

**LAWS=NEW JERSEY
1991**

New Jersey State Library

ACTS
OF THE
Second Annual Session
OF THE
Two Hundred and Fourth Legislature
OF THE
STATE OF NEW JERSEY
AND
Thirty-Fourth Under the New Constitution



1991

New Jersey State Library

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

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GERALD CARDINALE

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(Parts of Bergen, Passaic)
HENRY P. McNAMARA

1 Resigned 7/19/91.

2 Sworn in 7/29/91.

3 Sworn in 1/29/91.

4 Died 1/21/91.

5 Sworn in 3/4/91.

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- 1 Resigned 4/22/91
- 2 Sworn in 4/25/91.
- 3 Resigned 2/1/91.
- 4 Sworