continuing political committee or political committee, in an account designated "Campaign Fund of (name of candidate or committee)" no later than the tenth calendar day following receipt of such funds; except that any such treasurer or deputy treasurer may, when authorized by the candidate or committee of which he is the campaign treasurer or deputy campaign treasurer, transfer any such funds to the duly designated campaign treasurer or deputy campaign treasurer of another candidate or committee, for inclusion in the campaign fund thereof, without first so depositing them; provided, however, that a record of all nondeposited funds so transferred shall be attached to the statement required under this section, identifying them as to source and amount in the same manner as deposited funds.

16. Section 16 of P. L. 1973, c. 83 (C. 19:44A–16) is amended to read as follows:

C. 19:44A-16 Candidates' reports.

16. a. Except as provided by subsection h. of this section, each campaign treasurer of a candidate shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement Commission, of all contributions in the form of moneys, loans, paid personal services or other things of value, made to him or to the deputy campaign treasurers of the candidate, and all expenditures paid out of the campaign fund of the candidate, during the period ending with the second day preceding the date of the cumulative report and beginning on the date of the first of those contributions, the date of the first of those expenditures, or the date of the appointment of the campaign treasurer, whichever occurred first. The report shall also contain the name and address of each person or group from whom moneys, loans, paid personal services or other things of value were contributed after the second day preceding the date of the previous cumulative report and the amount contributed by each person or group. In the case of any loan reported pursuant to this section, the report shall further contain the name and address of each person who co-signs such loan. If no moneys, loans, paid personal services or other things of value were contributed, the report shall so indicate, and if no expenditures were paid or incurred, the report shall likewise so indicate. The cam-

paign treasurer and the candidate shall certify the correctness of the report.

b. During the period between the appointment of the campaign treasurer and the election with respect to which contributions are accepted or expenditures made by him, the campaign treasurer shall file his cumulative campaign report (1) on the 29th day preceding the election, and (2) on the 11th day preceding the election; and after the election he shall file his report on the 20th day following such election. Concurrent with the report filed on the 20th day following an election, or at any time thereafter, the campaign treasurer of a candidate or political committee may certify to the Election Law Enforcement Commission that the campaign fund of such candidate or political committee, having been instituted for the purposes of the late election, has wound up its business and been dissolved or, in the case of a political committee which continues its activities beyond the election that its business regarding the late election has been wound up; and said certification shall be accompanied by a final accounting of such campaign fund, or of the transactions relating to such election, including the final disposition of any balance remaining in such fund at the time of dissolution or the arrangements which have been made for the discharge of any obligations remaining unpaid at the time of dissolution. Until such certification has been filed, each such treasurer shall continue to file, at the conclusion of each 60-day interval from the 20th day following such election, reports in the form and manner herein prescribed.

The Election Law Enforcement Commission shall promulgate regulations providing for the termination of post-election campaign reporting requirements applicable to political committees. The requirements to file post-election reports may be waived by the commission, notwithstanding that the certification has not been filed, if the commission determines under any regulations so promulgated that the outstanding obligations of the political committee do not exceed 10% of the expenditures of the campaign fund with respect to the election or $1,000.00, whichever is less, or are likely to be discharged or forgiven.

c. In the case of an election of a candidate for an office elected by a municipal or county-wide constituency or a school district a duplicate copy of the campaign treasurer's report, duly certified, shall be filed at the same time with the county clerk of the county in which the candidate resides and the county clerk shall retain a

written record of that filing for a period of not less than four years following the date of the election.

If a political committee or a continuing political committee, with the exception of political party committees for primary elections, assumes for the purposes of reporting, the obligations of a candidate, the campaign treasurer or candidate shall not, upon notice to the commission by such committee of that assumption of obligation, be required to report further.

d. There shall be no obligation to file the reports required by this section on behalf of a candidate if such candidate files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended in behalf of his candidacy by the candidate, by any State, county or municipal committee of a political party, by any political committee, or by any person shall not in the aggregate exceed $2,000.00. The sworn statement may be submitted at the time when the name and address of the campaign treasurer and depository is filed with the Election Law Enforcement Commission, provided that in no case the sworn statement is filed no later than the twenty-ninth day before an election. If a candidate who has filed such a sworn statement receives contributions from any one source aggregating more than $100.00 he shall forthwith make report of the same, including the identity of the source and the aggregate total of contributions therefrom, to the Election Law Enforcement Commission.

e. There shall be no obligation imposed upon a candidate seeking election to a public office of a school district to file either the reports required under section 16b. or the sworn statement referred to in subsection d. of this section or to comply with the requirements of section 9, 11 or 12 of this act, if the total amount expended and to be expended in behalf of his candidacy by the candidate, any political committee, any continuing political committee or by any person does not in the aggregate exceed $2,000.00; provided, that if such candidate receives contributions from any one source aggregating more than $100.00, he shall forthwith make a report of the same, including the name and address of the source and the aggregate total of contributions therefrom, to the commission.

f. In any report filed pursuant to the provisions of this section, the names and addresses of contributors whose contributions during the period covered by the report did not exceed $100.00 may be excluded; provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report

knew that such exclusion was made with respect to any person whose total contributions relating to the same election and made to the reporting candidate or to an allied campaign organization or organizations aggregate, in combination with the total contributions in respect of which such exclusion is made, more than $100.00, and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identity of any contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this proviso shall be construed as requiring any candidate reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other candidate, political committee or committee of a political party.

g. Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affair held since the date of the most recent report filed, which accounting shall include the name and address of each contributor in excess of $100.00 to such testimonial affair and the amount contributed by each, the expenses incurred, and the disposition of the proceeds of such testimonial affair.

h. If all expenditures and all receipts of contributions on behalf of a candidate which are required to be reported under subsection c. of this section are conducted by and through a political committee which is required to file financial reports under section 8 of P. L. 1973, c. 83 (C. 19:44A–8), the candidate may authorize that political committee to be his agent with respect to the reporting of those expenditures and receipts by filing with the Election Law Enforcement Commission a certificate of that authorization on a form prescribed by the commission. The certificate shall provide for designation by the candidate of the treasurer of the political committee as the campaign treasurer of the candidate for the purposes of subsection a. hereof and shall generally identify and be signed by the candidate and the chairman and the treasurer of the political committee. Upon the filing of such a certificate of authorization and until the authorization is revoked in writing by the candidate, the political committee shall file the reports which the campaign treasurer of the candidate would otherwise be required to file under subsection a. of this section.

i. Each campaign treasurer of a candidate shall file written notice with the commission of a contribution in excess of $250.00 received

during the period between the 13th day prior to the election and the date of the election. The notice shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution and the name and address of the contributor.

17. Section 18 of P. L. 1973, c. 83 (C. 19:44A–18) is amended to read as follows:

C. 19:44A-18 Activities after election.

18. If any former candidate or any political committee or any person or association of persons in behalf of such political committee or former candidate shall receive any contributions or make any expenditures with relation to any election after the date set in section 16 of this act for the final report subsequent to such election, or shall conduct any testimonial affair or public solicitation for the purpose of raising funds to cover any part of the expenses of a candidate or political committee or organization in such election, all such contributions, expenditures, testimonial affairs or public solicitations shall be reported to the Election Law Enforcement Commission by the person or persons receiving such contributions or making such expenditures or conducting such testimonial affairs or public solicitations. Such report shall be made by any person receiving any such contribution or contributions, or making any such expenditure or expenditures, which in the aggregate total more than $100.00, or conducting any testimonial affair or public solicitation of which the net proceeds exceed $100.00; and shall be made within 20 days from the date upon which the aggregate of such contributions, expenditures or proceeds exceeds $100.00 for the period commencing with the 19th day following such election or with the date upon which any previous report was made pursuant to this section, whichever is sooner. Such report shall be made in the same form and shall contain the same detail prescribed for any other report made pursuant to section 8 or 16 of this act.

18. Section 19 of P. L. 1973, c. 83 (C. 19:44A–19) is amended to read as follows:

C. 19:44A-19 Public solicitations.

19. a. No person shall conduct any public solicitation as defined in this act except (1) upon written authorization of the campaign or organizational treasurer of the candidate, political committee or continuing political committee on whose behalf such solicitation is conducted, or (2) in accordance with the provisions of subsection c.

of this section. A person with such written authorization may employ and accept the services of others as solicitors, and shall be responsible for reporting to the treasurer the information required under subsection b. of this section and for delivery to the treasurer the net proceeds of such solicitation in compliance with sections 11 and 14 of this act. A contribution made through donation or purchase in response to a public solicitation conducted pursuant to written authorization of a treasurer shall be deemed to have been made through such treasurer.

b. Whenever a public solicitation has been authorized by a treasurer during a period covered by a report required to be filed under sections 8 and 16 of this act, there shall be filed with such report and as a part thereof an itemized report on any such solicitation of which the net proceeds exceed $100.00, in such form and detail as required by the rules of the Election Law Enforcement Commission, which report shall include:

(1) The name of the person authorized to conduct such solicitation, and the method of solicitation;

(2) The gross receipts and expenses involved in the solicitation including the actual amount paid for any items purchased for resale in connection with the solicitation or, if such items or any portion of the cost thereof was donated, the estimated actual value thereof and the actual amount paid therefor, and the names and addresses of any such donors. If it is not practicable for such itemized report to be completed in time to be included with the report due under sections 8 and 16 of this act for the period during which such solicitation was held, then such itemized report may be omitted from said report and if so omitted shall be included in the report for the next succeeding period.

c. Notwithstanding the provisions of subsection b. of this section, it shall be lawful for any natural person, not acting in concert with any other person or group, to make personally a public solicitation the entire proceeds of which, without deduction for the expenses of solicitation, are to be expended by him personally or under his personal direction to finance any lawful activity in support of or opposition to any candidate or public question or to provide political information on any candidate or public question or to seek to influence the content, introduction, passage or defeat of legislation; provided, however, that any individual making such solicitation who receives gross contributions exceeding $100.00 in respect to activities relating to any one election shall be required to

make a report stating (1) the amount so collected, (2) the method of solicitation and (3) the purpose or purposes for which the funds so collected were expended and the amount expended for each such purpose. Such report shall be made either

(1) To the treasurer of the candidate, political committee or continuing political committee on whose behalf such funds were collected and expenditures made, or to his deputy, who shall cause the same to be included in his report to the Election Law Enforcement Commission subject to the provisions of sections 8 and 16 of this act; or

(2) Directly to the Election Law Enforcement Commission at the same time and in the same manner as a political committee or continuing political committee subject to the provisions of section 8 of this act.

d. Contributions or purchases made in response to a public solicitation conducted in conformity with the requirements and conditions of this act shall not be deemed anonymous within the meaning of sections 11, 14 and 20 of this act.

e. No person contributing in good faith to a public solicitation not duly authorized in compliance with the provisions of this act shall be liable to any penalty under this act by reason of having made such contribution.

19. Section 20 of P. L. 1973, c. 83 (C. 19:44A–20) is amended to read as follows:

C. 19:44A-20 Unpermitted contributions, expenditures.

20. No contribution of money or other thing of value, nor obligation therefor, shall be made, and no expenditure of money or other thing of value, nor obligation therefor, shall be made or incurred whether anonymously, in a fictitious name, or by one person or group in the name of another, to support or defeat a candidate in an election or to aid the passage or defeat of any public question or to provide political information on any candidate or public question or to seek to influence the content, introduction, passage or defeat of legislation. No person shall contribute, or purport to contribute, to any political candidate, political committee or continuing political committee funds or property not actually belonging to him and in his full custody and control, or which has been given or furnished to him by any other person or group for the purpose of making a contribution thereof, except in the case of group contributions by persons who are members of the contributing group. No

treasurer, candidate or member of a political committee or continuing political committee shall solicit or knowingly accept, agree to accept or concur in or abet the solicitation or acceptance of any contribution contrary to the provisions of this section.

20. Section 22 of P. L. 1973, c. 83 (C. 19:44A–22) is amended to read as follows:

C. 19:44A-22 Violations; penalties.

22. a. Any person, including any candidate, treasurer, political committee or continuing political committee, charged with the responsibility under the terms of this act, including any responsibility arising from an authorization of agency under subsection h. of section 16 of the act (C. 19:44A–16), for the preparation, certification, filing or retention of any reports, records, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair or other activity relating to contributions or expenditures in any way regulated by the provisions of this act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of this act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than $1,000.00 for the first offense and not more than $2,000.00 for the second and each subsequent offense.

b. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have power to hold, or to cause to be held under the provisions of subsection d. of this section, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstances, which penalty shall be paid forthwith into the State Treasury for the general purposes of the State. Such penalty shall be enforceable in a summary proceeding under the "penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of such penalty conditioned upon the prompt correction

of any failure, neglect, error or omission constituting the violation for which said penalty was assessed.

d. The commission may designate a hearing officer to hear complaints of violations of this act. Such hearing officer shall take testimony, compile a record and make factual findings, and shall submit the same to the commission, which shall have power to assess penalties within the limits and under the conditions prescribed in subsections b. and c. of this section. The commission shall review the record and findings of the hearing officer, but it may also seek such additional testimony as it deems necessary. The commission's determination shall be by majority vote of the entire authorized membership thereof.

21. Section 4 of P. L. 1981, c. 379 (C. 40:45–8) is amended to read as follows:

C. 40:45-3 Municipal candidates.

4. At least 47 days prior to a regular municipal election, the names of candidates for all elective offices shall be filed with the municipal clerk, in the following manner and form and subject to the following conditions:

a. The petition of nomination shall consist of individual certificates, equal in number to at least 1%, but in no event less than 25, of the registered voters of the municipality or the ward, as the case may be, and shall read substantially as follows:

"I, the undersigned, a registered voter of the municipality of ....., residing at ..... certify that I do hereby join in a petition of the nomination of ..... whose residence is at .... for the office of mayor (or councilman-at-large, or ward councilman of the ..... ward, or commissioner, or village trustee, as the case may be) to be voted for at the election to be held in the municipality on the ....., 19 ...., and I further certify that I know this candidate to be a registered voter, for the period required by law, of the municipality (and the ward, in the case of ward councilman) and a person of good moral character, and qualified, in my judgment, to perform the duties of the office, and I further certify that I have not signed more petitions or certificates of nomination than there are places to be filled for the above office.

Signed ....."

Any such petition of nomination which is provided to candidates by the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

b. Each petition signature shall be on a separate sheet of paper and shall bear the name and address of the petitioner. The candidate for office and his campaign manager shall make an oath before an officer competent to administer oaths that the statements made therein are true, and that each signature to the papers appended thereto is the genuine signature of the person whose name it purports to be, to their best knowledge and belief. The oath, signed by the candidate, shall constitute his acceptance of nomination and shall be annexed to the petition, together with the oath of his campaign manager, at the time the petition is submitted.

c. The municipal clerk shall immediately provide the Election Law Enforcement Commission with official certification of the filing or withdrawal of a petition of nomination.

C. 19:5-2.1 Municipal committee records.

22. (New section) In the time intervening between a primary election at which the members of a municipal committee of a political party are elected and the annual meeting of the municipal committee as provided by R. S. 19:5–2, any person elected to membership on that municipal committee at that election may request, in writing and by certified mail, either access to the complete financial records of the municipal committee or a copy of the balance sheet of the municipal committee showing the assets and liabilities of the municipal committee as of the close of business on the date of that primary election. The person requesting that access or copy of the balance sheet shall receive the access or copy so requested within 48 hours of the receipt of that request by the committee.

C. 19:5-3.1 County committee records.

23. (New section) In the time intervening between a primary election at which the members of a county committee of a political party are elected and the annual meeting of the county committee as provided by R. S. 19:5–3, any person elected to membership on that county committee at that election may request, in writing and by certified mail, either access to the complete financial records of the county committee or a copy of the balance sheet of the county

committee showing the assets and liabilities of the county committee as of the close of business on the date of that primary election. The person requesting that access or copy of the balance sheet shall receive the access or copy so requested within 48 hours of the receipt of that request by the committee.

C. 19:5-4a State committee records.

24. (New section) In the time intervening between a primary election at which the members of a State committee of a political party are elected and the annual meeting of the State committee as provided by R. S. 19:5–4, any person elected to membership on that State committee at that election may request, in writing and by certified mail, either access to the complete financial records of the State committee or a copy of the balance sheet of the State committee showing the assets and liabilities of the State committee as of the close of business on the date of that primary election. The person requesting that access or copy of the balance sheet shall receive the access or copy so requested within 48 hours of the receipt of that request by the committee.

Repealer.

25. Sections 13, 14, 15 and 17 of P. L. 1973, c. 83 (C. 19:44A–13; 19:44A–14; 19:44A–15; and 19:44A–17) are repealed.

26. Notwithstanding the provisions of this amendatory and supplementary act: (1) a State committee, county committee or municipal committee of a political party shall, prior to March 2, 1984, continue to have all of the obligations, under the provisions of P. L. 1973, c. 83 (C. 19:44A–1 et seq.), which were applicable to that committee as those provisions existed on June 20, 1983; and (2) no group, corporation, partnership, association or other organization shall, prior to March 2, 1984, constitute a "continuing political committee" within the meaning of paragraph (2) of subsection n. of section 3 of P. L. 1973, c. 83 (C. 19:44A–3), and prior to that date, any group, corporation, partnership, association or other organization having or coming to have any obligation under the provisions of P. L. 1973, c. 83 (C. 19:44A–1 et seq.) shall continue to have or come to have all of the obligations under those provisions existing on June 20, 1983.

27. This act shall take effect immediately.

Approved January 17, 1984.

JOINT RESOLUTIONS

(2309)

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION designating the Square Dance as the American Folk Dance of the State of New Jersey.

WHEREAS, Love of State and professions is enhanced by traditions that have become a part of our way of life and the customs of the American people; and

WHEREAS, We have distinctive and meaningful symbols of our ideals in our State's flag and in many cultural endeavors, but no official designation of a State Folk Dance; and

WHEREAS, The Square Dance, which was first associated with the American people and recorded in history since 1651, has consistently been the one dance traditionally recognized by the American people as a dignified and enjoyable expression of American folk dancing; and

WHEREAS, Official recognition of the Square Dance will enhance the cultural stature of New Jersey both nationally and internationally; and

WHEREAS, National and international prestige is in the best interest of all Americans; now, therefore,

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

1. The dance known as the Square Dance is designated the American Folk Dance of the State of New Jersey.

2. This joint resolution shall take effect immediately.

Approved January 19, 1983.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION memorializing the Congress and President of the United States to adopt legislation specifically authorizing New Jersey to register and regulate labor organizations engaged in representing employees of the casino gaming industry to the degree that registration and regulation are regarded necessary by New Jersey to insure the honesty and integrity of casino gaming operations in this State.

WHEREAS, The State of New Jersey, through its own State constitutional procedures, has established a statutory and administrative framework for the licensing and regulation of casino gaming in the city of Atlantic City; and

WHEREAS, An essential element in New Jersey's decision to authorize casino gaming was the belief of the majority of New Jersey citizens—as expressed in a constitutional referendum in 1976—that casino gaming possessed considerable potential to effectuate economic development and urban renewal in Atlantic City, to provide revenues dedicated to programs benefitting senior citizens and the disabled, and to stimulate tourism and related industries in New Jersey; and

WHEREAS, Notwithstanding its belief in the economic potential of casino gaming, the government of the State of New Jersey was convinced that the fulfillment of that potential depended upon public trust and faith in the credibility and integrity of the regulatory process and of casino operations and activities; and

WHEREAS, To further that trust, the regulatory provisions of New Jersey's "Casino Control Act," enacted in 1977 (P. L. 1977, c. 110; C. 5:12–1 et seq.), were designed to extend strict State regulation to all persons, locations, practices and associations related to the operation of licensed casino enterprises; and

WHEREAS, The State's recognition of the need to insure the highest integrity in the conduct of casino gaming extended to granting specific authority to the Casino Control Commission to prevent entry, directly or indirectly, into casino operations, or the opera-

tions of any ancillary casino industry, of persons with known criminal records, habits, or associations, and to exclude or remove from positions of authority or responsibility within casino gaming operations and establishments persons known to be so deficient in business probity, ability, or experience as to create or enhance the dangers of unsound, unfair, or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and

WHEREAS, The State of New Jersey has steadfastly and consistently exercised its regulatory responsibilities in the licensing and conduct of casino gaming operations, and the officers and employees thereof, and has applied the regulatory and investigatory powers and duties of the "Casino Control Act" (P. L. 1977, c. 110; C. 5:12–1 et seq.) to the fullest extent consistent with law to avoid the entry into casino operations, or the ancillary industries, of persons who have pursued economic gains in an occupational manner or context which is in violation of the criminal or civil public policies of New Jersey; and

WHEREAS, It has come to pass that these State regulatory and investigatory powers and duties, which have been rigorously imposed on business corporations and partnerships, casino owners, officers and investors, and individual casino employees, are currently being challenged with respect to their applicability to labor unions representing certain casino employees; and

WHEREAS, It has been suggested that the National Labor Relations Act, July 5, 1935, ch. 372, 49 Stat. 449, and the Employee Retirement Income Security Act of 1974 (ERISA), Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, both preclude the imposition on labor unions of the provisions of section 93 of the New Jersey "Casino Control Act," concerning union registration, and the authority of the State to require the removal of union officers under certain conditions, and to deny union rights to collect dues or contributions to retirement or pension plans—all on the ground that federal law totally preempts this area; and

WHEREAS, In March 1982, Judge Brotman, in the United States District Court for the District of New Jersey, denied a motion to enjoin the Casino Control Commission from investigating the Hotel and Restaurant Employees and Bartenders International

Union, Local 54, but strongly suggested in his ruling that there might possibly be a conflict between New Jersey's very specific casino gaming law as it relates to labor unions in section 93 of the Casino Control Act, and the general federal laws authorizing and regulating labor union activity—particularly the aforecited National Labor Relations Act and the Employee Retirement Income Security Act of 1974; and

WHEREAS, Judge Brotman further suggested that if a conflict was ultimately determined, the New Jersey Casino Control Commission could choose to avoid it by refraining from imposing a State penalty on a labor union protected by federal law, notwithstanding the guilt or unsuitability of that union under New Jersey State casino law; and

WHEREAS, The following facts are overwhelmingly clear:

1. That New Jersey laws regulating casino gaming are concerned with the honesty and integrity of casino operations—regardless of whether these operations are performed by casino presidents or casino labor union officials;

2. That the government of the State of New Jersey fully supports through its own State laws the rights of all private sector employees to engage in self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining, or other mutual aid or protection;

3. That the casino employee is as much entitled to the protection of the State against corrupt and unsuitable union officers as the casino investor is entitled to that protection against corrupt or unsuitable casino management; and

4. That the conduct of casino gaming in New Jersey is an activity deeply rooted in local feeling and responsibility— and that the effect of New Jersey's "Casino Control Act" on the National Labor Relations Act and the Employee Retirement Income Security Act is merely peripheral—factors which strongly suggest that New Jersey should be free to enforce its casino laws on employee organizations as well as on individual employees, and on the officers of employee organizations as well as on chief executive officers of casino operations; and

WHEREAS, In light of the pressing need for certainty in the regulatory actions of the New Jersey Casino Control Commission—and to avoid any weakening of commission diligence and enforcement during the pendency of litigation arising from section 93 of the New Jersey "Casino Control Act" and its alleged conflict with the aforecited federal labor legislation—it is altogether fitting and proper that the State of New Jersey respectfully petition for—and that the Congress and President of the United State graciously adopt—legislation specifically authorizing New Jersey, and any other state which may choose to permit casino gaming, to register and regulate labor organizations engaged in representing employees of the casino gaming industry to the degree that registration and regulation are regarded necessary to insure the honesty and integrity of casino gaming operations in the respective states; now, therefore,

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

1. The government of the State of New Jersey, on behalf of the citizens of this State, for the important public policy purposes presented in the preamble hereto, respectfully memorializes the Congress and President of the United States to adopt legislation specifically authorizing New Jersey, and any other state which may choose to permit casino gaming, to register and regulate labor organizations engaged in representing employees of the casino gaming industry to the degree that registration and regulation are regarded necessary to insure the honesty and integrity of casino gaming operations in the respective states.

2. Upon approval, duly authenticated copies of this joint resolution shall be transmitted to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the Majority and Minority Leaders of both Houses of the Congress, and to every member of the Congress representing New Jersey.

3. This joint resolution shall take effect immediately.

Approved January 25, 1983.

JOINT RESOLUTION No. 3

A JOINT RESOLUTION establishing a commission, to be known as the Property Tax Assessment Study Commission, to evaluate and study the methods of conducting assessments of property and levying taxes for purposes of local government taxation, inquire into the feasibility and practicability of alternative methods of allocating the costs of such assessments, and pursuant to the results of its study, make recommendations to the Governor and Legislature.

WHEREAS, Local governmental units in New Jersey are experiencing economic and social changes which bring into question the present methods of assessing property and levying taxes for the purpose of local government taxation; and

WHEREAS, Taxpayers in some municipalities, due to these economic and social changes, may after reassessments be bearing more than their fair and tolerable share of the tax burden; and

WHEREAS, The impact of redistribution of the local tax burden in urban communities where reassessments have been long delayed may result in fiscal shock perilous to the stability of sound urban neighborhoods; now, therefore,

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

1. There is established a commission, to be known as the Property Tax Assessment Study Commission, to consist of 18 members, of whom two shall be members of the Senate to be appointed by the President of the Senate, two shall be members of the General Assembly to be appointed by the Speaker of the General Assembly, three shall be public officials to be appointed by the Governor and 11 shall be citizens of the State, of whom five shall be appointed by the Governor and three shall be appointed each by the President of the Senate and Speaker of the General Assembly. No more than one of the two legislative members appointed each by the President of the Senate and the Speaker of the General Assembly, and no more than half of the citizen members appointed, shall be of the

same political party. The 11 citizen members shall have knowledge and expertise in the area of local property tax law and local public finance. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. The commission shall organize as soon as may be after the appointment of its members. The members shall elect one of their number to serve as chairman and the commission may elect a secretary who need not be a member of the commission.

3. It shall be the duty of the commission to evaluate and study the current methods of conducting assessments of property and levying taxes for purposes of local government taxation, to inquire into the feasibility and practicability of alternative methods of allocating the costs of such assessments to assure regular periodic reassessments, and to devise means to mitigate the impact on sound urban neighborhoods of fiscal shock resulting from a massive redistribution of the property tax burden in urban communities where reassessments had been long delayed.

4. The commission shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission, agency or other public entity as it may require and as may be available for its purposes, and to employ counsel and such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties and as may be within the limits of funds appropriated or otherwise made available to it for said purposes.

5. The commission may meet and hold hearings in furtherance of its general purposes at such place or places as it shall designate, during the sessions or recesses of the Legislature. The commission shall have all the powers provided by chapter 13 of Title 52 of the Revised Statutes.

6. The commission shall report its findings and recommendations to the Governor and Legislature within 12 months of the adoption of this joint resolution accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

7. This joint resolution shall take effect immediately.

Approved January 26, 1983.

JOINT RESOLUTION No. 4

A JOINT RESOLUTION designating the week of February 6 to February 12, 1983, as Catholic Schools Week.

WHEREAS, The Catholic schools in the State of New Jersey will be celebrating Catholic Schools Week in the State during the period February 6 to February 12, 1983; and

WHEREAS, The Catholic schools in the State of New Jersey have had over a century of service educating millions of New Jerseyans in preparation for their responsibilities as citizens of this State and as members of society; and

WHEREAS, Parents who send their children to nonpublic schools assist the State in reducing the rising costs of public education; and

WHEREAS, The 577 Catholic schools in the State currently provide over 200,000 students with a well-rounded educational program in moral values and community service; and

WHEREAS, The welfare of the State requires that this and future generations of school-age children be assured ample opportunity to develop to the fullest their intellectual capacities, and that in the exercise of their constitutional rights to choose nonpublic education for their children, parents who support such education make a major contribution to the public welfare; now, therefore,

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

1. That the week of February 6 to February 12, 1983 is designated as Catholic Schools Week in the State of New Jersey to be recognized as such by State and municipal agencies throughout New Jersey.

2. That the Governor and the Legislature of the State of New Jersey call on all of the citizens of the State to recognize the contribution Catholic schools make to education in the State and commend their faculties, students, and parents for their dedication

and devotion to the quality education furnished the future citizens of this State.

3. This joint resolution shall take effect immediately.

Approved February 9, 1983.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION creating a commission to study services and programs available to hearing impaired children.

WHEREAS, There are approximately 1,800 school-age children in New Jersey who are classified by public school districts as suffering from some sort of hearing impairment; and

WHEREAS, Perhaps the greatest tragedy of deafness may be the deprivation to the child of language and communication; and

WHEREAS, For those children who live in a silent world, the danger exists that it can become a silent prison unless proper diagnosis and adequate medical and educational services and programs are made available to them; now, therefore,

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

1. That there is created a commission of 14 members, two to be appointed from the membership of the Senate by its President, no more than one of whom shall be of the same political party and two to be appointed from the membership of the General Assembly by its Speaker, no more than one of whom shall be of the same political party; six public members to be appointed by the Governor, no more than three of whom shall be of the same political party; the Director of the Division of the Deaf or his designee; the Commissioner of Education or his designee; the Commissioner of Health or his designee; and the Commissioner of Human Services or his designee. Two of the public members appointed by the Governor shall be hearing-impaired persons and two shall be active in providing or advocating services for hearing-impaired children. All members shall serve without compensation. Vacancies in the membership of

the commission shall be filled in the same manner as the original appointments were made.

2. That the commission shall organize as soon as may be possible after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

3. That it shall be the duty of the commission to study the services and programs currently available to hearing-impaired children. The commission shall determine if services are in fact adequate, where gaps in service may exist, and what further efforts may need to be made to ensure that hearing-impaired children are afforded every opportunity for a healthy development. The commission shall make recommendations for those remedial actions which it feels are necessary to allow hearing-impaired children to realize their full potential.

4. That the commission shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for said purpose, and to employ such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for said purposes.

5. That the commission may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and Legislature within 12 months following the organization of the commission, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

6. This joint resolution shall take effect immediately.

Approved February 17, 1983.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION creating a committee to study the parking and transportation needs of the city of Trenton resulting from the physical expansion of the State office building complex in the city.

WHEREAS, The recent occupancy of the Richard J. Hughes Justice Complex by the State courts, the Department of Law and Public Safety, and the Department of the Public Advocate has shifted hundreds of State employees and their vehicles to a different area of the city; and

WHEREAS, The conversion of the State House Annex into a Legislative office building with committee and hearing rooms as well as staff office space imposes certain parking and transportation requirements to facilitate public as well as employee access to this building; and

WHEREAS, Three new State office buildings are being planned for construction in downtown Trenton, which will further intensify the pressure on parking and transportation facilities to handle additional numbers of State employees and their vehicles; and

WHEREAS, The local business and residential communities find themselves in competition with State employees and visitors to the State Capitol Complex for parking spaces which are sorely needed to attract shoppers into downtown Trenton; and

WHEREAS, A well-planned and effective public transportation system would alleviate much of the pressure on the limited parking spaces available in the immediate downtown area of Trenton; and

WHEREAS, Thoughtful and coordinated planning by State, county, and city officials and representatives of the business community is necessary to deal effectively with the parking and transportation problems that already exist and that will arise in coming years as downtown Trenton experiences the transformation which will come with the planned construction of State office buildings; and

New Jersey State Library

WHEREAS, It is of vital importance not only to State employees and visitors to State buildings but also to local businessmen and local residents that a rational, adequate, and suitable network of parking areas and transportation facilities be provided and be available so that the physical expansion of the State office complex will result in minimal disruption and will, in fact, produce positive and beneficial effects for the city of Trenton; now, therefore,

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

1. There is created a committee to consist of the following members:

a. The Governor or his designee;

b. The State Treasurer;

c. The Commissioner of Transportation or his designee;

d. The Director of the Division of Purchase and Property in the Department of the Treasury, or, in the event of a vacancy in that office, the person acting as head of that division;

e. The Chairman of the New Jersey Building Authority;

f. Two members of the Senate appointed by the President of the Senate for terms coincident with the terms of office during which they are appointed;

g. Two members of the General Assembly appointed by the Speaker of the General Assembly for terms coincident with the terms of office during which they are appointed;

h. One member of the Mercer County Board of Chosen Freeholders appointed by the President of the board;

i. The Executive Director of the Mercer County Improvement Authority;

j. The Mayor of the city of Trenton;

k. One member of the council of the city of Trenton appointed by the President of the council;

l. One representative of the business community of the city of Trenton appointed by the city's governing body;

m. One official of the government of the city of Trenton with responsibility for parking or transportation appointed by the mayor;

n. One member of the planning board of the city of Trenton appointed by the city's governing body; and

o. One member of a labor organization representing State employees appointed by the Civil Service Commission.

All appointments shall be made no later than 20 days following the effective date of this joint resolution. Vacancies in the membership shall be filled in the same manner as the original appointments were made.

2. The committee shall elect a chairman and a vice chairman from among its members no later than 10 days following the appointment of members and shall select a secretary, who need not be a member of the committee. All members shall serve without compensation.

3. It shall be the duty of the committee: a. to examine the parking and transportation problems and needs generated by the physical expansion of the State office building complex; b. to investigate the impact of this expansion on the city of Trenton, especially the downtown business and residential areas directly affected by the construction of State office buildings in their midst; c. to develop appropriate plans to address the parking and transportation needs of the State employees who work in Trenton, of the local businessmen who have committed themselves to the city and its growth, and of the local residents who provide vitality and character to the city; d. to coordinate efforts among the many parties involved in the planning and development of the physical expansion under way; and e. to monitor the implementation of the recommendations and plans resulting from the work of the committee.

4. The committee shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for that purpose, and to employ such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for those purposes.

5. The committee shall have all the powers provided pursuant to chapter 13 of Title 52 of the Revised Statutes.

6. The committee may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature and shall report its findings and recommendations to

the Governor and Legislature no later than one year following the effective date of this joint resolution, and yearly thereafter for a period of five years the committee shall submit a report to the Governor and the Legislature on the implementation of its recommendations.

7. This joint resolution shall take effect immediately and shall expire six years thereafter.

Approved March 24, 1983.

JOINT RESOLUTION No. 7

A JOINT RESOLUTION designating the month of April, 1983, as Gospel Music Month.

WHEREAS, Gospel music long has been a source of spiritual inspiration and growth for many persons all over the world; and

WHEREAS, Throughout the 1970's and 1980's, this music has increased in popularity to an extent that it has become a focal point of many religious services; and

WHEREAS, Several New Jersey-based radio stations program continuous gospel music, and gospel music recording companies and many individual artists are flourishing in this State, as are those businesses marketing gospel music products and services; and

WHEREAS, The national Gospel Music Association, located in Nashville, Tennessee, strives to perpetuate excellence in this art form, which is considered to be the progenitor of much of American music, including jazz, blues, country and western, and rock and roll; and

WHEREAS, The Gospel Music Association, during the month of April 1983, will confer the highly coveted Dove Awards, during its annual conference; now, therefore,

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

1. The month of April 1983 is designated as Gospel Music Month in the State of New Jersey.

2. A duly authenticated copy of this joint resolution be forwarded to the Gospel Music Association in Nashville, Tennessee.

3. This joint resolution shall take effect immediately.

Approved April 14, 1983.

JOINT RESOLUTION No. 8

A JOINT RESOLUTION designating the New Jersey State Police Troop "B" Headquarters Building in Totowa, New Jersey as the "Trooper Philip Lamonaco State Police Headquarters Building."

WHEREAS, Trooper Philip Lamonaco was slain in the line of duty while patrolling Route 80 in Warren County on December 21, 1981 by unknown assailants; and

WHEREAS, His dedication to the highest standards and ideals of the Division of State Police and his sense of duty, along with the experience and distinction of service he carried forward with him from the United States Marine Corps, gained him formal recognition as the "Trooper of the Year" in 1979 and informal acknowledgment as an inspirational leader and role model and as "Super Trooper" by which he was known by his contemporaries and peers; and

WHEREAS, His distinguished record of service buoyed by over 200 arrests and a noteworthy amount of recovered contraband shows his effectiveness as a law enforcement officer; now, therefore,

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

1. That the New Jersey State Police Troop "B" Headquarters Building located on Minisink Road in Totowa, New Jersey is designated the "Trooper Philip Lamonaco State Police Headquarters Building."

2. That the Superintendent of State Police is authorized to post appropriate placards bearing the designation "Trooper Philip Lamonaco State Police Headquarters Building."

3. This joint resolution shall take effect immediately.

Approved June 6, 1983.

JOINT RESOLUTION No. 9

A JOINT RESOLUTION creating a commission to study the insanity defense and determine whether it should be revised.

WHEREAS, Current law does not impose any criminal responsibility on a defendant for acts committed while the defendant was suffering from a mental disease or defect which prevented him from knowing the nature and quality of the act or that the act was wrong; and

WHEREAS, Current law prohibits a defendant acquitted of a crime by reason of insanity from being confined within any penal or correctional institution or undergoing any other criminal sanctions; now, therefore,

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

1. There is created a commission to be known as the Insanity Defense Study Commission. The commission shall consist of nine members, two to be appointed from the membership of the Senate by the President thereof, who shall not be of the same political party; two to be appointed from the membership of the General Assembly by the Speaker thereof, who shall not be of the same political party; the Attorney General or his designee; the Public Defender or his designee; the Chief Justice of the Supreme Court or his designee; and two public members qualified by their education and experience in the areas of criminal justice or the psychological aspects of human behavior, one appointed by the President of the Senate and one appointed by the Speaker of the General Assembly. Vacancies in the membership shall be filled in the manner provided for the original appointments. Members of the commission shall serve without compensation, but shall be reimbursed for their expenses actually incurred in the performance of their duties.

2. The commission shall organize as soon as may be after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

3. It shall be the duty of the commission to study the insanity defense and determine whether it should be revised in this

State to place a greater degree of responsibility on a criminal defendant suffering from or claiming to suffer from a mental disease or defect. As part of its study the commission shall examine the appropriate statutes in other states and review how these statutes may have been interpreted by the courts, the treatment of persons committed after acquittal by reason of insanity, and possible sentencing disparities when insanity is unsuccessfully raised as a defense. The commission shall make recommendations for legislation which it determines to be desirable and appropriate.

4. The commission is entitled to the assistance and services of the employees of any State, county or municipal department, board, bureau, commission or agency which it may require and which may be available to it for these purposes, and to employ stenographic and clerical assistants and incur traveling and other miscellaneous expenses necessary to perform its duties, within the limits of funds appropriated or otherwise made available to it for these purposes.

5. The commission may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and the Legislature no later than six months following the organization of the commission, with any legislative bills it desires to recommend for adoption by the Legislature.

6. This joint resolution shall take effect immediately and shall expire upon the submission by the commission of its report pursuant to section 5 hereof.

Approved June 15, 1983.

JOINT RESOLUTION No. 10

A JOINT RESOLUTION directing the Governor of the State of New Jersey to take certain actions regarding the tax on truck axles enacted by the Commonwealth of Pennsylvania.

WHEREAS, The Commonwealth of Pennsylvania has enacted a tax on heavy trucks above 26,000 lbs. traveling within the Commonwealth of Pennsylvania in the amount of $36.00 per axle of each of those trucks; and

WHEREAS, This law went into effect on or about April 1, 1983, and is causing great hardship for the owners of trucks registered in New Jersey as well as for the owners of trucks registered in other states; and

WHEREAS, This tax is highly inequitable inasmuch as the principal burden falls upon truck owners who are not resident in Pennsylvania; and

WHEREAS, It appears that only the states of New Jersey and Oklahoma presently have legislation requiring automatic retaliatory action against the imposition of such taxes; and

WHEREAS, The State of New Jersey is proceeding under R. S. 39:3–6 to retaliate against the Commonwealth of Pennsylvania while a number of other states are contemplating similar action; and

WHEREAS, The Governors and Legislatures of other states ought to adopt retaliatory measures against the Commonwealth of Pennsylvania in regard to this inequitable tax; and

WHEREAS, The Governor of this State will be in attendance at the National Governors' Conference to be held in July of this year; and

WHEREAS, It is fitting and proper that the Governor of this State urge appropriate action of a retaliatory nature against the Commonwealth of Pennsylvania for the imposition of this tax; and

WHEREAS, It is also fitting and proper that the Governor of this State request the Governor and State Legislature of the Commonwealth of Pennsylvania to reconsider the axle tax with a view to its suspension or repeal; now, therefore,

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

1. Governor Thomas H. Kean shall communicate to the governors of other states in attendance at the National Governors' Conference in July of this year the desirability of taking retaliatory measures against the Commonwealth of Pennsylvania in regard to the recently enacted axle tax and of adopting other appropriate measures to correct the situation created by this inequitable tax.

2. Governor Thomas H. Kean shall request the Governor and Legislature of the Commonwealth of Pennsylvania to reconsider the recently enacted axle tax with a view to its suspension or repeal.

3. This joint resolution shall take effect immediately.

Approved June 29, 1983.

JOINT RESOLUTION No. 11

A JOINT RESOLUTION directing the Division of Parks and Forestry in the Department of Environmental Protection to formulate and submit to the Legislature a master plan for the more efficient utilization and management of the State's timberlands.

WHEREAS, New Jersey, widely and commonly known as the most densely populated state in the nation, also possesses substantial timberland resources, which in fact cover more than 50% of the State's surface area; and

WHEREAS, Approximately 300,000 acres of forest land are owned by the State in the form of State parks and forests; and

WHEREAS, The State owned forest land, if managed and harvested in accordance with modern forestry practices and techniques, could produce revenues significantly greater than those presently realized; and

WHEREAS, Scientific management and harvesting can promote the health and environmental stability of forest lands; and

WHEREAS, In a time of increased awareness of the proper and efficient use of natural and renewable resources, it is incumbent on the State, and particularly the Department of Environmental Protection, to set the highest example of modern and efficient forest management; now, therefore,

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

1. That the Division of Parks and Forestry in the Department of Environmental Protection is directed to prepare and submit to

the Legislature a report outlining in detail a master plan for the more efficient management of the State's forest lands consistent with environmental and conservation goals. The master plan shall include, but not be limited to:

a. A detailed summary of the level and efficiency of current State forest management;

b. A detailed plan for upgrading the current management practices to ensure that State timber forests are managed and harvested to the fullest extent and in the most efficient manner consistent with environmental and conservation goals; and

c. A detailed estimate of the short and long-term costs of upgrading the State's forest management capability, and an estimate of the revenues which such an upgrading may reasonably be expected to yield.

2. That the Division of Parks and Forestry in the Department of Environmental Protection shall submit to the Legislature on or before March 1, 1984, the report mandated in this resolution.

3. This joint resolution shall take effect immediately.

Approved June 29, 1983.

JOINT RESOLUTION No. 12

A JOINT RESOLUTION directing the Division of Motor Vehicles in the Department of Law and Public Safety to review and evaluate the architectural design of motor vehicle inspection stations and to make recommendations for improvements which would expedite the flow of motor vehicles through the inspection process and improve occupational health standards for inspection personnel.

WHEREAS, The Division of Motor Vehicles in the Department of Law and Public Safety must reform the State-operated motor vehicle inspection system in order to provide the citizens of this State with a cost-efficient and comprehensive motor vehicle emissions and safety inspection program; and

WHEREAS, Even though the State inspection system has been noted as one of the finest in the nation among the 21 states and the

District of Columbia which have inspection programs, the system has several problems which need to be resolved in order for the State to achieve maximum highway and road safety, improved air quality and the highest standards of occupational health for inspection personnel which may be achieved through the motor vehicle inspection system; and

WHEREAS, One of the major problems of the motor vehicle inspection system in its present form is the frequent and often substantial waiting time which motorists are subject to when they present their motor vehicles for inspection; and

WHEREAS, The problem of substantial waiting time for motorists at State inspection stations will become even more severe due to the recent federal court order requiring the State to end its odd-even biennial emissions testing system and return to annual motor vehicle emission testing by July 1, 1983 and due to a reduction in the number of motor vehicle inspectors; now, therefore,

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

1. The Division of Motor Vehicles in the Department of Law and Public Safety shall review and evaluate the architectural design of motor vehicle inspection stations and make recommendations for improvements which would expedite the flow of motor vehicles through the inspection process and improve occupational health standards for inspection personnel.

2. Funds needed to conduct this study shall be appropriated to the Division of Motor Vehicles pursuant to P. L. 1983, c. 237. The director shall make an accounting of all funds used to carry out the purposes of this joint resolution.

3. This study shall be completed within 60 days of the date this joint resolution becomes operative and a copy forwarded to the Governor of the State of New Jersey, the Speaker of the General Assembly, the President of the Senate, the Senate Law, Public Safety and Defense Committee, and the Assembly Judiciary, Law, Public Safety and Defense Committee.

4. This joint resolution shall take effect immediately but shall remain inoperative until either Senate Bill No. 3473 of 1983 or Assembly Bill No. 3604 of 1983 (now pending before the Legislature) is enacted into law.

Approved June 30, 1983.

JOINT RESOLUTION No. 13

A JOINT RESOLUTION designating that portion of Interstate Highway Route 80 located in Warren county as the "Trooper Philip Lamonaco Section of the Christopher Columbus Highway."

WHEREAS, Philip Lamonaco dedicated his life to the protection of the citizens of this State as a member of the New Jersey State Police; and

WHEREAS, Philip Lamonaco met his untimely death at the age of 32 while carrying out his duties as a member of the State Police following a shootout on a portion of Interstate Highway Route 80 located in Warren county; and

WHEREAS, The tragic death of Philip Lamonaco, one of the State's most highly decorated State troopers, was the result of his selfless dedication to law enforcement and the exemplary performance of his duties; and

WHEREAS, It is altogether fitting and proper that the dedication and courage of Philip Lamonaco be memorialized by the State of New Jersey; now, therefore,

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

1. That the portion of Interstate Highway Route 80 located in Warren county, which is now part of the "Christopher Columbus Highway," shall be designated as the "Trooper Philip Lamonaco Section of the Christopher Columbus Highway."

2. That the Commissioner of Transportation is authorized to erect appropriate signs bearing the name.

3. This joint resolution shall take effect immediately.

Approved September 6, 1983.

JOINT RESOLUTION No. 14

A JOINT RESOLUTION to extend the designation of the Blue Star Memorial Highway System.

WHEREAS, By a Joint Resolution No. 1 approved January 23, 1945, it was resolved: That a particular section of State Highway Route No. 29 be designated as Blue Star drive; and

WHEREAS, The State Highway Commissioner, pursuant to said resolution, filed with the Secretary of State a description of the particular section of said Route No. 29 so designated as Blue Star drive as comprising that part of said route between Chapel Island in Mountainside and North Drive in North Plainfield in the counties of Union and Somerset; and

WHEREAS, By a Joint Resolution No. 4 approved April 9, 1947, it was resolved: That the section of U. S. Route No. 22 included in State Highway Routes No. 28 and No. 29 be designated as the Blue Star Memorial Highway; and

WHEREAS, The State Highway Commissioner, pursuant to said resolution, filed with the Secretary of State a description of the Blue Star Memorial Highway to extend Blue Star drive and Blue Star Memorial Highway from North Drive in North Plainfield in Somerset county to a point where Route No. 22 reaches the Delaware river, in the area of Phillipsburg, Warren county; and

WHEREAS, By a Joint Resolution No. 10 approved June 24, 1958, it was resolved: That appropriate portions of the Interstate and Defense Highway extending from the Holland Tunnel to Phillipsburg (then referred to as F.A.I.-102 and presently referred to as Interstate Highway Route 78) be included in the State's Blue Star Memorial Highway System; and

WHEREAS, The State Highway Commissioner, pursuant to said resolution, filed with the Secretary of State a description of appropriate portions of the Interstate and Defense Highway, then referred to as F.A.I.-102 (and presently referred to as Interstate Highway Route 78), to be designated as a Blue Star

Memorial Highway in the State's Blue Star Memorial Highway System; and

WHEREAS, It is the desire of the Garden Club of New Jersey and the Blue Star Memorial Highway Council to include Interstate Highway Route 295 from the Delaware Memorial Bridge to its northern terminus in Hopewell township, Mercer county, that segment of Interstate Highway Route 95 extending from Hopewell township to the Scudders Falls Bridge, that section of Interstate Highway Route 95 extending from Fort Lee borough to Ridgefield Park township in Bergen county, and Interstate Highway Route 80 from Ridgefield Park township to the Pennsylvania line at the Delaware Water Gap, in the State's Blue Star Memorial Highway System; now, therefore,

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

1. That the Commissioner of Transportation shall file with the Secretary of State a description of portions of the Interstate and Defense Highways presently constituting Interstate Highway Route 295 from the Delaware Memorial Bridge to its northern terminus in Hopewell township, Mercer county, that segment of Interstate Highway Route 95 extending from Hopewell township to the Scudders Falls Bridge, that section of Interstate Highway Route 95 extending from Fort Lee borough to Ridgefield Park township in Bergen county, and Interstate Highway Route 80 from Ridgefield Park township to the Pennsylvania line at the Delaware Water Gap, each to be designated as a Blue Star Memorial Highway and to be included in the State's Blue Star Memorial Highway System as a memorial in commemoration of services of the women and men who served in the Armed Forces of the United States of America.

2. That the Commissioner of Transportation is authorized to erect suitable tablets and landscaping to perpetuate this resolution.

3. This joint resolution shall take effect immediately.

Approved September 29, 1983.

JOINT RESOLUTION No. 15

A JOINT RESOLUTION designating the month of October, 1983, as "Spina Bifida Month."

WHEREAS, Spina bifida is a congenital birth defect affecting thousands of children born in the United States each year and is this nation's second most common birth defect resulting in paralysis, loss of sensation in the lower limbs and in bowel and bladder conditions; and

WHEREAS, Spina bifida is considered to be caused by an unknown environmental agent interacting with genetic factors and although until 30 years ago, few babies born with spina bifida survived beyond infancy, recent medical technology now makes it possible for as many as 90% of children born with spina bifida to become healthy and productive adults; and

WHEREAS, A need exists to promote the care, treatment, education, socialization and vocational development of persons born with spina bifida, to train competent professionals dealing with the care of people with spina bifida, to support research into the cause and prevention of this defect and to promote public awareness about spina bifida and related birth defects; now, therefore,

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

1. The month of October 1983 is declared as "Spina Bifida Month" in New Jersey.

2. The Governor is requested to issue a proclamation in accordance with this resolution urging all citizens and public and private agencies and organizations in this State to recognize "Spina Bifida Month" by promoting awareness of spina bifida and related birth defects among the health profession and the public and encouraging research into the cause and prevention thereof.

3. This joint resolution shall take effect immediately.

Approved September 29, 1983.

JOINT RESOLUTION No. 16

A JOINT RESOLUTION concerning the commission to study the statutes and regulations relating to the alcoholic beverage industry and amending Joint Resolution No. 4 of 1982.

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

1. Section 1 of Joint Resolution No. 4 of 1982 is amended to read as follows:

1. There is established an Alcoholic Beverage Control Study Commission to consist of 16 members to be appointed as follows:

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. Seven citizens of the State, to be appointed jointly by the President of the Senate and the Speaker of the General Assembly, who shall be representatives of the alcoholic beverage industry, and no more than four of whom shall be of the same poltical party;

d. Three citizens of the State, to be appointed by the Governor, including a representative of a local law enforcement agency, the casino industry and the general public, and no more than two of whom shall be of the same political party; and

e. The Director of the Division of Alcoholic Beverage Control, ex officio, or his designee and the Superintendent of the New Jersey Division of State Police, ex officio, or his designee. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. Section 5 of Joint Resolution No. 4 of 1982 is amended to read as follows:

5. The commission may meet and hold hearings at any place or places as it shall designate during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Legislature and issue its final report by January 1, 1984, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

3. Section 7 of Joint Resolution No. 4 is amended to read as follows:

7. This joint resolution shall take effect immediately and shall expire January 1, 1984.

4. This joint resolution shall take effect immediately.

Approved October 26, 1983.

JOINT RESOLUTION No. 17

A JOINT RESOLUTION designating the week of December 4 through December 10, 1983 as "State Autistic Week".

WHEREAS, The National Society for Children and Adults with Autism is celebrating "National Autistic Week" throughout the United States during the period December 4 to December 10, 1983; and

WHEREAS, The National Society for Children and Adults with Autism has addressed the problems of autistic children and adults for almost 20 years, and currently serves over 11,000 autistic persons of this State; and

WHEREAS, The New Jersey Society for Autistic Children and Adults, an affiliate of the national society, provides support and assistance to New Jersey's autistic children and adults and their families as well as to Eden Institute and Princeton Child Development Institute, Inc. in Princeton, Search Day Program in Ocean Township, Douglass Developmental Disabilities Center in New Brunswick, Bergen County Special Services School District in New Milford, Forum School in Waldwick, Midland School in North Branch, Sunny Day School Treatment Center in Cherry Hill, Burlington County Special Services School District in Mount Holly, the Children's Day School in Trenton, and Community Living for the Autistic; and

WHEREAS, These agencies, established by concerned parents and professionals, provide a meaningful learning and living experience for individuals; and

WHEREAS, The New Jersey Council of Organizations and Schools for Autistic Children and Adults, Inc. supports the efforts of those working on behalf of the autistic population; and

WHEREAS, Research has now established that autism is a disability that has a distinct and separate set of physiologically related characteristics and symptoms, for which services should be geared carefully to the distinctly individual needs of these children and adults through a separate educational and vocational classification; and

WHEREAS, The welfare of the State requires that this and future generations of autistic children and adults shall be assured ample residential, 12-month educational, prevocational, vocational and recreational opportunities to develop to the fullest of their capabilities; and

WHEREAS, It is fitting that this State do everything possible to assist the charitable activities of the New Jersey Council of Organizations and Schools for Autistic Children and Adults and the National Society for Children and Adults with Autism, by drawing attention to the humane nature and worthiness of their activities; now, therefore,

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

1. The week of December 4 through December 10, 1983 is formally designated as "State Autistic Week" in the State of New Jersey.

2. The Governor, by appropriate proclamation, so proclaim the week of December 4 through December 10, 1983 as "State Autistic Week."

3. This joint resolution shall take effect immediately.

Approved December 2, 1983.

AMENDMENTS ADOPTED IN 1983 TO THE 1947 CONSTITUTION

Amendments Adopted in 1983 to the 1947 Constitution

ARTICLE V, SECTION I, PARAGRAPH 14

Amend Article V, Section I, paragraph 14, of the Constitution to read as follows:

14. (a) When a bill has finally passed both houses, the house in which final action was taken to complete its passage shall cause it to be presented to the Governor before the close of the calendar day next following the date of the session at which such final action was taken.

(b) A passed bill presented to the Governor shall become law:

(1) if the Governor approves and signs it within the period allowed for his consideration; or

(2) if the Governor does not return it to the house of origin, with a statement of his objections, before the expiration of the period allowed for his consideration; or

(3) if, upon reconsideration of a bill objected to by the Governor, two-thirds of all the members of each house agree to pass the bill.

(c) The period allowed for the Governor's consideration of a passed bill shall be from the date of presentation until noon of the forty-fifth day next following or, if the house of origin be in temporary adjournment on that day, the first day subsequent upon which the house reconvenes; except that:

(1) if on the said forty-fifth day the Legislature is in adjournment sine die, any bill then pending the Governor's approval shall be returned, if he objects to it, at a special session held pursuant to subparagraph (d) of this paragraph;

(2) any bill passed between the forty-fifth day and the tenth day preceding the expiration of the second legislative year shall be returned by the Governor, if he objects to it, not later than noon of the day next preceding the expiration of the second legislative year;

(3) any bill passed within 10 days preceding the expiration of the second legislative year shall become law only if the Governor signs it prior to noon of the seventh day following such expiration, or the Governor returns it to the House of origin, with a statement of his objections, and two-thirds of all members of each House agree to pass the bill prior to such expiration.

(d) For the purpose of permitting the return of bills pursuant to this paragraph, a special session of the Legislature shall convene, without petition or call, for the sole purpose of acting upon bills returned by the Governor, on the forty-fifth day next following adjournment sine die of the regular session; or, if the second legislative year of a 2-year Legislature will expire before said forty-fifth day, then the day next preceding the expiration of the legislative year.

(e) Upon receiving from the Governor a bill returned by him with his objections, the house in which it originated shall enter the objections at large in its journal or minutes and proceed to reconsider it. If, upon reconsideration, on or after the third day following its return, or the first day of a special session convened for the sole purpose of acting on such bills, two-thirds of all the members of the house of origin agree to pass the bill, it shall be sent, together with the objections of the Governor, to the other house; and if, upon reconsideration, it is approved by two-thirds of all the members of the house, it shall become a law. In all such cases the votes of each house shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal or minutes of each house.

(f) The Governor, in returning with his objections a bill for reconsideration at any general or special session of the Legislature, may recommend that an amendment or amendments specified by him be made in the bill, and in such case the Legislature may amend and reenact the bill. If a bill be so amended and reenacted, it shall be presented again to the Governor, but shall become a law only if he shall sign it within 10 days after presentation, except that any bill amended and reenacted within 10 days preceding the expiration of the second legislative year shall become law only if the Governor signs it prior to noon of the seventh day following such expiration. No bill shall be returned by the Governor a second time. No bill need be read three times and no emergency

resolution need be adopted for the reenactment of any bill at a special session of the Legislature.

Adopted November 8, 1983.

Effective December 8, 1983.

ARTICLE VI, SECTION III, PARAGRAPH 3, AND
SECTION VI, PARAGRAPHS 1 AND 3

Amend Article VI, Section III, paragraph 3, of the Constitution to read as follows:

3. The Superior Court shall be divided into an Appellate Division, a Law Division, and a Chancery Division, which shall include a family part. Each division shall have such other parts, consist of such number of judges, and hear such causes as may be provided by rules of the Supreme Court. At least two judges of the Superior Court shall at all times be assigned to sit in each of the counties of the State, who at the time of their appointment and reappointment were residents of that county; provided, however, that the number of judges required to reside in the county wherein they sit shall be at least equal in number to the number of judges of the county court sitting in each of the counties at the adoption of this amendment.

Amend Article VI, Section VI, paragraph 1, of the Constitution to read as follows:

1. The Governor shall nominate and appoint, with the advice and consent of the Senate, the Chief Justice and associate justices of the Supreme Court, the Judges of the Superior Court, and the judges of the inferior courts with jurisdiction extending to more than one municipality; except that upon the abolition of the juvenile and domestic relations courts or family court and county district courts as provided by law, the judges of those former courts shall become the Judges of the Superior Court without nomination by the Governor or confirmation by the Senate. No nomination to such an office shall be sent to the Senate for confirmation until after 7 days' public notice by the Governor.

Amend Article VI, Section VI, paragraph 3, of the Constitution to read as follows:

3. The Justices of the Supreme Court and the Judges of the Superior Court shall hold their offices for initial terms of 7 years and upon reappointment shall hold their offices during good behavior; provided, however, that, upon the abolition of the juvenile and domestic relations courts or family court and county district courts as provided by law, the judges in office in those former courts who have acquired tenure and the Judges of the Superior Court who have acquired tenure as a judge in those former courts prior to appointment to the Superior Court, shall have tenure as Judges of the Superior Court. Judges of the juvenile and domestic relations courts or family court and county district courts who have not acquired tenure as a judge of those former courts shall hold their offices for the period of their respective terms which remain unexpired and shall acquire tenure upon reappointment to the Superior Court. Such justices and judges shall be retired upon attaining the age of 70 years. Provisions for the pensioning of the Justices of the Supreme Court and the Judges of the Superior Court shall be made by law.

Adopted November 8, 1983.

Effective December 8, 1983.

ARTICLE VIII, SECTION I, PARAGRAPH 3

Amend Article VIII, Section I, paragraph 3, of the Constitution to read as follows:

3. Any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service, in time of war or other emergency as, from time to time, defined by the Legislature, in any branch of the Armed Forces of the United States shall be entitled annually to a deduction from the amount of any tax bill for taxes on real and personal property, or both, in the sum of $50.00 or if the amount of any such tax bill shall be less than $50.00, to a cancellation thereof, which deduction or cancellation shall not be altered or repealed. Any person hereinabove described who has been or shall be declared by the United States Veterans' Administration, or its successor, to have a service-connected disability, shall be entitled to such further deduction

from taxation as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has met or shall meet his or her death on active duty in time of war or of other emergency as so defined in any such service shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this paragraph provided for honorably discharged veterans and to such further deduction as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has had or shall hereafter have active service in time of war or of other emergency as so defined in any branch of the Armed Forces of the United States and who died or shall die while on active duty in any branch of the Armed Forces of the United States, or who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time of war or of other emergency as so defined in any branch of the Armed Forces of the United States shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this paragraph provided for honorably discharged veterans and to such further deductions as from time to time may be provided by law.

Adopted November 8, 1983.

Effective December 8, 1983.

Article VIII, Section II, Paragraph 3

Amend Article VIII, Section II, paragraph 3, of the Constitution to read as follows:

3. The Legislature shall not, in any manner, create in any fiscal year a debt or debts, liability or liabilities of the State, which together with any previous debts or liabilities shall exceed at any time one per centum of the total amount appropriated by the general appropriation law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein. Regardless of any limitation relating to taxation in this Constitution, such law shall provide the ways and means, exclusive of loans, to pay the interest on such debt or liability as it falls due, and also to pay and discharge the principal

thereof within thirty-five years from the time it is contracted, and the law shall not be repealed until such debt or liability and the interest thereon are fully paid and discharged.

Except as hereinafter provided, no such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon. No voter approval shall be required for any such law authorizing the creation of a debt or debts in a specified amount or an amount to be determined in accordance with such law for the refinancing of all or a portion of any outstanding debts or liabilities of the State heretofore or hereafter created, so long as such law shall require that the refinancing provide a debt service savings determined in a manner to be provided in such law and that the proceeds of such debt or debts and any investment income therefrom shall be applied to the payment of the principal of, any redemption premium on, and interest due and to become due on such debts or liabilities being refinanced on or prior to the redemption date or maturity date thereof, together with the costs associated with such refinancing. All money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This paragraph shall not be construed to refer to any money that has been or may be deposited with this State by the government of the United States. Nor shall anything in this paragraph contained apply to the creation of any debts or liabilities for purposes of war, or to repel invasion, or to suppress insurrection or to meet an emergency caused by disaster or act of God.

Adopted November 8, 1983.

Effective December 8, 1983.

EXECUTIVE ORDERS

Executive Orders

EXECUTIVE ORDER No. 28

WHEREAS, The State currently provides employee staff development through the various departments and agencies, outside vendors, and the Department of Civil Service; and

WHEREAS, A uniform and comprehensive employee development program does not now exist for the State's approximately 15,000 supervisors and 3,000 managers; and

WHEREAS, Of the several million dollars currently being expended for employee development, less than 7 percent is now being expended for the improvement of supervision and management; and

WHEREAS, Existing employee development programs have resources which are unevenly distributed among State departments, lack uniform content and quality, and could be more effective and delivered more economically, in some cases, if done centrally; and

WHEREAS, Present resources for employee development are scarce and will become even more scarce within the foreseeable future;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Department of Civil Service shall develop and implement a comprehensive training and development program for supervisors and managers, which will lead to a certification in public management.

2. The training and development program for supervisors and managers will be structured to impart the skills necessary to manage the State's programs in a climate of resource scarcity and to carry out the initiatives of the Governor's Management Improvement Program.

3. The training and development program for supervisors and managers will be known as the Certified Public Manager Program (CPM) and will consist of progressive levels of instruction and will be administered by the Department of Civil Service.

4. The instructional portions of the program will be jointly conducted by the Division of Personnel Services and Employee Development in the Department of Civil Service and Rutgers, The State University.

5. The program content for supervisors will include, but not be limited to: management duties and responsibilities, controls, policies and procedures, human and interpersonal relations, communications, equal employment opportunities and affirmative action responsibilities, work simplification and evaluation, and employee relations.

6. The program content for managers will include, but not be limited to: the effects of social change on public organizations, forecasting and strategic planning, managing organizational liability, production enhancement, management by objectives, and ethics for the public manager.

7. Within time frames established by the President of the Civil Service Commission, supervisors and managers will satisfy the course requirements of the program for their respective levels.

8. The Certified Public Manager Program will be provided overall policy direction by a board selected by the President of the Civil Service Commission and shall include members drawn from State government, the academic community, and private industry.

9. Program participation by each department will be determined by criteria established by the President of the Civil Service Commission.

10. Each department's share of the program cost will be provided by an annual transfer of existing departmental appropriations to a special account in the Department of Civil Service. For that part of the program which is limited to managers only, the departmental share will be 75 percent and the individual manager's share will be 25 percent.

11. This Order shall take effect immediately.

Issued January 13, 1983.

EXECUTIVE ORDER No. 29

WHEREAS, The State Legislature has recently taken action to pass legislation providing for additional revenues in the current fiscal year, and I, as Governor, have signed that legislation into law; and

WHEREAS, I have been advised by the State Treasurer that revenues now anticipated for the remainder of this fiscal year will, therefore, no longer be as inadequate as projected at the time I signed Executive Order No. 23;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. That Executive Order No. 23, dated December 7, 1982, is hereby rescinded.

2. That the State Treasurer and the Director of the Division of Budget and Accounting shall take appropriate action to ensure that the spending reductions provided in Executive Order No. 23 are not enacted, and that action taken pursuant thereto be rescinded and reductions made thereto be restored.

3. That this Order shall take effect immediately.

Issued January 17, 1983.

EXECUTIVE ORDER No. 30

WHEREAS, I have been advised by the State Treasurer that both revenues on hand and revenues anticipated for the remainder of this fiscal year may be inadequate in amount to allow for expenditures authorized by the Fiscal Year 1983 Annual Appropriations Act, P. L. 1982, c. 49; and

WHEREAS, P. L. 1982, c. 227 (Assembly Bill No. 2315) states and requires that the Governor shall certify to the Legislature by January 15, 1983, that a reduction in authorized expenditures in the amount of $30,000,000.00 has been made for the fiscal year ending June 30, 1983, except that this reduction shall not come from any State Aid account; and

WHEREAS, It is my constitutional and statutory duty and responsibility as Chief Executive of this State, pursuant to Article VIII, Section II, paragraph 2, of the State Constitution, and section 26 of P. L. 1944, c. 112 (C. 52:27B–26), to make necessary spending cuts and establish necessary reserve accounts to ensure that expenditures shall not exceed the amount of revenues on hand and to be anticipated during the remainder of this fiscal year and to ensure that the State has a balanced budget at the end of this fiscal year;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. That the State Treasurer and the Director of the Division of Budget and Accounting shall make expenditure reductions from fiscal year 1983 State spending, in an amount not to exceed $30,000,000.00, to be taken from expenditure items other than State Aid accounts.

2. That no reduction shall be made in any appropriation contained in the Fiscal Year 1983 Annual Appropriations Act for the payment of debt service on obligations of the State or other jurisdictions, and that no spending reduction shall be made in any employee benefit accounts, including pension benefits and social security.

3. That the State Treasurer and the Director of the Division of Budget and Accounting shall take appropriate action to ensure that $50 million of the May 1983 Revenue Sharing and Business Personal Property Tax Replacement programs be deferred and held in escrow until such time as I am assured and do certify that sufficient revenues are and will be available to assure that the constitutional requirement for a balanced budget for fiscal year 1983 can and will be realized; this reserve shall be in addition to the immediate cuts authorized in paragraph 1.

4. I do hereby certify to the Senate and General Assembly of the State of New Jersey that by this action a reduction in authorized expenditures in the amount of $30,000,000.00 has and will be effectuated in conformance with the requirement of section 10 of P. L. 1982, c. 227 (Assembly Bill No. 2315), and I direct that a copy of this Executive Order be filed with the Clerk of the

General Assembly and Secretary of the Senate in conformance therewith.

5. That this Order shall take effect immediately.
Issued January 17, 1983.

EXECUTIVE ORDER No. 31

WHEREAS, R. S. 48:12–109 mandates that certain State employees shall travel free of charge over all railroads operating in New Jersey; and

WHEREAS, That statute was enacted in 1903, apparently in response to the provision of right-of-way by the State to various railroad companies; and

WHEREAS, The historical validity for this practice has long since ceased, and the statute itself is no longer necessary, and should be repealed; and

WHEREAS, The number of rail passes issued under the authority of this statute has, in the past, exceeded the number of persons authorized to receive such passes; and

WHEREAS, Persons not authorized to hold rail passes have previously received such passes; and

WHEREAS, It is further necessary in a time of fiscal constraints to maximize the revenues that may be earned by New Jersey Transit, the State agency that, since January 1, 1983, has operated the commuter railroads in New Jersey;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. The terms of R. S. 48:12–109 et seq. will be strictly construed. No rail pass may be issued to any person not specifically entitled to such a pass under the mandate of the statute.

2. No pass shall be issued to those State officers or employees enumerated in the statute, unless the officer or employee utilizes such a pass on a regular basis for purposes related to State busi-

ness, other than daily transport to and from the residence of the officer or employee.

3. The Secretary of State shall have the responsibility for issuing rail passes within the constraints set forth by this Order.

4. This Order shall take effect immediately.

Issued January 19, 1983.

EXECUTIVE ORDER No. 32

WHEREAS, According to the most recent weather reports, in hand as of 12:30 a.m. today, February 12, 1983, severe weather conditions, including snow and high winds, have made State roadways hazardous to travel throughout the entire State; and

WHEREAS, Wind-caused snow drifts throughout the State make it difficult or impossible for citizens to obtain the necessities of life, as well as essential services such as fire, police and first aid; and

WHEREAS, The storm poses a serious threat and constitutes a disaster from a natural cause which threatens and presently does endanger the health, safety or resources of the residents of one or more municipalities or counties of this State, and which is in some parts of the State and may become in other parts of the State too large in scope to be handled in its entirety by normal municipal operating services; and

WHEREAS, Also according to the most recent weather reports, travel conditions across the entire State are expected to worsen throughout the entire day and early evening; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of the Laws of 1942, chapter 251 (C. App. A:9–30 et seq.) and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey, do DECLARE and PROCLAIM that a limited state of emergency exists in the State of New Jersey;

FURTHERMORE, in accordance with the Laws of 1942, chapter 251, as supplemented and amended, I do hereby promulgate and declare the following regulations, which shall be in addition to all other laws of the State of New Jersey, to be in effect across the entire State until such time as it is declared by me that an emergency no longer exists:

1. Nonessential vehicles are restricted and discouraged from using the State's highways.

2. The New Jersey State Police shall have the authority to remove all abandoned or parked vehicles from State highways, and to take all other actions necessary to secure the health, welfare and safety of the people of the State of New Jersey during this limited state of emergency.

3. The New Jersey National Guard is activated to the extent necessary and shall work in cooperation with and shall perform such support missions as the superintendent shall or will require to help ensure the preservation of the health, safety and welfare of the people of the State of New Jersey during this limited state of emergency.

4. Citizens are encouraged to stay tuned to public broadcast stations for further announcements relating to the storm emergency, should they be necessary.

Issued February 12, 1983.

EXECUTIVE ORDER No. 33

WHEREAS, Executive Order No. 32, declaring a limited state of emergency in the State of New Jersey, was issued at 12:30 a.m. on February 12, 1983, because of severe weather conditions; and

WHEREAS, The severity of the weather conditions necessitating the declaration of a state of emergency has eased;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, announce that the state of emergency is hereby terminated effective 5:30 p.m., February 12, 1983, and I do hereby ORDER and DIRECT that Executive Order No. 32 and any regulations promulgated and adopted thereunder shall be null and void.

It is urged, however, that motorists continue to use discretion and caution in traveling, as the main roads, while clear, may be slippery.

It is further announced that all State offices will be open for business during regular hours Monday, February 14, 1983.

I wish to express my gratitude to the people of New Jersey for the manner in which they cooperated during this limited state of emergency, and to law enforcement and emergency response personnel for their untiring efforts.

Issued February 12, 1983.

EXECUTIVE ORDER No. 34

WHEREAS, The New Jersey Agent Orange Commission is mandated to study the effects of Agent Orange on Vietnam-era veterans and to provide for the coordination of legal, medical, administrative, and social assistance to these veterans; and

WHEREAS, Pursuant to its legislative mandate, the New Jersey Agent Orange Commission is in the process of preparing a questionnaire seeking certain information from the New Jersey veterans; and

WHEREAS, The questionnaire must include inquiries of a sensitive and highly personal character, such as whether the veteran has used controlled dangerous substances during or after military service, has engaged in deviant social behavior, or has sustained sexual or gestational dysfunction; and

WHEREAS, The results of the survey would be meaningless if this information were withheld; and

WHEREAS, It is likely that truthful and significant responses to the questionnaire can only be obtained if those veterans responding to the questionnaire are assured that their responses will remain confidential and not subject to public examination under the Public Records Act; and

WHEREAS, Section 2 of P. L. 1963, c. 73 (C. 47:1A–2) allows the Governor to exempt certain materials by Executive Order;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. All individual or personal responses furnished as part of the Agent Orange Commission's data-gathering survey questionnaire and any confidential questionnaires developed as part of the Dioxin Pilot Study, Cancer Incidence in Vietnam Veterans Study and Death Records Study to be undertaken by the commission shall be exempt from public disclosure under the Public Records Act, as provided for by C. 47:1A–2.

2. This Order shall take effect immediately.

Issued February 16, 1983.

EXECUTIVE ORDER No. 35

WHEREAS, New Jersey's future rests upon the well-being of its children; and

WHEREAS, New Jersey's children should be afforded the opportunity to develop to their fullest potential and, in order to further this development, problems confronting children and their individual needs should be effectively addressed by State and local governments; and

WHEREAS, The Governor's Commission on Children's Services report, "Linking Policy with Need," identified deficits and a lack of coordination in the planning, provision and evaluation of services for children in New Jersey and made recommendations for State action to correct these problems;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created in the Governor's office a Governor's Committee on Children's Services Planning, which will serve until January 1, 1984;

a. The committee shall consist of no more than 15 public members appointed by the Governor. The members shall be appointed

from among persons who have distinguished records in programming for children in the areas of social services, juvenile justice, developmental disabilities, mental health, education, medicine, employment, substance abuse and nutrition.

b. The Commissioners of the Departments of Human Services, Education, Corrections, Health, Labor, the Public Advocate, and Community Affairs, or their designees, and the Administrative Director of the Courts, or his designee, shall also serve on the committee.

c. Committee vacancies shall be filled by appointments by the Governor for the remainder of the unexpired terms.

d. The Governor shall designate the chairperson of the committee from among the members of the committee, who shall serve at the pleasure of the Governor. The committee members shall choose a vice chairperson from among the members of the committee.

e. The committee may further organize itself in any manner it deems appropriate and enact bylaws as deemed necessary to carry forth the responsibilities of the committee.

2. The committee shall meet formally at least monthly during the life of the committee.

3. The Governor's Committee on Children's Services Planning shall, with the assistance of local child service, health and educational agencies, the courts, business and labor unions, religious organizations, child advocacy groups, and State, county or municipal departments:

a. Review the findings and recommendations of the Commission on Children's Services and make recommendations to the Governor on priority items which could be addressed by gubernatorial action;

b. Develop specific plans for the implementation of the recommendations made to the Governor;

c. Recommend to the Governor, in coordination with the Supreme Court Family Court Committee, State Youth Services Commission and the Human Services Advisory Council, specific action required by State government to maximize effective implementation of family court legislation, with particular regard to the delivery of those comprehensive services to youth and their families to be provided within the family court process;

d. Provide other information on children's services as the Governor may request.

4. The committee shall, in performing this duty, recognize existing mechanisms for planning and coordination of services to children at the State, county and local levels, including but not limited to the Youth Services Commission, the Supreme Court Family Court Committee and the Human Services Advisory Council and shall consult with them as to their roles in implementing the recommendations made by the Commission on Children's Services.

5. The Department of Human Services is authorized and directed, to the extent not inconsistent with the law, to cooperate with the committee and to furnish it with such staff, office space and supplies as necessary to accomplish the purposes of this Order.

6. This Order shall take effect immediately.

Issued March 14, 1983.

EXECUTIVE ORDER No. 36

WHEREAS, The Executive Branch of State government supports the need for continued improvements in New Jersey's health care resources and recognizes the need to bring the cost of these improvements into balance with what the citizens of New Jersey can afford; and

WHEREAS, The amount of hospital debt financing has soared annually in New Jersey, as it has throughout the country; and

WHEREAS, There has been substantial growth in the number and size of bond issues through the New Jersey Health Care Facilities Financing Authority; and

WHEREAS, The impact of this heavy debt burden is reflected through increases in health care costs that are paid by citizens of New Jersey; and

WHEREAS, A review of long-range hospital plans filed with the Department of Health reveals a substantial number of hospitals in New Jersey anticipate major construction programs during the next five years; and

WHEREAS, It is imperative that New Jersey develop a policy that will promote effective yet affordable health care facilities in our State;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a committee to be known as the Governor's Advisory Committee on Capital Expenditures for Health Care Facilities (hereinafter referred to as the "Advisory Committee").

2. The Advisory Committee shall consist of the Commissioner of Health and no more than 10 public members to be appointed by the Governor and shall include representatives from the following:

a. Major employers;

b. Health care insurance carriers;

c. Investment banking;

d. Health care providers.

3. The Advisory Committee shall select their chairman from among their membership. The members of the Advisory Committee shall serve without compensation.

4. The State Treasurer, the Public Advocate and the Commissioner of Human Services, or their designees, shall serve on the Advisory Committee in an ex officio manner.

5. The Advisory Committee shall be charged with the following responsibilities:

a. To develop guidelines for the controlled growth of capital expenditures for health care facilities construction;

b. To identify those indices which can be used to select the affordable range of capital expenditures that the national and State economies will permit for health care facilities in New Jersey;

c. To recommend and advise the Governor as to how these specifying their findings and recommendations.

6. The Advisory Committee shall meet formally on the average of at least once a month during the life of the committee at the call of the chairperson. The Advisory Committee shall render a report to the Governor during the second week of January 1984, specifying their findings and recommendations.

7. The Department of Health is authorized and directed, to the extent not inconsistent with law, to cooperate with the Advisory

Committee and to furnish it with such staff, office space and supplies as necessary to accomplish the purposes of this Order. The Advisory Committee is further authorized to call upon any other department, office, division or agency of the State to supply such data, program reports and any other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with law, to cooperate with the Advisory Committee to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

8. This Order shall take effect immediately and shall expire upon the submission of the report by the Advisory Committee to the Governor during the second week of January 1984.

Issued March 14, 1983.

EXECUTIVE ORDER No. 37

WHEREAS, It is the policy of the State of New Jersey to provide specialized services for its disabled citizens in a coordinated and efficient manner; and

WHEREAS, Several State agencies, local agencies, and private organizations are involved in either the distribution of funds or in the provision of special programs for the disabled; and

WHEREAS, A comprehensive review and identification of the programs and agencies involved in providing services would aid in eliminating inefficient services and improving services for the disabled; and

WHEREAS, All New Jerseyans should be afforded the opportunity to develop to their fullest potential, and, in order to further this development, a planned regular program of career-training and education will assist the disabled in attaining and maintaining optimal personal and occupational achievement; and

WHEREAS, Government is and should be concerned with improving the health and well-being of the citizens it serves;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the

Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created in the Governor's office a Governor's Committee on the Disabled:

a. The committee shall consist of no more than 20 public members appointed by the Governor to serve for a term of four years, except that of the members initially appointed, one-third shall be appointed for a term of two years, one-third for a term of three years and one-third for a term of four years. The members shall be appointed from among persons who have distinguished records working with the disabled in the areas of labor, education, public health, business, housing, recreation and the arts.

b. The Commissioners of the Departments of Health, Labor, Commerce, Education, Human Services, Civil Service, Transportation and the Public Advocate, or their designees, shall serve on the committee in an ex officio manner.

c. Committee vacancies shall be filled by appointment by the Governor for the remainder of the unexpired terms.

d. The Governor shall designate the chairperson of the committee from among the members of the committee, who shall serve at the pleasure of the Governor. The committee members shall choose a vice chairperson from among the members of the committee.

e. The committee may further organize itself in any manner it deems appropriate and enact bylaws as deemed necessary to carry forth the responsibilities of the committee.

2. The committee shall meet formally at least four times a year at the call of the chairperson. The committee shall report annually to the Governor as to the activities of the committee.

3. The Governor's Committee on the Disabled shall, with the assistance of local health and educational agencies, business, labor unions, health action and advocacy groups, religious, fraternal, and social organizations, and community-based, multi-service recreational agencies:

a. Promote the condition of the disabled at the local level by coordinating county councils on the disabled, and endorsing or co-sponsoring special events;

b. Conduct educational and career-related workshops, clinics, conferences, and other special interest activities, and public information programs;

c. Distribute information on the condition, rights and problems of the disabled, and committee activities through quarterly newsletters, media, speaking appearances, and special activities;

d. Support special projects, demonstration programs, and stimulate interest in the areas of rights of the disabled, and hiring and training of the disabled;

e. Assist business, industry and labor to organize training, hiring and awareness programs regarding the disabled.

4. The committee will identify all State agencies, local agencies, and private organizations involved in the distribution of funds, including the identification of the source of these funds, or in the provision of special programs for the disabled in order to establish a coordinated program which consolidates funding and services in a cost-effective manner.

5. The committee shall review relevant legislation and administrative regulations concerning services for the disabled. The committee shall advise the Governor on possible legislative or administrative revisions which would provide more effective and efficient services for the disabled.

6. a. The committee is authorized to call upon any department, office, division or agency of the State to supply such data, program reports, and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this Order.

b. All departments and agencies are authorized and directed, to the extent not inconsistent with law, to cooperate with the committee and to furnish it with such information, personnel, and assistance necessary to accomplish the purposes of this Order.

7. The committee shall plan and administer fund-raising programs and may solicit and accept donations to support educational and career-training projects, research projects, and public information efforts to promote the condition of the disabled. Money raised by the committee shall be deposited in a special account established by the Department of Labor.

8. The Department of Labor is authorized and directed, to the extent not inconsistent with the law, to cooperate with the committee and to furnish it with such office space, supplies, and staff as necessary to accomplish the purposes of this Order.

9. This Order shall take effect immediately.

Issued March 25, 1983.

EXECUTIVE ORDER No. 38

WHEREAS, The Office of Administrative Law was established in 1979 and charged with responsibility for overseeing specified functions within the Executive Branch; and

WHEREAS, The Office of Administrative Law was created with the intention that it should promote due process, expedite the just conclusion of contested cases, and generally improve the quality of administrative justice; and

WHEREAS, The size of the caseload within the jurisdiction of the Office of Administrative Law has increased dramatically since its inception; and

WHEREAS, The Office of Administrative Law adjudicates diverse issues, many of which have important consequences to members of the general public, such as utility rates, professional licensing, drivers' licenses and welfare benefits; and

WHEREAS, Legislation pertaining to the Office of Administrative Law is occasionally presented to me; and

WHEREAS, An evaluation of the performance of the Office of Administrative Law with regard to how it meets its legislative mandates has not taken place since the office was created;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. There is hereby created a committee to be known as the Governor's Committee on the Office of Administrative Law (hereinafter referred to as the "Administrative Law Committee").

2. The Administrative Law Committee shall consist of 13 members, which shall include: the Secretary of State; the Commissioners of Civil Service, Education, Human Services; the Director of the Division of Motor Vehicles; a representative of the Governor's office; one representative or Administrative Law Judge of the Office of Administrative Law; and six other members to be selected by the Governor. The chairman and vice chairman shall be selected by the Governor from among the committee member-

ship. The members of the Administrative Law Committee shall serve without compensation.

3. The Administrative Law Committee shall study the following issues and make periodic reports to me on its findings and recommendations:

a. Any and all ways of improving the amount of time necessary to dispose of an administrative law case, including, but not limited to, an analysis of whether separate and distinct procedures can be instituted to accommodate different types of cases;

b. Suggested means for dealing with the existing backlog of cases;

c. The necessity or desirability of instituting a requirement that administrative law judges be attorneys licensed to practice law in the State of New Jersey;

d. The appropriate atmosphere which should be fostered during administrative law hearings (i.e., the degree to which formalized courtroom procedures, such as the wearing of robes, should be encouraged or discouraged);

e. The appropriate role of the Office of Administrative Law within the Executive Branch.

4. The Administrative Law Committee is authorzied to call upon any department, office, division or agency of the State to supply such data, program reports and any other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with law, to cooperate with the Administrative Law Committee to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

5. This Order shall take effect immediately and shall expire one year after its effective date.

Issued April 7, 1983.

EXECUTIVE ORDER No. 39

WHEREAS, The Executive Branch of State government recognizes that the State of New Jersey has increasing numbers of citizens who are homeless; and

WHEREAS, People are homeless as a result of current economic conditions, a severe shortage of affordable housing, increased stress due to the complexity of daily living; and

WHEREAS, Special problems are experienced by some homeless individuals with impaired physical and mental functioning or dependency on drugs and alcohol; and

WHEREAS, The problems of the homeless are caused by a host of complex factors that need to be addressed through a concerted, coordinated effort by the government and the private sector;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a committee to be known as the Governor's Task Force on the Homeless (hereafter referred to as "task force").

2. The task force shall consist of the Commissioners of the Departments of Human Services, Community Affairs, Health, Labor and the Public Advocate, in addition to 14 public members to be selected by the Governor. The public members shall be selected from among representatives of nonprofit organizations concerned with the homeless.

3. The Commissioner of Human Services shall act as chairman of the task force, with the co-chairman being designated by the Governor from among the public membership. The members shall serve without compensation.

4. The task force shall be charged with the following responsibilities relating to the prevention, study and control of the plight of the homeless:

a. Recommend and advise the Governor on policy relating to the homeless;

b. Review proposed legislation that would impact upon homeless families and adults in the State of New Jersey;

c. Advise the Governor as to what measures need to be taken to coordinate State efforts concerning the homeless;

d. Advise the Executive Branch concerning its relationship with voluntary agencies and private-sector entities involved in homeless-related activities;

e. Develop and distribute information concerning the treatment of specific patterns of homelessness;

f. Recommend to the Governor legislation that will enhance the State's ability to respond to the needs of the homeless.

5. The task force shall meet monthly during the life of the committee at the call of the chairperson. The committee shall render a report to the Governor during the first week of October 1983, specifying their findings and recommendations.

6. The Department of Human Services is authorized and directed, to the extent not inconsistent with law, to cooperate with the task force and to furnish it with such staff, office space and supplies as necessary to accomplish the purposes of this Order. The task force is further authorized to call upon any other department, office, division or agency of the State to supply such data, program reports and any other information as it deems necessary to discharge its responsibilities under this Order. Each department, office, division or agency of the State is authorized, to the extent not inconsistent with law, to cooperate with the task force to furnish it with such information as necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately and shall expire upon the submission of the report by the commitee to the Governor during the first week of October 1983.

Issued April 21, 1983.

EXECUTIVE ORDER No. 40

WHEREAS, The New Jersey Department of Environmental Protection has recently undertaken the investigation, sampling and analysis of soil samples at certain property located at 80 Lister Avenue, in the City of Newark, County of Essex,

and more particularly known as Block 2438, Lots 60-84(1), 60-84(2) and 74-84(3); and

WHEREAS, On the basis of this investigation the Department of Environmental Protection has reached the preliminary conclusion that the above-described property may be contaminated with potentially high levels of the substance dioxin (2, 3, 7, 8 TCDD), a substance known to be highly toxic to humans, and, accordingly, has reached the preliminary conclusion that a potential hazard exists to the public health because of the possibility of transportation of contaminated substances off the above-described premises into immediately surrounding areas; and

WHEREAS, The Department of Environmental Protection, with the cooperation of the United States Environmental Protection Agency, is conducting further investigations, samplings, and analyses in order to determine definitive information as to the nature and extent of any danger which may be posed by the possible dioxin contamination at the above-described premises and in the immediate vicinity thereof in order to determine what actions, if any, will be required to safeguard the public health and welfare; and

WHEREAS, The potential threat indicated by the results of the preliminary investigation described above is of such magnitude that the coordinated efforts of local, regional and State agencies must be taken immediately to insure the protection of the public health and welfare from this potential hazard; and

WHEREAS, The scope of the efforts necessary to so protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a state of emergency and ORDER and DIRECT as follows:

1. I invoke such emergency powers as are conferred upon me by the Laws of 1942, chapter 251 (C. App. A:9–30 et seq.), and all amendments and supplements thereto.

2. The Commissioner of the Department of Environmental Protection is hereby authorized and directed to take such emergency measures as he may determine to be necessary in order to fully and adequately protect the health, safety and welfare of the

citizens of this State from any actual or potential threat or danger which may exist as a result of the possible contamination of the premises located at 80 Lister Avenue, in the City of Newark, as described above. The commissioner is further authorized to adopt, pursuant to C. App. A:9–45, such orders, rules and regulations as may be appropriate in order to carry out the purposes and directives contained herein. The commissioner shall supervise and coordinate all activities of all State, regional and local political bodies and agencies in order to insure the most effective and expeditious implementation of this Order, and, to this end, may call upon all such agencies and political subdivisions for any assistance necessary. All State agencies, political subdivisions, and local and regional agencies are directed to comply with and implement the orders, rules and regulations issued by the commissioner pursuant hereto and to provide all assistance and cooperation requested.

3. The powers granted to the Commissioner of Environmental Protection hereby shall include, but not be limited to, the power to use, seize, impound, quarantine, restrict access to, or require the vacating of, or the making of modifications or improvements, temporary or permanent, to any real or personal property which in his judgment is reasonably required to abate the emergency caused by the possible presence of dioxin and the consequent threat to public health and welfare, as described above.

4. It shall be the duty of every person in this State or doing business in this State and of the members of the governing body, and of each and every official, agency or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever to cooperate fully in all matters concerning this emergency. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance or resolution which might or will in any way conflict wth any of the provisions of this Order or any of the orders, rules or regulations adopted pursuant to this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

5. There is hereby established an Emergency Advisory Board comprising the Commissioner of the Department of Environmental Protection as chair, the Commissioner of the Department of Health, the Attorney General of the State of New Jersey, or their designated representatives, which shall advise and consult with the

Commissioner of Environmental Protection, who shall consult with said Emergency Board prior to taking any action pursuant hereto, unless, in the opinion of the Commissioner of Environmental Protection, the exigencies of time do not permit such consultation.

6. Any person who shall violate any of the provisions of this Order or any rules, regulations or orders issued pursuant hereto, or who shall impede or interfere with the implementation of this Order, or any rules, regulations or orders issued pursuant hereto, shall be subject to the penalties provided by C. App. A:9–49.

7. This Order shall take effect immediately. It shall remain in effect until terminated or amended by action of the Governor.

Issued June 2, 1983.

EXECUTIVE ORDER No. 40A

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency for the possible dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark; and

WHEREAS, The New Jersey Department of Environmental Protection has recently undertaken the investigation, sampling and analysis of soil samples at certain property located at 30 Whitman Avenue, in the Township of Edison, County of Middlesex, and more particularly known as Block 199A, Lot 31-B1; and

WHEREAS, The Department of Environmental Protection, with the cooperation of the United States Environmental Protection Agency, is conducting further investigations, samplings, and analyses in order to determine definitive information as to the nature and extent of any danger which may be posed by the possible dioxin contamination at the above-described premises and in the immediate vicinity thereof in order to determine what actions, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

WHEREAS, The scope of the efforts necessary to so protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby amend Executive Order No. 40 as follows:

1. Continue in full force and effect Executive Order No. 40, and all terms and provisions thereof.

2. Executive Order No. 40 is amended to include the premises located at 30 Whitman Avenue, in the Township of Edison, as described above.

3. This Order shall take effect immediately. It shall remain in effect until terminated or amended by action of the Governor.

Issued June 14, 1983.

EXECUTIVE ORDER No. 40B

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency for the possible dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark; and

WHEREAS, That emergency was extended by Executive Order No. 40A, signed on June 14, 1983, to cover the possible dioxin contamination of another site, located at 30 Whitman Avenue, in the Township of Edison; and

WHEREAS, The preliminary investigation, sampling and analysis of soil samples at certain property located at 125 Delawanna Avenue, in the City of Clifton, County of Passaic, and more particularly known as the Givaudan Corporation facility, has indicated detectable levels of dioxin present at certain areas on that property; and

WHEREAS, Further investigations, samplings, and analyses are necessary in order to determine definitive information as to the nature and extent of any danger which may be posed by the possible dioxin contamination at the above-described premises and in the immediate vicinity thereof in order to determine what actions, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

WHEREAS, The scope of the efforts necessary to so protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby amend Executive Order No. 40 as follows:

1. Continue in full force and effect Executive Order No. 40, and all terms and provisions thereof.

2. Executive Order No. 40 is amended to include the premises located at 125 Delawanna Avenue, in the City of Clifton, as described above.

3. This Order shall take effect immediately. It shall remain in effect until terminated or amended by action of the Governor.

Issued June 17, 1983.

EXECUTIVE ORDER No. 40C

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency for the possible dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark; and

WHEREAS, That emergency was extended by Executive Order No. 40A, signed on June 14, 1983, to cover the possible dioxin contamination of another site, located at 30 Whitman Avenue, in the Township of Edison; and

WHEREAS, That emergency was further extended by Executive Order No. 40B, signed on June 17, 1983, to cover the possible dioxin contamination of another site, located at 125 Delawanna Avenue, in the City of Clifton, County of Passaic; and

WHEREAS, The preliminary investigation, sampling, and analysis of soil samples at certain property located in Building No. 8 at 100 West Main Street, in the Borough of Bound Brook, County of Somerset, and more particularly known as the former Blue Spruce International, Inc., facility, has indicated detectable levels of dioxin present at certain areas on that property; and

WHEREAS, Further investigations, samplings, and analyses are necessary in order to determine definitive information as to the nature and extent of any danger which may be posed by the possible dioxin contamination at the above-described premises and in the immediate vicinity thereof in order to determine what actions, if any, will be required to safeguard the public health and welfare; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

WHEREAS, The scope of the efforts necessary to so protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby amend Executive Order No. 40 as follows:

1. Continue in full force and effect Executive Order No. 40, and all terms and provisions thereof.

2. Executive Order No. 40 is amended to include the former Blue Spruce International premises located in Building No. 8 at 100 West Main Street, in the Borough of Bound Brook, as described above.

3. This Order shall take effect immediately. It shall remain in effect until terminated or amended by action of the Governor.

Issued June 29, 1983.

EXECUTIVE ORDER No. 40D

WHEREAS, Executive Order No. 40 was signed on June 2, 1983, to declare an emergency relating to the dioxin contamination of a site located at 80 Lister Avenue, in the City of Newark; and

WHEREAS, That emergency was extended by Executive Order No. 40A, signed on June 14, 1983, to cover the dioxin contamination of another site, located at 30 Whitman Avenue, in the Township of Edison; and

WHEREAS, That emergency was further extended by Executive Order No. 40B, signed on June 17, 1983, to cover the dioxin contamination of another site, located at 125 Delawanna Avenue, in the City of Clifton, County of Passaic; and

WHEREAS, That emergency was further extended by Executive Order No. 40C, signed on June 29, 1983, to cover the dioxin contamination of another site, located at 100 West Main Street, in the Borough of Bound Brook, County of Somerset; and

WHEREAS, Further investigation and the analyses of samples taken in the vicinity of 80 Lister Avenue, in Newark, particularly at Brady Iron and Metals, Inc., located at 55 Lockwood Street (Block 2406, Lot 5), in the City of Newark, have indicated detectable levels of dioxin; and

WHEREAS, The combination of dioxin and other chemicals may have a synergistic effect, resulting in a potential hazard to public health and the environment; and

WHEREAS, This situation warrants an extension of the declaration of emergency as set forth in Executive Order No. 40; and

WHEREAS, The scope of the efforts necessary to protect the public health and welfare is beyond the capacity of regular municipal operating services, or any State agency acting singly;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby amend Executive Order No. 40 as follows:

1. Continue in full force and effect Executive Order No. 40, and all terms and provisions thereof.

2. Executive Order No. 40 is amended to include all areas in the general vicinity of 80 Lister Avenue, in the City of Newark, where sample analyses indicate detectable levels of dioxin, including, but not limited to, the premises of Brady Iron and Metals, Inc., at 55 Lockwood Street, in the City of Newark, as described above.

3. This Order shall take effect immediately. It shall remain in effect until terminated or amended by action of the Governor.

Issued October 19, 1983.

EXECUTIVE ORDER No. 41

WHEREAS, Executive Order No. 37 created a Governor's Committee on the Disabled; and

WHEREAS, The purpose of the Governor's Committee on the Disabled is to coordinate the efforts of the various State agencies, local agencies, and private organizations providing special programs for the disabled; and

WHEREAS, The ex officio membership of the Governor's committee was selected from cabinet members whose agencies are involved in working with the handicapped in the areas of labor, education, public health, business, housing, recreation and the arts; and

WHEREAS, The Department of Community Affairs is involved in providing recreational programs for the handicapped;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Section 1 of Executive Order No. 37 is hereby amended to read as follows:

1. There is hereby created in the Governor's office a Governor's Committee on the Disabled:

a. The committee shall consist of no more than 21 public members appointed by the Governor to serve for a term of four years, except that of the members initially appointed, one-third shall be appointed for a term of two years, one-third for a term of three years and one-third for a term of four years. The members shall be appointed from among persons who have distinguished records working with the disabled in the areas of labor, education, public health, business, housing, recreation and the arts.

b. The Commissioners of the Departments of Health, Labor, Commerce, Education, Human Services, Civil Service, Transportation, Community Affairs and the Public Advocate, or their designees, shall serve on the committee in an ex officio manner.

c. Committee vacancies shall be filled by appointment by the Governor for the remainder of the unexpired terms.

d. The Governor shall designate the chairperson of the committee from among the members of the committee, who shall serve

at the pleasure of the Governor. The committee members shall choose a vice chairperson from among the members of the committee.

e. The committee may further organize itself in any manner it deems appropriate and enact bylaws as deemed necessary to carry forth the responsibilities of the committee.

2. Sections 2 through 9 of Executive Order No. 37 are to remain in effect as originally issued.

3. This Order shall take effect immediately.

Issued June 21, 1983.

EXECUTIVE ORDER No. 42

WHEREAS, The special education regulations of the Department of Education, N. J. A. C. 6:28–1.1 et seq., are due to expire on August 1, 1983, pursuant to the sunset provision of Executive Order No. 66 of 1978; and

WHEREAS, The Department of Education was scheduled to readopt, with slight modification, the current regulations effective August 1, 1983, thus avoiding any gap in the law governing special education; and

WHEREAS, The Public Advocate has requested, pursuant to C. 52:14B–4a.(3), that the Department of Education conduct a public hearing on the regulations pursuant to C. 52:14B–4g., prior to adoption; and

WHEREAS, The Public Advocate's request for a public hearing renders it impossible for the Department of Education to have new special education regulations enacted, to replace the regulations which expire on August 1, 1983, until September 6, 1983, thus creating a gap in the law governing special education of 35 days in duration; and

WHEREAS, Such a gap places the State in the position of being in violation of our own assurances to the United States Department of Education, submitted in support of our proposal to receive federal special education funds pursuant to Pub. L. 94–142, and poses significant problems for the numerous special education suits currently in progress Statewide; and

WHEREAS, The Department of Education has requested a 35-day waiver of the five-year sunset provision of Executive Order No. 66 of 1978 for the special education regulations, thus extending the expiration date of the current special education regulations from August 1, 1983, through, to, and including September 6, 1983;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Good cause has been shown to grant the request for a 35-day waiver of Executive Order No. 66 of 1978 in order to permit the current special education regulations to remain in effect through, to, and including September 6, 1983; and

2. The five-year sunset provision of Executive Order No. 66 of 1978 is hereby waived for the Department of Education's special education regulations, N. J. A. C. 6:28–1.1 et seq., and the expiration for the special education regulations is extended for a period of 35 days, from August 1, 1983, through, to and including September 6, 1983.

Issued June 29, 1983.

EXECUTIVE ORDER No. 43

WHEREAS, The State Prisons and other penal and correctional institutions of the New Jersey Department of Corrections continue to house populations of inmates in excess of their capacities and remain seriously overcrowded; and

WHEREAS, These conditions continue to endanger the safety, welfare and resources of the residents of this State; and

WHEREAS, The scope of this crisis prevents local governments from safeguarding the people, property and resources of the State; and

WHEREAS, Executive Order No. 27 (Kean) of January 10, 1983, expires July 20, 1983; and

WHEREAS, The conditions specified in Executive Order No. 106 (Byrne) of June 19, 1981, continue to present a substantial likelihood of disaster;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a continuing state of emergency and ORDER and DIRECT as follows:

1. Executive Orders No. 106 (Byrne) of June 19, 1981; No. 108 (Byrne) of September 11, 1981; No. 1 (Kean) of January 20, 1982; No. 8 (Kean) of May 20, 1982; and No. 27 (Kean) of January 10, 1983, shall remain in effect until January 20, 1984, notwithstanding any sections in them stating otherwise.

2. This order shall take effect immediately.

Issued July 15, 1983.

EXECUTIVE ORDER No. 44

WHEREAS, On March 14, 1983, I created by Executive Order No. 35 a Governor's Committee on Children's Services Planning, a body composed of commissioners of various State departments and concerned citizens who have distinguished records in the area of children's services, to review the findings of the Commission on Children's Services and make recommendations to improve the quality of services for the children and youth of this State; and

WHEREAS, The coming together of these talented people has presented an excellent opportunity for focusing attention on the problems of children and youth in New Jersey; and

WHEREAS, Better communication and coordination of activities among public and private organizations serving children and youth will be established by this committee;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Governor's Committee on Children's Services Planning shall continue in existence until July 1, 1984.

2. The committee shall periodically submit recommendations to the Governor for the improvement of current programs or the initiation of new programs for the children and youth of this State.

3. The current members of the State committee shall continue to serve in their capacity until July 1, 1984.

4. This Order shall take effect immediately.

Issued August 15, 1983.

EXECUTIVE ORDER No. 45

WHEREAS, It is the public policy of this State that involuntary unemployment is not desirable and that the public welfare can best be served by the accumulation of funds to provide benefits for periods of involuntary unemployment, in order to limit the serious consequences of unemployment; and

WHEREAS, The Unemployment Insurance Trust Fund of New Jersey has been in a deficit state since 1975, having borrowed $735 million for the payment of unemployment benefits, and it is in the public interest that this State be able to provide a strong and adequate system for the provision of benefits to the unemployed; and

WHEREAS, There has been no complete and comprehensive review of the Unemployment Compensation Law since its inception; and

WHEREAS, The current methods of operating the Unemployment Insurance System do not utilize the most efficient methods and technology available, and consideration should be given to changing New Jersey's benefit system to a Wage Reporting System;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Governor's Commission on Unemployment Insurance (hereinafter referred to as the "commission") to consist of five members. The members of the commission shall be two representatives from industry, two representatives from labor, and a chairman selected by the Governor. The members shall

serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties, subject to the availability of funds.

2. The chairman shall preside over the meetings and affairs of the commission and shall create such subcommittees as he deems appropriate to carry out the functions of the commission.

3. The commission shall organize as soon as practicable following the appointment of its members. It shall be the duty of the commission to conduct a thorough study and make recommendations for actions to improve the unemployment insurance system and the disability insurance system of this State. In making its recommendations, the commission shall address the following issues:

The commission is charged with making an in-depth review of shifting from the current Wage Request System to a Wage Reporting System. The commission will evaluate the options in implementing a Wage Reporting System in New Jersey from the perspective of improving services to claimants, reducing paperwork and costs to employers, and maximizing federal funding. The commission shall have the authority to make appropriate legislative recommendations to effectuate this change.

The commission is also charged with exploring the reasons for the weakened condition of the Unemployment Trust Fund through a thorough analysis of all the major factors which comprise the unemployment insurance system, including eligibility criteria, the benefit formula, labor force attachment, disqualifications and penalties, and benefit financing. At the conclusion of its analysis, the commission shall have the authority to develop appropriate legislative recommendations designed to achieve the objective of rebuilding the Unemployment Trust Fund to a position of solvency in which adequate funds will be available for the payment of benefits to our unemployed citizens.

4. The commission shall proceed promptly with its study and shall render to the Governor a report of its findings and recommendations, 90 days from the signing of this Executive Order. The commission shall have available to it the resources of the Department of Labor in making its analysis and may call upon any department, office, division, or agency of the State to supply such data, program reports, and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this

Order. Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the commission and to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

5. This Order shall take effect immediately.

Issued September 8, 1983.

EXECUTIVE ORDER No. 46

WHEREAS, New Jersey small businesses are important to the economic development of the State; and

WHEREAS, The Executive Branch of government of the State of New Jersey recognizes that small businesses frequently require support and assistance in order to increase their opportunities to do business with the State; and

WHEREAS, The Executive Branch recognizes the need to coordinate the procurement activity of all departments and agencies of State government in order to increase the number of small businesses doing business with State government;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established an Inter-Agency Procurement Committee that shall include the deputy or assistant commissioner of each principal department of State government, or a designated representative. The Deputy Commissioner of the Department of Commerce and Economic Development shall chair the committee.

2. The committee shall meet each quarter (or at the call of the chairperson) to review initial and continuing activities on behalf of small businesses.

The committee shall organize itself in a manner it deems necessary to carry forth the following responsibilities:

a. Establish goals for small business procurement within each department;

b. Review and evaluate the existing participation of small businesses in the procurement activities of departments;

c. Identify individual procurement opportunities for small businesses and make the opportunities known to current and potential bidders;

d. Design and implement a monitoring system to verify the results of referrals of bidders from the Office of Small Business Assistance;

e. Propose methods to coordinate and implement State, federal, private and nonprofit procurement procedures for small businesses; and

f. Review and evaluate current and future plans for programs that might provide opportunities to increase small business participation in bidding on and securing contracts.

3. The committee is authorized to call upon any department, office, division or agency of the State to supply such statistical data, program reports and other information as it may deem necessary to discharge its responsibilities under this Executive Order.

4. The deputy commissioner of each principal department of State government shall have the primary and continuing responsibility for the participation and cooperation of his/her respective department in matters concerning small businesses:

a. Each department shall furnish appropriate information, assistance and reports to the chairperson;

b. Each department shall review and report upon the policies and programs of its small business activities and shall keep the chairperson informed of all proposed budgets, plans and programs affecting such activities;

c. Each department shall continue all current efforts to foster and promote small business procurement programs and shall cooperate with the chairperson in increasing the total State effort; and

d. Each department shall prepare at the end of each fiscal year a comprehensive written report on the results of its procurement activities for small businesses. Each report shall include sections on small businesses, minority-owned businesses and women-owned businesses. Reports shall be submitted to the chairperson within 45 calendar days of the close of each fiscal year.

5. The chairperson shall, not later than 90 calendar days after the close of each fiscal year, submit to the Governor a full report of the Inter-Agency Procurement Committee's activities of the previous fiscal year. The chairperson shall, from time to time, submit to the Governor the committee's recommendations for legislation or other action it may deem desirable to promote the purposes of this Order.

6. The committee may establish such policies, standards, definitions, criteria and procedures to govern the implementation and application of this Order.

7. For the purposes of this Order, the following definitions shall apply:

a. Small business means a business that is independently owned, operated and controlled and meets the size standards developed by the Office of Small Business Assistance in conjunction with the committee;

b. Minority-owned business means a business as defined in the Small Business Act, 15 U. S. C. § 631 et seq.;

c. Women-owned business means a business that is owned, operated and controlled by women; and

d. Office of Small Business Assistance means the Office of Small Business Assistance in the Department of Commerce and Economic Development.

8. This Order shall take effect immediately.

Issued September 16, 1983.

EXECUTIVE ORDER No. 47

WHEREAS, The opportunity for full participation in New Jersey's business community for businesses owned and operated by members of the minority community is a vital element necessary for the efficient operation of New Jersey's economy; and

WHEREAS, The ability of members of the minority community to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities; and

WHEREAS, In the pursuit of economic equality for all persons, it is the policy of the State of New Jersey to promote the development of minority business enterprises;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Governor's Advisory Council on Minority Business Development, hereinafter referred to as the Council.

2. The Council shall include 33 voting members appointed by the Governor as follows:

a. A representative of the Governor's office;

b. The Commissioner of Commerce and Economic Development, who shall serve as chairperson;

c. The Deputy Commissioner of Commerce and Economic Development, who shall serve as a member, and in the absence of the commissioner, as acting chairperson;

d. A representative of the Office of Small Business Assistance of the Department of Commerce and Economic Development;

e. The State Treasurer or his/her representative;

f. The Commissioner of the Department of Transportation or his/her representative;

g. A representative of the Inter-Agency Procurement Committee; and

h. Twenty-six representatives of minority businesses, organizations and groups, individual enterpreneurs, and other individuals who are knowledgeable in the field and who are dedicated to the development of New Jersey's minority businesses. The majority of these members shall own and operate minority businesses in the State. Members shall represent all of the major geographical segments of the State, as well as the varied ethnic backgrounds of the minority business community. These members shall be appointed initially to serve staggered terms as follows: nine members for three-year terms, nine members for two-year terms, and eight members for one-year terms. Thereafter, members shall be appointed for terms of three years. Members may be reappointed. The Governor shall fill any vacancies that may occur.

3. Fifteen members shall constitute a quorum for conducting official business of the Council. The Council shall meet bi-monthly. Written notices of the meeting and the agenda shall be mailed to members by the chairperson prior to the meeting date.

4. The Council shall function as an advisory group to the Executive Branch of State government and in so doing shall:

a. Review existing federal, State and local policies and programs relevant to minority businesses;

b. Recommend regulatory and statutory changes at all levels of government necessary to create a supportive environment for minority business development and stability;

c. Recommend the allocation of State, federal and local funds that have impact on minority businesses;

d. Study any special problems confronting minority businesses and recommend solutions;

e. Recommend the establishment of procedures to monitor the efforts of the State to promote the development of minority business enterprises;

f. Keep abreast of legislation, plans, programs, issues and activities in the public and private sectors that relate to minority business enterprises; and

g. Advise the Governor on measures to fulfill the purposes of the Council.

5. Members of the Council shall serve without salary or compensation. However, they shall be reimbursed for necessary expenses incurred in the performance of their duties, subject to the availability of funds therefor.

The Council, through its chairperson, shall establish rules for the operation of the Council.

6. All departments shall cooperate with the Council and provide it with information as requested by the chairperson.

7. This Order shall take effect immediately.

Issued September 16, 1983.

EXECUTIVE ORDER No. 48

WHEREAS, Executive Order No. 7 of 1982 created a Pension Systems Review Commission; and

WHEREAS, The purpose of the Pension Systems Review Commission is to undertake a comprehensive analysis of all aspects of the various public pension systems in this State; and

WHEREAS, The integrity of the public pension systems is of vital importance to the long-range fiscal viability of the State and to local governments; and

WHEREAS, It is imperative that the commission be given adequate time to thoroughly and completely perform its designated responsibilities;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Section 8 of Executive Order No. 7 is hereby amended to read as follows:

8. The commission shall submit a report of its findings to the Governor and to the Legislature on or before March 15, 1984, accompanying the report with any recommendations and legislative proposals it deems appropriate. The commission may make interim reports concerning its study as it shall determine.

Issued September 23, 1983.

EXECUTIVE ORDER No. 49

WHEREAS, The federal Clean Air Act, as amended in 1977, requires states to adopt and submit to the Administrator of the United States Environmental Protection Agency (hereinafter referred to as USEPA) a State Implementation Plan for the attainment and maintenance of ambient air quality standards; and

WHEREAS, It may be necessary, from time to time, to submit revisions of the State Implementation Plan to the USEPA Administrator; and

WHEREAS, The Air Pollution Control Act of 1954 charges the Department of Environmental Protection (hereinafter referred to as DEP) with the responsibility for preventing and controlling air pollution in New Jersey; and

WHEREAS, DEP has the authority to prepare, administer and supervise Statewide programs of environmental protection and should also be given responsibility for adopting necessary revisions to the State Implementation Plan; and

WHEREAS, Certain transportation components of the State Implementation Plan should be the responsibility of the Department of Transportation (hereinafter referred to as DOT) as well as DEP;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioners of DEP and DOT shall jointly adopt necessary revisions to the transportation components of the State Implementation Plan and submit them to the USEPA Administrator.

2. The Commissioner of DEP shall adopt all other necessary revisions to the State Implementation Plan and submit such revisions to the USEPA Administrator.

3. This Order shall take effect immediately.

Issued October 28, 1983.

EXECUTIVE ORDER No. 50

I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. November 25, 1983, the day following Thanksgiving, shall be granted as a day off to employees who work in the executive departments of State government and who are paid from State funds or from federal or other funds made available to the State, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternative day off shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, preclude such absence on November 25, 1983.

Issued November 7, 1983.

EXECUTIVE ORDER No. 51

WHEREAS, The incidence of child abuse in New Jersey is a critical public concern; and

WHEREAS, Child abuse affects not only children, but the family and community as well, and is a threat to the future productive capacity and enlightened citizenship of its victims; and

WHEREAS, The Report of the Working Group on Child Abuse and Neglect Investigations in New Jersey, an operational committee established in December 1982 by the Department of Human Services and the Attorney General's office to assess the current status of child abuse and neglect cases, recommended a cabinet-level task force to address the issue of child abuse;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created in the Governor's office a Governor's Task Force on Child Abuse, which will serve until January 1, 1985:

a. The task force shall consist of no more than 10 public members appointed by the Governor. The members shall be appointed from among persons representing prosecutors' offices, police departments, physicians, hospitals, schools, civic groups, public housing authorities, child advocacy organizations and service agencies.

b. The Commissioners of the Departments of Human Services, Education, Health, Corrections, the Public Advocate and Community Affairs, or their designees, the Chief Justice of the New Jersey Supreme Court, the Attorney General and the Superintendent of the New Jersey State Police, or their designees, shall also serve on the task force.

c. Task force vacancies shall be filled by appointments by the Governor for the remainders of the unexpired terms.

d. The Commissioner of the Department of Human Services shall serve as the chairperson of the task force, and the Governor shall designate the co-chairperson of the task force from among the public membership.

e. The task force may further organize itself in any manner it deems appropriate and enact bylaws as deemed necessary to carry forth the responsibilities of the task force.

2. The Governor's Task Force on Child Abuse shall, with the assistance of local child service, health and educational agencies, the courts, business and labor unions, religious organizations, child advocacy groups, and State, county or municipal departments:

a. Study the problem of child abuse in New Jersey and make recommendations for corrective action;

b. Mobilize citizens and community agencies in a strong, prevention-oriented, proactive effort to address child abuse;

c. Develop mechanisms to facilitate early detection and appropriate services to the victims of child abuse and their families and foster cooperative working relationships between responsible agencies; and

d. Provide other information on child abuse as the Governor may request.

3. The task force shall meet formally at least monthly during the life of the task force.

4. The task force shall, in performing this duty, recognize existing mechanisms for planning and coordination of services to children at the State, county and local levels, including, but not limited to, the Youth Services Commission, the Human Services Advisory Council and the Governor's Committee on Children's Services Planning, and shall consult with them as to their respective roles in addressing child abuse.

5. The Department of Human Services is authorized and directed, to the extent not inconsistent with the law, to cooperate with the task force and to furnish it with such staff, office space and supplies as necessary to accomplish the purposes of this Order.

6. This Order shall take effect immediately.

Issued November 16, 1983.

EXECUTIVE ORDER No. 52

WHEREAS, Executive Order No. 35 created a Governor's Committee on Children's Services Planning; and

WHEREAS, The purpose of this committee was to review the findings of the Commission on Children's Services and make recommendations to improve the quality of services for the children and youth of this State; and

WHEREAS, The coming together of these talented individuals has presented an excellent opportunity for focusing attention on the problems of children and youth in New Jersey; and

WHEREAS, An increase in the public membership will result in a broader range of children's interests being represented on the committee;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Section 1a. of Executive Order No. 35 is hereby amended to read as follows:

a. The committee shall consist of no more than 20 public members appointed by the Governor. The members shall be appointed from among persons who have distinguished records in programming for children in the areas of social services, juvenile justice, developmental disabilities, mental health, education, medicine, employment, substance abuse and nutrition.

2. This Order shall take effect immediately.

Issued November 21, 1983.

EXECUTIVE ORDER No. 53

WHEREAS, The State of New Jersey is committed to the further development of the Hudson River waterfront; and

WHEREAS, The development of the Hudson River waterfront will create jobs, bring in new business and add to the State's housing stock; and

WHEREAS, It is appropriate that development along the Hudson River make provision for public access to the waterfront; and

WHEREAS, State jurisdiction and actions to encourage the development of the Hudson River waterfront presently occur under the aegis of several departments and agencies of the State, whose activities should be coordinated to ensure that the waterfront is developed to its fullest potential; and

WHEREAS, Difficult transportation, environmental and housing problems must be resolved for waterfront development to be realized to its maximum potential;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. There is hereby created a Hudson River Waterfront Development Committee, composed of 10 members as follows:

a. The Director of the Governor's Office of Policy and Planning, who shall act as chairman of the committee;

b. The Commissioner of Transportation or his designee;

c. The Commissioner of Commerce and Economic Development or his designee;

d. The Commissioner of Environmental Protection or his designee;

e. A representative of the Port Authority of New York and New Jersey; and

f. Five other members to be appointed by the Governor.

2. The committee shall meet regularly to develop a program to promote and encourage waterfront development.

3. The committee shall meet with the mayors and other community leaders of New Jersey municipalities located along the Hudson River waterfront and with private developers already engaged in waterfront development along the Hudson River to solicit their views on waterfront development and related infrastructure needs.

4. The committee shall conduct studies of transportation and other infrastructure needs relating to the development of the Hudson River waterfront. The studies shall review current and potential development plans, analyze their infrastructure implications and recommend an infrastructure network for the waterfront. The committee shall review the infrastructure plan with the affected developers and municipalities and work with all levels of government in developing a plan to finance and implement necessary transportation and other infrastructure improvements.

5. The committee shall analyze the need for and make recommendations concerning additional legislative action which may be necessary to promote, encourage and facilitate the development

of the Hudson River waterfront and shall seek to identify potential additional financing sources for waterfront development along the Hudson River.

6. There is hereby also created the Governor's Hudson River Waterfront Office, to be headquartered in Hudson County, which shall coordinate waterfront development activities, facilitate communication between community leaders, State agencies and private developers concerning waterfront development, and otherwise implement the recommendations and programs developed by the committee.

7. Each department, office, division and agency of the State is authorized and directed to cooperate with the committee and the Waterfront Office and, to the extent not inconsistent with law, to make available to them such professional, technical and administrative assistance and such other information and resources as may be necessary for the committee and the office to carry out their assigned responsibilities.

8. This Order shall take effect immediately.

Issued November 21, 1983.

EXECUTIVE ORDER No. 54

WHEREAS, On September 16, 1983, I proclaimed the establishment of an Inter-Agency Procurement Committee; and

WHEREAS, The Executive Branch recognizes the need to coordinate the procurement activities of all departments and agencies of State government; and

WHEREAS, Governmental efficiency and administrative convenience require that one or another qualified and responsible person be on call to serve as the chairperson of the Inter-Agency Procurement Committee;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Section 1 of Executive Order No. 46 dated September 16, 1983, be rescinded and the following amendment be inserted in its place:

1. There is hereby established an Inter-Agency Procurement Committee that shall include the deputy or assistant commissioner of each principal department of State government, or designated representative. The Deputy Commissioner or the Assistant Commissioner of the Department of Commerce and Economic Development shall chair the committee.

2. I hereby ratify and republish Executive Order No. 46, except as provided in this Executive Order.

3. This Order shall take effect immediately.

Issued November 30, 1983.

EXECUTIVE ORDER No. 55

WHEREAS, On September 16, 1983, I proclaimed the establishment of an Advisory Council on Minority Business Development; and

WHEREAS, It is the policy of the State of New Jersey to promote the development of minority business enterprises; and

WHEREAS, Because governmental efficiency and administrative convenience require that when the commissioner is not available another responsible person can be called to serve as the chairperson of the Advisory Council on Minority Business Development;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. That section 2c. of Executive Order No. 47, dated September 16, 1983, be rescinded and the following amendment be inserted in its place:

2c. The Deputy Commissioner or Assistant Commissioner of Commerce and Economic Development, who shall serve as

a member, and in the absence of the commissioner, as acting chairperson.

2. I hereby ratify and republish Executive Order No. 47, except as provided in this Executive Order.

3. This Order shall take effect immediately.

Issued November 30, 1983.

EXECUTIVE ORDER No. 56

WHEREAS, The New Jersey Department of Environmental Protection has undertaken the investigation, sampling and analysis of soil and air samples at certain property located within the Borough of Glen Ridge and the Town of Montclair, both situated in the County of Essex; and

WHEREAS, On the basis of this investigation, the Department of Environmental Protection has reached the preliminary conclusion that certain property in these municipalities may be subject to levels of radon in excess of the standards established for that substance by the United States Environmental Protection Agency and the Nuclear Regulatory Commission; and

WHEREAS, The presence of radon and other radioactive decay materials has been determined to pose a threat to human health; and

WHEREAS, The Department of Environmental Protection, with the cooperation of the United States Environmental Protection Agency, is conducting further investigations, samplings, and analyses in order to obtain definitive information regarding the nature and extent of any danger which may be posed by the presence of radon at the above-described area and to determine what actions, if any, will be required to safeguard the public health and welfare; and

WHEREAS, The potential threat indicated by the results of the preliminary investigation described above is of such magnitude that the coordinated efforts of local, regional and State agencies must be taken immediately to ensure the protection of the public health and welfare from this potential hazard; and

WHEREAS, The scope of the efforts necessary to so protect the public health and welfare is beyond the capacity of regular municipal operating services, or of any State agency acting singly;

NOW, THEREFORE, I , Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a state of emergency and ORDER and DIRECT as follows:

1. I invoke such emergency powers as are conferred upon me by the Laws of 1942, chapter 251 (C. App. A:9–30 et seq.), and all amendments and supplements thereto.

2. The Commissioner of the Department of Environmental Protection is hereby authorized and directed to take such emergency measures as he may determine to be necessary in order to fully and adequately protect the health, safety and welfare of the citizens of this State from any actual or potential threat or danger which may exist as a result of the presence of radium, radon, or other radioactive decay products present in the Borough of Glen Ridge and the Town of Montclair in the County of Essex. The commissioner is further authorized to adopt, pursuant to C. App. A:9–45, such orders, rules and regulations as may be appropriate in order to carry out the purposes and directives contained herein. The commissioner shall supervise and coordinate all activities of all State, regional and local political bodies and agencies in order to ensure the effective and expeditious implementation of this Order, and to this end, may call upon all such agencies and political subdivisions for any assistance necessary. All State agencies, political subdivisions, and local and regional agencies are directed to comply with and implement the orders, rules and regulations issued by the commissioner pursuant hereto and to provide all assistance and cooperation requested by him.

3. The powers granted to the Commissioner of Environmental Protection hereby shall include, but not be limited to, the power to use, seize, impound, quarantine, restrict access to, or require the vacating of, or the making of modifications or improvements, temporary or permanent, to any real or personal property, which in his judgment is reasonably required to abate the emergency caused by the possible presence of radium, radon, or other radioactive decay products and the consequent threat to public health and welfare, as described above.

4. It shall be the duty of every person who is a resident of this State or who is doing business in this State, and of the members of the governing body, and of each and every official, agency or employee of every political subdivision of this State, and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever to cooperate fully in all matters concerning this emergency. No municipality, county or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance or resolution which might or will in any way conflict with any of the provisions of this Order or any of the orders, rules or regulations adopted pursuant to this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

5. There is hereby established an Emergency Advisory Board comprised of the Commissioner of the Department of Environmental Protection as chairman, the Commissioner of the Department of Health, the Attorney General of the State of New Jersey, or their designated representatives. The Commissioner of the Department of Environmental Protection shall consult with the other members of said Emergency Board prior to taking any action pursuant hereto, unless, in the opinion of the Commissioner of Environmental Protection, the exigencies of time do not permit such consultation.

6. Any person who shall violate any of the provisions of this Order or any rules, regulations or orders issued pursuant hereto, or who shall impede or interfere with the implementation of this Order, or any rules, regulations or orders issued pursuant hereto shall be subject to the penalties provided by C. App. A:9–49.

7. This Order shall take effect immediately. It shall remain in effect until terminated or amended by action of the Governor.

Issued December 2, 1983.

EXECUTIVE ORDER No. 57

WHEREAS, The recycling of waste materials conserves valuable resources, reduces the use of energy in manufacturing processes, provides a supply of domestic materials for industry, and reduces the amount of solid waste requiring disposal in the State's landfills; and

WHEREAS, A major component of solid waste is paper; and

WHEREAS, Most of the solid waste generated by State offices consists of paper; and

WHEREAS, State government should set a sound example for other public and private entities in the area of recycling so that the recovery of reusable materials will be promoted to the maximum extent possible;

Now, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. Each department, agency, office and other instrumentality of the State, including State universities and colleges, to implement a waste paper recycling program, unless the Office of Recycling of the Department of Energy determines that such a program is not practicable and feasible for the instrumentality.

2. Each department, agency, office and other instrumentality of the State to determine, with the assistance of the Office of Recycling, the feasibility of recycling other materials generated by the instrumentality, and to develop recycling programs for such other materials, where such programs are practicable and feasible.

3. Each department, agency, office and other instrumentality of the State to appoint a representative to assist the Office of Recycling in the development and implementation of waste paper and other recycling programs for the instrumentality.

4. The Office of Recycling to, at the conclusion of each fiscal year, submit a report detailing the results of the recycling programs implemented by the departments, agencies, offices and other instrumentalities of the State, to the Governor and to the Office of Management and Budget.

Issued December 2, 1983.

EXECUTIVE ORDER No. 58

WHEREAS, The State Compensation Plan, applicable to the Executive Branch of State government, must be based on a nondiscriminatory evaluation system which establishes an equitable relationship between the value of work performed and the rate of compensation; and

WHEREAS, There is a desire to review the present job-evaluation process and analyze job titles in the State service which are predominantly held by persons of one sex, to ensure that the compensation program is fair and equitable; and

WHEREAS, Executive Order No. 21, issued June 24, 1965, by Governor Richard J. Hughes, established this State's goal of eliminating discrimination in State employment; and

WHEREAS, Executive Order No. 14, issued December 14, 1974, and Executive Order No. 61, issued October 12, 1977, by Governor Brendan T. Byrne, vested executive leadership in the Department of Civil Service to obtain compliance with federal and State laws and regulations in the area of equal employment opportunity and to seek correction of discriminatory employment practices and procedures in the State service; and

WHEREAS, C. 11:2D–1 et seq. delegates to the President of the Civil Service Commission the supervisory responsibility to ensure equality of opportunity in all areas of State employment;

NOW, THEREFORE, I, Thomas H. Kean, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is created a Task Force on State Compensation Equity, which shall be chaired by the President of the Civil Service Commission and which shall also include the Director of the Division on Women in the Department of Community Affairs, the Director of the Division on Civil Rights in the Department of Law and Public Safety, the Director of the Division of Classification and Compensation in the Department of Civil Service, and three other members to be appointed by the Governor, who shall be qualified in the area of job evaluation or compensation matters.

2. The task force shall:

a. Review the State Compensation Plan and recommend any changes in the current salary-range determination mechanisms to ensure pay equity;

b. Recommend revisions to the evaluation of titles in the State Compensation Plan;

c. Analyze those job titles that are predominantly held by persons of one sex and recommend specific job titles for salary reevaluation review.

3. The task force is to be provided staff assistance by the Department of Civil Service, including a full-time executive director, and is authorized to call upon and receive from any department, office, division or agency of the State such data, information, personnel or support services as it deems necessary to discharge its responsibilities under this Order. Subject to available funds, the task force, through the Department of Civil Service, may contract for such experts and technical and professional services as may be required.

4. The task force shall make periodic reports to me on its progress as it proceeds with its review of the State Compensation Plan and job titles.

5. This Order shall take effect immediately.

Issued December 6, 1983.

REORGANIZATION PLANS

(2401)

REORGANIZATION PLAN OF THE DIVISION OF THE STATE MUSEUM AND NEW JERSEY HISTORICAL COMMISSION

The Division of the State Museum, in the Department of Education, together with all its functions, powers and duties, pursuant to N. J. S. 18A:73–1 et seq., and the New Jersey Historical Commission, in the Department of Education, together with all its functions, powers and duties, pursuant to N. J. S. 18A:73–21 et seq., are hereby transferred to the Department of State. All powers exercised by the Commissioner of Education, the State Board of Education and the State Librarian in direct supervision of the Division of the State Museum and New Jersey Historical Commission are hereby transferred to the Department of State and shall be executed by the Secretary of State or his designee.

The New Jersey State Museum, as presently organized under N. J. S. 18A:73–1 et seq., performs among other things the traditional functions of collecting, exhibiting and interpreting in the areas of natural history, archaeology/ethnology and fine arts in America with a New Jersey/Eastern United States focus. Long-term exhibitions utilize loan materials in conjunction with collection materials to treat timely issues, historic movements or events, and contemporary expression. Both long-term and short-term exhibits are interpreted through publications and through programs designed for school groups and the general public. Outreach activities include traveling exhibits, specimen loans and a film loan service.

The New Jersey State Museum, pursuant to N. J. S. 18A:73–2, is a division which consists of a Director and an Advisory Council and such other personnel as the Commissioner of Education deems necessary for its administration. This Advisory Council within the Division of the State Museum is called the Advisory Council of the State Museum and consists of five members appointed by the Governor. Under the reorganization, all who currently are members of the Advisory Council of the State Museum and the Director of the State Museum shall continue according to their respective terms of office. The duties and functions of the Advisory Council of the State Museum and the Director of the State Museum shall remain the same upon the reorganization.

The New Jersey Historical Commission, as presently organized under N. J. S. 18A:73–21 et seq., is responsible among other things

for advancing public knowledge of the history of New Jersey. To do this, it sponsors public programs, research projects, publications and commemorative observances and grant-in-aid programs for scholars, teachers and local historical organizations. It offers information and assistance to public and private organizations and individuals. In furtherance of its aims, the commission is empowered by statute to seek and receive funds other than State appropriations.

The New Jersey Historical Commission, pursuant to N. J. S. 18A:73–22, currently has 12 members, two members from the Senate, two members from the General Assembly, six citizens appointed by the Governor, confirmed by the Senate, the State Librarian and the chief of the Office of Historical Preservation of the Department of Environmental Protection.

The New Jersey Historical Commission, pursuant to this reorganization, shall be reconstituted as a division within the Department of State and will be composed of 13 members rather than 12 members. The additional member will be the Secretary of State. The 13 members are:

a. The Secretary of State or his designee, the State Librarian or his designee, and the Chief of the Office of Historical Preservation of the Department of Environmental Protection;

b. Six citizens of the State, to be appointed by the Governor, with the advice and consent of the Senate, all of whom shall be chosen by reason of their expertise in New Jersey history and qualified by academic achievement or professional affiliation, who shall serve for terms of three years and until the appointment and qualification of their successors;

c. Two members of the Senate, to be appointed by the President thereof, and two members of the General Assembly, to be appointed by the Speaker thereof. No more than one of the Senate and Assembly members shall be members of the same political party. Anyone appointed pursuant to subsection c. shall serve as a member of the commission until the expiration of his term as Senator or Assemblyman, as the case may be, during which he was appointed.

This transfer will add the Secretary of State as a member of the Historical Commission. This will effectuate the purpose of this Reorganization Act and will effect better management in the Executive Branch. The Secretary of State in her role as the main supervisor and coordinator of all the cultural and historical entities

located within the Department of State should be part of the Historical Commission.

The purpose of this Reorganization Plan will be to further concentrate the cultural and heritage functions of the State in a single department. Recently, the State Council on the Arts was transferred from the Department of Education to the Department of State. The Office of Ethnic Affairs is currently located within the Department of State.

This proposed transfer of the Historical Commission and the State Museum will enable the Division of the State Museum and the Historical Commission to work more closely and coordinate programs with the State Council on the Arts and the Ethnic Advisory Council. This will assure more comprehensive oversight and will enable the State to better coordinate its own financing. Also, a transfer of these entities to the Department of State will promote a greater sharing of expertise of the officials of State government concerned with cultural and historical programs.

In accordance with the provisions of section 2 of the Executive Reorganization Act of 1969, P. L. 1969, c. 203 (C. 52:14C–2), I find and declare that this transfer and reorganization is necessary and will do the following:

1. It will promote better execution of the laws, and more effective management of the Executive Branch and its departments, because many cultural entities will be located within one department rather than two departments, which is the current organization.

2. It will reduce expenditures and promote economy because there will be a sharing of expertise of the officials of State government concerned with cultural and historical programs.

3. It will increase the efficiency of the operation of the Executive to a better extent insofar as there will be a greater sharing of expertise within one department.

4. It will group and coordinate functions of the Executive as nearly as may be by virtue of the fact that the cultural programs will be located within one department.

5. Consequently, it will eliminate overlapping and duplication of effort by locating these cultural entities within one department.

All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such

inconsistencies. All transfers directed by this Reorganization Plan, unless otherwise provided for herein, shall be effected pursuant to the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D–1 et seq.).

Filed January 31, 1983.

REORGANIZATION PLAN OF THE BUREAU OF RECORDS MANAGEMENT SERVICES AND THE ARCHIVES SECTION

The Bureau of Records Management Services in the Division of the State Library in the Department of Education, together with all its functions, powers and duties, pursuant to N. J. S. 18A:73–35 and R. S. 41:1–1 et seq., and the Archives Section in the Bureau of Law, Archives and Reference Services in the Division of the State Library, Archives and History in the Department of Education, together with all its functions, powers and duties, pursuant to N. J. S. 18A:73–1 et seq. and R. S. 47:1–1 et seq., are hereby transferred to the Division of Archives and Records Management in the Department of State. All powers exercised by the Commissioner of Education, the State Board of Education, the State Librarian, and the Advisory Council of the Division of the State Library, Archives and History in direct supervision of the Bureau of Records Management Services and the Archives Section are hereby transferred to the Department of State and shall be executed by the Secretary of State or his designee.

The Bureau of Records Management Services, as presently organized under N. J. S. 18A:73–1 et seq. and R. S. 47:1–1 et seq., performs among other things the inventory, scheduling and destruction of State, county and municipal records. The bureau also contains the State's centralized microfilm unit, forms management unit, and the State's records storage center.

The Archives Section, as presently organized under N. J. S. 18A:73–1 et seq., performs among other things the collection and retention of the permanent State records, as well as some permanent county and municipal records. It provides historical and genealogical reference information for the State and nation.

There are three purposes of this Reorganization Plan. First this plan will further concentrate the cultural and heritage functions

of this State in a single department. Recently, the State Council on the Arts, the State Historical Commission and the State Museum were transferred from the Department of Education to the Department of State. The Office of Ethnic Affairs is also located within the Department of State. This proposed transfer will allow greater coordination among the Archives Section, the State Council on the Arts, the State Historical Commission, the State Museum and the Office of Ethnic Affairs. This will assure more comprehensive oversight and will enable the State to better coordinate its own financing. Also this transfer to the Department of State will promote a greater sharing of expertise of the State officials concerned with cultural and historical programs.

Second, this proposed transfer will allow greater coordination between the Archives Section and the Bureau of Records Management Services. The functions provided by these entities are very interrelated and should be closely aligned.

Third, this proposed reorganization will allow greater coordination between the Bureau of Records Management Services and the recording functions of the Department of State. Currently, the Department of State is depository for all enacted legislation, executive orders, executive commissions, corporation filings, Uniform Commercial Code filings, trade and service mark filings, financial disclosure statements, officials' non-conflict of interest statements, and notary commissions. Currently microfilming for many of the documents in the Department of State and other services for the department are done by the Records Management Bureau. Placing these functions in the same department will allow more efficient management of and coordination among these services.

In accordance with the provisions of section 2 of the Executive Reorganization Act of 1969, P. L. 1969, c. 203 (C. 52:14C–2), I find and declare that this transfer and reorganization is necessary and will do the following:

1. It will promote better execution of the laws, and more effective management of the Executive Branch of its departments because many cultural entities will be located within one department rather than two departments, which is the current organization.

2. It will reduce expenditures and promote economy because there will be a sharing of expertise of the officials of State government concerned with cultural and historical programs.

3. It will increase the efficiency of the operation of the Executive to a better extent insofar as there will be a greater sharing of expertise within one department.

4. It will group and coordinate functions of the Executive as nearly as may be by virtue of the fact that the cultural programs will be located within one department.

5. Consequently, it will eliminate overlapping and duplication of effort by locating these cultural entities within one department and centralize the record-keeping functions of State government. Centralization of these record-keeping functions will also afford the public better access to these records.

All acts and parts of acts inconsistent with any of the provisions of this Reorganization Plan are superseded to the extent of such inconsistencies. All transfers directed by this Reorganization Plan, unless otherwise provided for herein, shall be effected pursuant to the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D–1 et seq.).

Filed April 25, 1983.

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GAMES AND GAMBLING
Amusement games, State license fees, increased, amends C. 5:8–102 and 5:8–125, Ch. 255.
Casino Control Commission and Division of Gaming Enforcement employees, certain outside employment permitted, amends C. 5:12–59, Ch. 406.
Casino gaming, legal age same as drinking age, amends C. 9:17B–1 and 5:12–119, Ch. 134.
Casino junket enterprise or representative, complimentary service or item, defined, licenses, C. 5:12–14a et al., amends C. 5:12–29 et al., Ch. 41.
Lottery, slot machine devices, prohibited, C. 5:9–7.1, Ch. 80.
State lottery, enforcement provisions strengthened, C. 5:9–12.1, Ch. 429.
Storage of books, records and documents, off-premises, permitted, time period changed, amends C. 5:12–96, Ch. 452.

HANDICAPPED PERSONS
Developmentally disabled persons, deinstitutionalization plans required, standards, C. 30:6D–13 et seq., Ch. 524.
Handicapped persons with "service dogs," rights and privileges extended, conditions and restrictions imposed, amends R. S. 48:3–33 et al., Ch. 485.
Hearing-impaired persons, right to interpreters in legal proceedings established, C. 34:1–69.7 et seq., repeals C. 2A:11–28.1, Ch. 564.
Parking placard for temporarily handicapped, use in any municipality, amends C. 39:4–206, Ch. 96.
State Autistic Week, December 4-10, 1983, designated, J. R. 17.

HEALTH
Alcohol Education, Rehabilitation and Enforcement, tax on certain sales of alcoholic beverages increased, fund created, county plans mandated, C. 54:32C–3.1 et al., Ch. 531.
Autopsies, compelling public necessity required for performance of, if contrary to decedent's religious beliefs, C. 52:17B–88.1 et seq., Ch. 535.
[illegible] registry, established, C. 26:8–40.20 et seq., repeals R. S. 9:13–5.

HEALTH (Continued)
Choking prevention techniques, restaurants required to display posters, distribute pamphlets to patrons, penalties, C. 26:3E–1 et seq., Ch. 488.
Cremation of dead bodies, waiting periods established, C. 26:7–18.1 et seq., Ch. 385.
Death, registered professional nurses, actual determination and pronouncement of permitted, certain, C. 26:6–8.1, amends R. S. 26:6–7 et al., Ch. 308.
Dentures and other removable dental prostheses, identifying markings required, certain exceptions, C. 45:6–19.1 et seq., Ch. 514.
Department fees, various, increased, amends N. J. S. 2A:52–4 et al., Ch. 275.
Drug Abuse Advisory Council, established, C. 26:2G–4.1 et seq., Ch. 304.
Encumbrances or recoveries from estates of recipients of Pharmaceutical Assistance to the Aged and Disabled and State medical assistance, prohibited under certain circumstances, amends C. 30:4D–7.2a, Ch. 371.
New Jersey State Commission on Cancer Research, established, C. 52:9U–1 et seq., Ch. 6.
Radioactive materials, transport, storage in transit, certain, prohibited, exceptions, penalties, C. 26:2D–23.1 et seq., Ch. 345.
Spina Bifida Month, October 1983, designated, J. R. 15.
"Worker and Community Right to Know Act," Right to Know Advisory Council, established, C. 34:5A–1 et al., Ch. 315.

HIGHWAYS
Blue Star drive, section of State Highway Route 29, designated, J. R. 14.
Closing, certain, notice required, C. 27:3A–1 et seq., Ch. 84.
Highway projects administered by Department of Transportation, costs of relocating utility facilities included, C. 27:7–44.9, Ch. 283.
Lamonaco, Trooper Philip, section of Christopher Columbus highway, Interstate Highway Route 80, designated, J. R. 13.

HISTORICAL AFFAIRS
Lidice Memorial Day, June 10 annually, C. 36:1–10 and 36:1–11, Ch. 210.
New Jersey Afro-American History Program, established, New Jersey Historical Commission to administer, C. 18A:73–25.1 et seq., Ch. 339.
New Jersey Historic Trust, board of 11 trustees, C. 13:1B–15.112a, amends C. 13:1B–15.111 and 13:1B–15.113, repeals C. 13:1B–15.112, Ch. 562.

HOSPITALS
Municipal, certain, board of managers, power to borrow money, amends R. S. 30:9–14, Ch. 62.
Podiatrists, use of licensed facilities, required, C. 26:2H–12.1, Ch. 28.

HOUSING
Leasing of municipally owned structures to housing corporations and resident first-time home buyers, authorized, C. 55:18–1 et seq., amends C. 40A:12–14, Ch. 335.
"Hotel and Multiple Dwelling Law," definition of "multiple dwelling," amended, includes certain groups of 10 or more buildings, excludes certain retirement communities, amends C. 55:13A–3, Ch. 447.
Multiple dwelling inspection, condominiums, cooperatives, certain, exempt, C. 40:48–2.12a1, amends C. 55:13A–3, Ch. 2.
"New Jersey Housing and Mortgage Finance Agency Law" 55:14K–1 et seq., repeals C. 55:14J–1 et al., Ch. 530.

HOUSING (Continued)
"New Jersey Housing Financing Agency Law of 1967," conversion of nonresidential structures into multiple dwellings, authorized, amends C. 55:14J–2 et al., Ch. 477.
Relocation assistance, costs to be borne by property owners under certain circumstances, C. 20:4–4.1, Ch. 536.
Residential Housing Management Board, established in Department of Treasury, to manage State-owned residential housing, C. 52:31–23 et seq., amends R. S. 11:8–4, Ch. 468.
Retirement communities, certain, exempt from definition of "multiple dwelling," C. 55:13A–13.1, amends C. 55:13A–3, Ch. 154.

HUMAN SERVICES
Community mental health services, financial grants-in-aid, C. 30:9A–9.1 and 30:9A–9.2, amends C. 30:9A–9, Ch. 435.
Educational programs, funds, use for equipment and personnel, certain, amends C. 18A:7B–4, Ch. 205.
Institutionalized elderly, abuse or exploitation, reports required, C. 52:27G–7.1 et al., amends C. 52:27G–2, Ch. 43.
Institutions, certain, names changed to developmental centers, C. 30:1–7.1, amends C. 30:4–177.12 et al., Ch. 231.
Moneys of mentally retarded persons, certain, accounting, C. 30:4–24.4 and 30:4–24.5, Ch. 223.
Pharmaceutical Assistance to the Aged and Disabled, ineligibility by reason of social security cost-of-living adjustment, date of notification, C. 30:4D–21.1, Ch. 293.
Respite care demonstration program for frail or severely disabled adults, established, C. 30:4F–1 et seq., Ch. 284.

INSURANCE
Automobile, collision coverage, deductible limit increased, coinsurance options authorized, amends C. 17:29A–39, Ch. 359.
Automobile, financial disclosures by certain insurers required, excess profits redistributed to policyholders, C. 17:29A–5.2 et seq., Ch. 357.
Automobile, Full Insurance Underwriting Association board of directors, membership increased, sundry other amendments, amends C. 17:29A–1 et al., Ch. 301.
Automobile insurance law, revised, C. 17:29A–33 et al., amends C. 17:29A–1 et al., Ch. 65.
Automobile, reduced personal injury protection premium for certain additional automobiles, C. 39:6A–4.1, Ch. 212.
Companies, compensation to certain officers, employees, amends N. J. S. 17B:18–52, Ch. 189.
Company investments, amounts, location, use, amends R. S. 17:24–12 and N. J. S. 17B:20–7, Ch. 279.
Company investments, certain, amount increased; assets, certain, location, amends R. S. 17:24–1 and 17:24–12, Ch. 81.
Dental plan organization contracts, certain, option to choose dentist, C. 17:48D–9.1 et seq., Ch. 143.
Dental plan organizations, consultants, finders, regulated, C. 17:48D–3.1 et seq., amends C. 17:48D–2 et al., Ch. 24.

INSURANCE (Continued)
Dental service corporation contracts, certain, option to choose dentist, C. 17:48C–18.1 et seq., Ch. 144.
Fraternal benefit societies, use of same mortality and morbidity tables, interest assumptions for valuation of liability purposes and nonforfeiture value requirements as life insurance companies, permitted, amends C. 17:44A–17 and 17:44A–34, Ch. 409.
Group health insurance contracts, certain, dental services, option to choose dentist, C. 17B:27–51.10a et seq., Ch. 145.
Group health policies, hospital or medical expenses, mastectomy, cover, C. 17B:27–46.1a, Ch. 52.
Group, individual health contracts, hospital services, mastectomy, cover, C. 17:48–6b, Ch. 50.
Group, individual health contracts, medical services, mastectomy, cover, C. 17:48A–7b, Ch. 51.
Health contracts, certain, dental services, option to choose dentist, C. 17B:26–44.4 et seq., Ch. 142.
Health policies, hospital or medical expenses, mastectomy, cover, C. 17B:26–2.1a, Ch. 53.
Hospital service corporations authorized to transact business of legal insurance, amends C. 17:46–4, Ch. 342.
Insurers issuing policies covering liquor law liability, required to maintain separate statistics on loss experience, C. 17:23–16 et seq., Ch. 472.
License fees, certain, increased, amends C. 17:16A–15 et al., Ch. 532.
Licensing of insurance representatives, certain, various parts of statutory law revised, C. 17B:22–1.1 et al., amends N. J. S. 17B:22–2 et al., repeals N. J. S. 17B:22–1 et al., Ch. 533.
Medical service corporation contracts, reimbursement for certain nursing services required, C. 17:48A–35, Ch. 481.
"Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting—Immunity Act," C. 17:23–8 et seq., Ch. 214.
"New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984," C. 39:6A–4.2 et al., amends C. 17:28–1.1 et al., Ch. 362.
"New Jersey Insurance Fraud Prevention Act," C. 17:33A–1 et seq., Ch. 320.

INTERSTATE RELATIONS
Delaware River Basin Compact, interest rate ceiling on bonds removed, amends C. 32:11D–72, Ch. 526.
Governor's action requested regarding tax on truck axles in Pennsylvania, J. R. 10.
"Uniform Transboundary Pollution Reciprocal Access Law," N. J. S. 2A:58A–1 et seq., Ch. 570.

JOINT RESOLUTIONS
Alcoholic Beverage Control Study Commission, J. R. 16.
Autistic Week, J. R. 17.
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Casino gaming industry labor organizations, J. R. 2.
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JOINT RESOLUTIONS (Continued)
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Square dance, American Folk Dance of New Jersey, J. R. 1.
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JUDGES
Family court, number increased, amends C. 2A:4A–3, Chs. 140, 287, 379, 380.

LABOR
Job training programs, established, C. 34:15B–11 et seq., Ch. 328.
Minors, domestic services, certain, permitted, amends C. 34:2–21.2, Ch. 196.
"New Jersey Public Employees' Occupational Safety and Health Act," advisory board created, C. 34:6A–25 et seq., Ch. 516.
"Worker and Community Right to Know Act," C. 34:5A–1 et al., Ch. 315.

LANDLORD AND TENANT
"Senior Citizens and Disabled Protected Tenancy Act," age of eligibility of surviving spouse established, waiver of rights prohibited, amends C. 2A:18–61.24 and 2A:18–61.36, Ch. 389.

LIBRARIES
"Library Network Law," cooperative system of libraries created, C. 18A:73–35a et al., Ch. 486.
Public, photocopy revenues, use, C. 40:54–17.1, Ch. 70.
State aid, municipal unbudgeted, certain, Ch. 233.
State aid, proration between local and certain county libraries eliminated, C. 18A:74–3.1, amends N. J. S. 18A:74–3, Ch. 487.

MARRIAGES
Judges of tax court, solemnize, amends R. S. 37:1–13, Ch. 159.
United States magistrates, solemnize, amends R. S. 37:1–13, Ch. 503.

MILITARY
Council on Armed Forces and Veterans' Affairs, established in Department of Commerce and Economic Development, C. 52:27H–45 et seq., repeals C. 34:1A–57 et seq., Ch. 61.
Veterans of Vietnam era, equal employment opportunity in public works contracts, C. 10:5–39 et seq., Ch. 197.

MOBILE HOMES
"Affordable Housing Act of 1983," manufactured homes, C. 40:55D–100 et seq., Ch. 386.
"Manufactured Home Taxation Act," repeals moratorium on taxation of mobile homes, C. 54:4–1.2 et seq., amends C. 54:32B–8.6, repeals P. L. 1981, Ch. 358; Ch. 400.
Mobile home parks, licensing and regulation by municipalities, permitted, C. 46:8C–8 et seq., Ch. 399.
Posting of "for sale" signs, not grounds for eviction; no prohibitions or unreasonable restrictions on posting permitted, C. 2A:18–61.3a, Ch. 432.

MOTOR VEHICLES

Accidents, arbitration of claims arising out of certain cases, C. 39:6A–24 et seq., Ch. 358.

Accidents, damage amount, reporting time, lengthened, amends R. S. 39:4–130 and C. 39:3–10e, Ch. 193.

Alcoholic beverages, consumption while operating motor vehicle prohibited, penalty, C. 39:4–51a, Ch. 307.

Auto body repair facilities, licensure, C. 39:13–1 et seq., Ch. 360.

Bicycle, roadway use, certain, amends C. 39:4–14.2, Ch. 257.

Bicycles, funding for educational programs for safe operation thereof to be acquired from fund established to provide similar programs for motorized bicycles, C. 39:4–14.3v1, Ch. 459.

Child passenger restraint systems, required, C. 39:3–76.2a et seq., Ch. 128.

Commercial motor vehicles, dimensions, amends R. S. 39:3–84, Ch. 126.

Commercial motor vehicles, operation of on certain portion of State highway, Department of Transportation to adopt regulations, C. 39:4–197.8, Ch. 416.

Compulsory insurance coverage offenses, penalties, Uninsured Motorist Prevention Fund established, C. 39:6B–3, amends C. 39:6B–2, Ch. 141.

Dimension and weight restrictions on certain vehicles established, amends C. 39:3–84.1, Ch. 374.

Driver's license examination, expanded concerning use of alcohol or drugs as related to highway safety, amends R. S. 39:3–10, Ch. 162.

Driver's license, New Jersey issuance; license issued by a foreign country, retain, amends R. S. 39:3–10, Ch. 163.

Drivers' licenses, special, issued to persons with hearing losses, certain, C. 39:3–11a and 39:3–11b, Ch. 493.

Driving while suspended for drunk driving, penalty, amends R. S. 39:3–40 and 39:4–50, Ch. 90.

Drunk driving, operation with blood alcohol concentration of 0.10% or more, amends R. S. 39:4–50 et al., Ch. 129.

Drunk driving, strengthens penalties, establishment of Intoxicated Driver Resource Centers, amends R. S. 39:4–50, Ch. 444.

Headlights, use required any time when insufficient light, amends R. S. 39:3–46, Ch. 285.

Inspection station design, structure, Division of Motor Vehicles review, J. R. 12.

Interstate compact, compliance with law by nonresident violators, C. 39:5F–1 et seq., Ch. 46.

Littering of highways, registered owner or driver of vehicle responsible under certain circumstances, rebuttable presumption, amends R. S. 39:4–64, Ch. 346.

Major motor vehicle component parts, identification required, C. 39:10B–1 et seq., Ch. 368.

Manufactured homes subject to real property taxation, certificate of ownership, exempt, C. 39:10–11.1, amends C. 39:10–2, Ch. 387.

Motorized bicycles, license, learner's permit, proof of identity and age, amends C. 39:4–14.3, Ch. 16.

Motorized bicycles, registration, licensing, helmets required, C. 39:4–14.3i et seq., amends R. S. 39:3–18 et al., Ch. 105.

Official inspection stations, licensed reinspection centers, permitted, certain, C. 39:8–25 et seq., amends R. S. 39:8–1 et al., Ch. 236; cutoff date changed, amends C. 39:8–33 and 39:8–34, Ch. 417.

MOTOR VEHICLES (Continued)
Parking placard for temporarily handicapped, use in any municipality, amends C. 39:4–206, Ch. 96.
Registration fee exempt, ambulances owned by nonprofit organizations, amends R. S. 39:3–27, Ch. 228.
Registration fee exempt, Boys' and Girls' Clubs of America and Police Athletic League vehicles, certain, amends R. S. 39:3–27, Ch. 106.
Removal, storage, sale and junking of motor vehicles abandoned at motor vehicle repair facilities, regulated, C. 39:10A–8 et seq., Ch. 455.
Salvage certificates of title, issuance, inspections, fees, C. 39:10–31 et seq., Ch. 323.
Sanitation vehicles, placement of rear identification marks more than 48 inches from ground, permitted, amends R. S. 39:3–33, Ch. 428.
School bus, children getting on or off, stop 25 feet from bus, violator presumed to be registered owner, amends C. 39:4–128.1, Ch. 27.
Sheriff's officer, peace officer, enforcement powers, certain, increased, amends R. S. 39:5–25, Ch. 563.
Special learner's permit, retention and use restricted to certain persons, amends C. 39:3–13.2a, Ch. 497.
Special plates, firefighters, color approved by Director of Division of Motor Vehicles, amends C. 39:3–27.8, Ch. 74.
Special plates, members of military reserve units, issuance, C. 39:3–27.33 et seq., Ch. 165.
Special plates, "P. O. W.," special fee repealed, amends C. 39:3–27.24, repeals C. 39:3–27.26, Ch. 56.
Special plates, retired members of New Jersey National Guard, amends C. 39:3–27.13 et seq., Ch. 132.
Tail lamps, mounted height, amends C. 39:3–61.1, Ch. 59.
Towing services, fine for failure to remove debris, C. 39:4–56.8, Ch. 271.
Transport of radioactive materials, certificate required, C. 39:5B–18 et seq., Ch. 102.
Unsatisfied Claim and Judgment Fund, advancement of certain sums to Division of Motor Vehicles authorized, amends C. 39:6–63 et al., Ch. 125.
Vehicles, certain, application and enforcement of dimensional and weight limitations, amends R. S. 39:3–20 et al., repeals C. 39:3–84a, Ch. 349.

MUNICIPALITIES
Abandoned burying grounds or cemeteries, acquisition, procedure, C. 40:60–25.61 et seq., Ch. 194.
Authority created by one or more counties or municipalities, eligible to establish deferred compensation plan, amends C. 43:15B–1 and 43:15B–3, Ch. 305.
Budget, "cap" law exemption, legal fees, certain, Ch. 14.
Budget "cap" law, limitations upon increases, certain, C. 40A:4–45.19, amends C. 40A:4–45.14, Ch. 312.
Budget "cap" law, revised, extended, C. 40A:4–45.1a et al., amends C. 40A:4–45.2 et al., Ch. 49.
Budget, "cap" referenda, conduct, manner, C. 40A:4–45.3a1, Ch. 69.
Budget dates, 1983, extended, Ch. 66.
Cancellation of certain property tax refunds, by municipal employee chosen by governing body, authorized, C. 40A:5–17.1, Ch. 568.
Cash management plans, required, amends N. J. S. 40A:5–2 and 40A:5–14, Ch. 8.

MUNICIPALITIES (Continued)
Commission form of government (Walsh Act), commissioners' terms of office, commencement on third Tuesday of May, amends R. S. 40:75–1 et al., Ch. 183.
Employees retired on disability pensions, payment of health insurance premiums by employer, permitted, amends N. J. S. 40A:10–23, Ch. 364.
First aid and emergency or volunteer ambulance or rescue squad associations receiving contributions from counties or municipalities, auditing procedures changed, amends R. S. 40:5–2, Ch. 520.
First aid vehicles and equipment, for use by first aid, emergency or volunteer ambulance or rescue squad associations, appropriation of money by municipalities or counties permitted, amends R. S. 40:5–2, Ch. 544.
Garbage collection, private streets, permitted, amends C. 40:67–23.1, Ch. 12.
Group legal insurance, contracts, certain, permitted, C. 40A:10–34.1 et seq., Ch. 191.
Joint insurance by local units against liability, property damage and workers' compensation claims, permitted, C. 40A:10–36 et seq., Ch. 372.
Leasing of municipally owned structures to housing corporations and resident first-time home buyers, authorized, C. 55:18–1 et seq., amends C. 40A:12–14, Ch. 335.
"Local Authorities Fiscal Control Law," C. 40A:5A–1 et seq., Ch. 313.
"Local Bond Law," attestation of obligations by deputy clerk, permitted, amends N. J. S. 40A:2–25, Ch. 370.
"Local Development Financing Fund Act," C. 34:1B–36 et seq., Ch. 190.
Local improvements, assessments, payable up to 20 years, amends R. S. 40:56–35 and N. J. S. 40A:2–14, Ch. 169.
Metuchen, police appointment, certain, Ch. 263.
Municipal property, leasing to private persons, by open public bidding at auction or sealed bids, advertisement required, amends C. 40A:12–14, Ch. 440.
Neptune, police appointments, certain, Ch. 259.
"New Jersey Urban Enterprise Zones Act," C. 52:27H–60 et seq., amends C. 54:32B–8.22, Ch. 303.
Ordinances, adopted, certain, copies and summaries transmitted to local tax assessor, amends C. 40:49–2.1 et seq., Ch. 513.
Parking authority, appointment of additional commissioners by mayor in certain municipalities, amends C. 40:11A–4, Ch. 99.
Parking fines, collection contracts, permitted, C. 40:48–5a, Ch. 208.
Parking, traffic regulation, certain, authority without approval of Commissioner of Transportation, amends R. S. 39:4–8 et al., Ch. 227.
Penalties for violations of municipal ordinances, increased, amends R. S. 40:49–5 and C. 40:69A–29, Ch. 410.
Public land, municipal, sale and conveyance to county authorized, under certain circumstances, C. 40A:12–13.4, amends C. 40A:12–13.3, Ch. 534.
Retired employees, payment of health insurance premiums, permitted, amends N. J. S. 40A:10–23, Ch. 201.
Safe and clean neighborhood funds, additional firemen, amends C. 52:27D–118.3, Ch. 64.
Sewerage districts, certain, incorporation authorized, N. J. S. 40A:18–1 et seq., Ch. 474.
State aid, extended to include certain qualified municipalities, amends C. 52:27D–178, Ch. 384.

MUNICIPALITIES (Continued)
State Uniform Construction Code, construction or subcode officials, certain, licensing waived until March 1, 1981, C. 52:27D–126.2, Ch. 35.
State Uniform Construction Code, definitions of "manufactured home" and "mobile home" clarified, amends C. 52:27D–121, Ch. 388.
State Uniform Construction Code, fees, private agencies, amends C. 52:27D–124, Ch. 338.
State Uniform Construction Code, public schools and State buildings, certain duties transferred to Department of Community Affairs, C. 52:27D–123.1, amends C. 52:27D–121 et seq., Ch. 496.
State Uniform Construction Code, retail sale of items violative of, certain, prohibited, amends C. 52:27D–138, Ch. 83.
Urban renewal, "State investment blighted areas," C. 40:55C–41.1 et al., amends C. 40:55C–46 et al., Ch. 139.
Utility surplus revenue, certain, transfer to local budget, C. 40A:4–35.1, amends R. S. 40:62–13 et al., Ch. 111.
Waiver or modification of terms or conditions imposed in certain sales and conveyances of land sold prior to January 1, 1979, authorized, amends C. 40:60–51.2, Ch. 442.

PENSIONS AND RETIREMENT
Essex County Education Employees' Pension Fund, sundry amendments, C. 18A:66–109.1, amends N. J. S. 18A:66–97 et al., Ch. 216.
Essex County Retirement System, sundry amendments, C. 43:10–18.6b, amends C. 43:10–18.1 et al., Ch. 211.
Individual retirement accounts and annuities State and local governments permitted to provide for employees, C. 40A:9–17.1 and 52:18–11.1, amends N. J. S. 40A:9–17 et al., Ch. 445.
Public Employees' Retirement System, inactive member, certain, with period of service for local public employer, credit purchase, Ch. 491.
Public Employees' Retirement System, member holding elective public office without pay, eligible to retire, C. 43:15A–47.1, Ch. 316.
Police and Firemen's Retirement System, member with interrupted service, certain, credit purchase, Ch. 393.
Police and Firemen's Retirement System, permits county sheriffs to enroll, credit purchase, C. 43:16A–3.6 and 43:16A–3.7, amends C. 43:16A–1, Ch. 439.
Police and Firemen's Retirement System, veterans, military service time, credit purchase, C. 43:16A–11.7 et seq., Ch. 391.
State Police Retirement System, mandatory retirement ages and certain retirement option distinctions, eliminated, amends C. 53:5A–8, Ch. 448.
Teachers' Pension and Annuity Fund, military service credit, certain, C. 18A:66–14.1, Ch. 11.
Teachers' Pension and Annuity Fund, veterans, military service time, credit purchase, C. 18A:66–13.1, Ch. 198.

PLANNING AND ZONING
Municipal land use fees, organizations, exemption authorized, amends C. 40:55D–8, Ch. 322.

POLICE
Employees of counties and municipalities, leaves of absence with pay under certain circumstances, amends C. 40A:14–177, Ch. 336.

POLICE (Continued)
Federal law enforcement officers, powers of arrest, certain, C. 2A:154–5, Ch. 268.
Fund-raising by law enforcement officers, advertising, certain, permitted; reports, amends N. J. S. 2A:170–20 et al., Ch. 200.
Lamonaco, Trooper Philip, State Police Headquarters Building, designated, J. R. 8.
Special police, appointment, certain, amends N. J. S. 40A:14–146, Ch. 55.

PROFESSIONS AND OCCUPATIONS
Acupuncture, practice regulated, C. 45:2C–1 et seq., amends C. 45:1–2.1 et al., Ch. 7.
Audiologists and speech language pathologists, licensing, advisory committee created, C. 45:3B–1 et seq., Ch. 420.
Bio-analytical laboratory director's license, specialty in biochemical genetics approved, amends C. 45:9–42.7, Ch. 457.
Graduates of unapproved dental schools, two years at approved school required for qualification to take State licensure exam, amends R. S. 45:6–3, Ch. 541.
Landscape architects, certification required, C. 45:3A–1 et seq., amends R. S. 45:3–1 et al., Ch. 337.
Molders, plastic products, unclaimed dies, forms, certain, ownership transferred, C. 56:4A–1 et seq., Ch. 217.
"Physical Therapist Licensing Act of 1983," C. 45:9–37.11 et seq., repeals C. 45:9–37.1 et al., Ch. 296.
Physical therapist, practice under direction or supervision of dentist, amends C. 45:9–37.1, Ch. 22.
Physician's malpractice, hospital, insurer notice to State Board of Medical Examiners, C. 26:2H–12.2 and 17:30D–17, Ch. 247.
Physician's misconduct, information, certain, civil immunity, C. 45:9–19.1 et seq., Ch. 248.
Podiatry, "D. P. M." included on list of recognized podiatric degree abbreviations, amends R. S. 45:5–1, Ch. 529.
Professional land surveyors, licensed, authorized to enter lands of third parties under certain circumstances, C. 45:8–44.1 et seq., Ch. 460.
Real estate brokers and salesmen, licensing regulations strengthened, amends R. S. 45:15–9 and C. 45:15–10.1, Ch. 456.
Registration as public accountant, person qualified on date, certain, permitted, 60 days, Ch. 553.
Tickets to places of entertainment, resales, regulated, C. 56:8–26 et seq., repeals C. 40:48–2.25 et seq., Ch. 135; extended, amends C. 56:8–26 et al., Ch. 220.
Veterinary practice, law revised, C. 45:16–1.1 et al., amends R. S. 45:16–1 et al., Ch. 98.

PUBLIC CONTRACTS
Local public contracts, elevator maintenance, lease or service of electronic communications equipment, amends C. 40A:11–15, Ch. 195.
Local public contracts, exception for homemaker—home health services, certain, amends C. 40A:11–2 and 40A:11–5, Ch. 331.
Local public contracts, exception for restaurant operated by nonprofit historical society, amends C. 40A:11–5, Ch. 209.
Local public contracts, increases bid threshold, amends C. 40A:11–6.1, Ch. 418.

PUBLIC CONTRACTS (Continued)
Local public contracts, leases of real property, nonapplicability clarified, amends C. 40A:11–15, Ch. 176.
Local public contracts, leasing of firefighting equipment, amends C. 40A:11–15, Ch. 398.
Local public contracts, multi-year food service contracts, restrictions omitted, amends C. 40A:11–15, Ch. 426.
Local public contracts, revisions, certain; publication, notice required, amends C. 40A:11–23, Ch. 174.
Local public contracts, time for signing, authorization to proceed, amends C. 40A:11–24, Ch. 175.
"Small Business Set-Aside Act," State contracting agencies to designate percentage of contracts to small businesses, C. 52:32–17 et seq., Ch. 482.

PUBLIC UTILITIES
Cogenerators of electricity, credits against electricity charges, certain, C. 48:2–29.37, amends C. 54:30A–50, Ch. 95.
"Electric Facility Need Assessment Act," C. 48:7–16 et seq., Ch. 115.
Electric utilities, certain reimbursements, considered available funds for purposes of rate determinations, C. 48:2–21.11 et seq., Ch. 461.
Lifeline Credit, increased, amends C. 48:2–29.17, Ch. 251.
Municipal rates, certain, subject to Board of Public Utilities jurisdiction, allowance for surplus, C. 40A:4–35.1, amends R. S. 40:62–13 et al., Ch. 111.
Public hearings and meetings of Board of Public Utilities, required in geographic regions of applicants asking for increases, changes or alterations of rate schedules, C. 48:2–32.5 et seq., Ch. 454.
"Public Utility Accident Fault Determination Act," C. 48:2–21.4 et seq., Ch. 94.
Rural electric cooperatives, Board of Public Utilities jurisdiction limited, C. 48:2–13.1, Ch. 78.
Tenants' Lifeline Assistance, increased, amends C. 48:2–29.33, Ch. 250.

RACING
Charity Racing Days for the Developmentally Disabled, additional, amends C. 5:5–44.2 and 5:5–44.3, Ch. 20.
"Intertrack Wagering Act," C. 5:5–100 et seq., amends C. 5:5–62 et al., Ch. 340.
Ownership interest, 5% or more, Racing Commission approval, amends C. 5:5–34.1, Ch. 254.
Parimutuel pools, certain, calendar year 1983, distribution, breakage, use, amends P. L. 1981, Chs. 118 and 154; Ch. 158.
Parimutuel pools, State's share, certain, reduced, amends C. 5:5–66, Ch. 157.

RAILROADS
Bridges, highway crossings, maintenance, county power, amends R. S. 48:12–52, Ch. 120.

REAL PROPERTY
Condominium association management agreements, termination, certain, amends C. 46:8B–12.2, Ch. 54.
Deeds or instruments, preparer signature, on first page, amends C. 46:15–13, Ch. 37.
Registration of Planned Real Estate Development, application fee increased, amends C. 45:22A–27, Ch. 265.

REFERENDA
"Intertrack Wagering Act," C. 5:5–100 et seq., amends C. 5:5–62 et al., Ch. 340.

REORGANIZATION PLANS

Records Management Services, Bureau of; Archives Section; from Department of Education to State, April 25, 1983.

State Museum, Division of the; New Jersey Historical Commission; from Department of Education to State, January 31, 1983.

SCHOOLS

Annual bond installments, increase of not more than 100% in excess of amount of smallest prior installment, amends N. J. S. 18A:24–6, Ch. 458.

Bidding, boards of education, procedures for negotiations, amends N. J. S. 18A:20–7, Ch. 555.

Boards of education, multi-year contracts, purchase of thermal energy, certain, permitted, amends N. J. S. 18A:18A–42, Ch. 554.

Budgets, defeated, time for municipal governing body to certify, amends N. J. S. 18A:13–19 et al., Ch. 119.

Buses, certain, age, use, C. 39:3B–5.1 et seq., Ch. 206.

Catholic Schools Week, February 6-12, 1983, J. R. 4.

"Child Care Center Licensing Act," creates advisory council, C. 30:5B–1 et seq., repeals N. J. S. 18A:70–1 et seq., Ch. 492.

County vocational schools, five-member boards of education appointed in certain counties of third class, C. 18A:54–16.8 et seq., amends C. 18A:54–16.1, Ch. 396.

Driver education, contracts with private driver education schools, permitted, C. 18A:18A–3.1, amends N. J. S. 18A:18A–5 et al., Ch. 281.

Educational information and resource center established, educational improvement centers abolished, C. 18A:6–95.1 et al., amends C. 18A:6–96 et al., repeals C. 18A:6–95, Ch. 186.

Injury by minors to public or nonpublic school property, liability of parents or guardian, amends N. J. S. 18A:37–3, Ch. 302.

Joint self-insurance, certain, school board insurance groups permitted, C. 18A:18B–1 et seq., amends N. J. S. 18A:18A–42, Ch. 108.

Marine Academy of Science and Technology, transferred to county vocational technical school board, C. 18A:54C–4 et seq., Ch. 341.

New Jersey School of the Arts, power to sue and be sued rescinded, amends C. 18A:61A–4, Ch. 244.

Private, tuition rate for handicapped children, maximum for 1983-1984 school year, Ch. 235.

Public contracts, advertising exception, quotations less than State contract, certain, amends N. J. S. 18A:18A–5, Ch. 48.

Public contracts, bid threshold, increased, indexed, amends N. J. S. 18A:18A–3 et al., Ch. 171.

Public contracts, qualification of bidders, contract amount, amends N. J. S. 18A:18A–15 et al., Ch. 266.

Public contracts, recurring; duration, certain, amends N. J. S. 18A:18A–42, Ch. 13.

Regional district, equalized valuation table error, certain, correction, Ch. 113.

Substandard emergency building facilities, inspection required under certain circumstances, approval procedure to be established by State Board of Education, C. 18A:33–1.1 et seq., Ch. 373.

Type II district, certain, bond authorization, law applicable, C. 18A:24–11.1, Ch. 1; clarifies, validates, amends C. 18A:24–11.1, Ch. 218.

SECURITIES
Direct participation securities, limited registration as broker-dealer, permitted; exemption, certain; fees, certain, increased, amends C. 49:3–49 et al., Ch. 292.

SEWERAGE
Passaic Valley Sewerage Commissioners, interest rate on late payments, increased, amends C. 58:14–34.20, Ch. 150.

SOLID WASTE
Facilities, certain; scales, installation and use required; rate adjustments authorized, C. 13:1E–117 et seq., Ch. 93.
Fees or taxes, certain, exempt, C. 13:1E–123 et seq., Ch. 267.
Licensing, disclosure statements, required of certain persons engaged in solid or hazardous waste business, C. 13:1E–126 et seq., amends C. 13:1E–51 and 13:1E–60, Ch. 392.
Right to enter solid waste facilities to determine compliance with law, certain State and local governmental entities authorized, amends C. 13:1E–9, Ch. 569.
Septic waste, excluded from "Solid Waste Utility Control Act," C. 48:13A–4.1, amends C. 48:13A–3, Ch. 123.
Solid waste disposal facilities, notices concerning applications and tentative approvals sent to affected municipalities, hearings required, C. 13:1E–5.1 and 13:1E–5.2, Ch. 464.

STATE
Commission on Missing Persons and Missing Persons Unit established in Department of Law and Public Safety, C. 52:17B–9.6 et seq., Ch. 467.
Department of Energy, comprehensive report on energy preparedness of State, C. 52:27F–16.1 et seq., Ch. 559.
Department of Human Services, sale of certain property authorized, Ch. 407.
Division of Motor Vehicles, positions abolished, certain; appointment of persons in those positions to Division of State Police or transfer to Civil Service, C. 39:2–9.1 et seq., amends C. 11:14–9 et al., repeals R. S. 39:2–6 et al., Ch. 403.
Fire safety, bureau and commission established in Department of Community Affairs; Office of State Fire Marshal transferred, C. 52:27D–25a et seq., Ch. 382.
New Jersey Building Authority, powers, C. 52:18A–78.9a et al., amends C. 52:18A–78.2 et al., Ch. 138.
"New Jersey Public Employees' Occupational Safety and Health Act," advisory board created, C. 34:6A–25 et seq., Ch. 516.
Oaths, affirmations and affidavits, members of boards of chosen freeholders may administer, amends R. S. 41:2–1, Ch. 495.
Oaths, judges of tax court, permitted to administer, certain, amends R. S. 41:2–10, Ch. 408.
Residential Housing Management Board established in Department of the Treasury, to manage State-owned residential housing, C. 52:31–23 et seq., amends R. S. 11:8–4, Ch. 468.
Square dance, designated American Folk Dance of State, J. R. 1.
Uniform Construction Code, fees, private agencies, amends C. 52:27D–124, Ch. 338.
"Uniform Fire Safety Act," minimum fire safety code established, C. 52:27D–192 et al., Ch. 383.

STATUTES
Repealer, C. 40:50–9 et seq., authorized municipalities to enter into and finance certain contracts, obsolete, Ch. 500.

TAXATION
Airport safety fund, tax on aircraft fuels, C. 54:39–27a et al., Ch. 264.
Alcohol Education, Rehabilitation and Enforcement, tax on certain sales of alcoholic beverages increased, fund created, county plans mandated, C. 54:32C–3.1 et al., Ch. 531.
Assessment of real property, "newly constructed," commenced on or after December 29, 1982, amends C. 54:4–23a, Ch. 155.
Automatic fire suppression systems, certain, tax exemption, procedure for certification, C. 54:4–3.130 et seq., Ch. 309.
Corporation business tax, regulated investment companies, $250 per year, amends C. 54:10A–5, Ch. 75.
County board determinations, tax court review, law conformed, C. 54:3–26a and 54:3–26b, amends N. J. S. 2A:12–6 et al., repeals N. J. S. 2A:66–4 et al., Ch. 36.
County board members, certain, proof of training or assessor's certificate by January 15, 1984, Ch. 310.
Educational institutions, lease, certain, tax exemption preserved, C. 54:4–3.6d, Ch. 204.
Employee trusts, certain, employer contributions on behalf of employee, excluded from gross income, C. 54A:6–21, amends N. J. S. 54A:5–1, Ch. 571.
Farmland, assessment, repeals C. 40:55D–59, Ch. 253.
Hospitals, lease, certain, tax exemption preserved, amends R. S. 54:4–3.6, Ch. 224.
Insurance companies, relocation of principal offices, payments to counties and municipalities, amends C. 54:18A–1a, Ch. 390.
"Manufactured Home Taxation Act," repeals moratorium on taxation of mobile homes, C. 54:4–1.2 et seq., amends C. 54:32B–8.6, repeals P. L. 1981, Ch. 358; Ch. 400.
Municipal revaluation, implementation, certain, permissive, temporary, Chs. 30, 202.
Municipal tax abatement or exemption for conversion to multiple unit dwellings, unutilized public school buildings, amends C. 54:4–3.123 and 54:4–3.124, Ch. 72.
Municipal tax list, revised, revaluation not implemented under P. L. 1983, Ch. 202; Ch. 203.
"New Jersey Urban Enterprise Zones Act," corporation business tax exemptions and credits, sales tax exemptions, C. 52:27H–60 et seq., amends C. 54:32B–8.22, Ch. 303.
"Pinelands Municipal Property Tax Stabilization Act of 1983," C. 54:1–68 et seq., Ch. 551.
Property tax abatement in areas in need of rehabilitation, "qualified municipality," eligibility expanded, amends C. 54:4–3.96 et al., Ch. 118.
Property Tax Assessment Study Commission, established, J. R. 3.
Property tax refunds, certain, apply against deliquencies, C. 54:4–134 et seq., amends C. 54:3–27.2, Ch. 137.
Public utility gross receipts, payments for cogenerated electricity, excluded, certain, C. 48:2–29.37, amends C. 54:30A–50, Ch. 95.

TAXATION (Continued)
School district property leased to certain other organizations, exempt, C. 54:4–3.6e, amends R. S. 54:4–3.3, Ch. 262.
Solar energy systems, exemption, amends C. 54:4–3.113 et al., Ch. 44.
State payments in lieu of taxes, maximum increased, certain, amends C. 54:4–2.2e, Ch. 256.
Tax court, practice and procedure, law revised, R. S. 54:51A–1 et seq., repeals R. S. 54:2–34 et al., Ch. 45.
Tax sales, payment of fees, limits, amends R. S. 54:5–38, Ch. 478.
Urban renewal corporations, county tax purposes, annual service charges, certain, not capitalized, amends C. 40:55C–65 and 40:55C–97, Ch. 258.

TRADE REGULATION
Antitrust investigations, procedure, amends C. 56:9–9, Ch. 25.

TRANSPORTATION
Atlantic County Transportation Authority, motorbus services, certain, regulation, C. 40:35B–15.1, amends C. 40:35B–15, Ch. 242.
Autobuses, "zone rates of freedom" established, certain exceptions for charter or special bus operations, C. 48:4–2.20 et seq., Ch. 517.
"Senior Citizen and Disabled Resident Transportation Assistance Act," C. 27:25–25 et seq., Ch. 578.

UNEMPLOYMENT COMPENSATION
Benefits, certain, conformance with federal law, amends R. S. 43:21–4, Ch. 221.
Fund, withdraw moneys, certain, from State disability benefits fund, Ch. 109.
Temporary disability, certification by licensed optometrists, amends R. S. 43:21–39, Ch. 47.

VALIDATING ACTS
Fire district bond proceedings, Ch. 434.
Municipal bond proceedings, Ch. 88.
Municipality or county, transfer of title in land or buildings to war memorial commission, Ch. 325.
School bond proceedings, Chs. 21, 71, 112, 218, 402.

WATER SUPPLY
Periodic testing of water supplies, required, penalties for noncompliance, Drinking Water Quality Institute established, C. 58:12A–12 et al., amends C. 58:12A–2 et al., Ch. 443.
Waste treatment, greywater systems, acceptable alternatives, C. 58:11–25a et seq., Ch. 26.
"Water Supply and Wastewater Operators' Licensing Act," C. 58:11–64 et seq., repeals R. S. 58:11–14 et al., Ch. 230.

WEAPONS
Antique cannons, possession, permitted under certain circumstances, amends N. J. S. 2C:39–1 et al., Ch. 479.
Possession, railway police, off-duty, authorized, certain, amends N. J. S. 2C:39–6, Ch. 552.

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Aid to families with dependent children, adult recipients, photo-identification cards, issuance required, C. 44:10–3.1 and 44:10–3.2, Ch. 85.

WORKERS' COMPENSATION

Group self-insurance by State-licensed hospitals, permitted, conditions imposed, C. 34:15–77.1 et seq., amends R. S. 34:15–77, Ch. 376.

Second Injury Fund cases, transfer of adjudicative authority from Commissioner of Labor to workers' compensation judges, amends C. 34:15–95.1, Ch. 421.

Special adjustment benefit, offset for disability beginning after December 31, 1979, amends C. 34:15–95.5, Ch. 97.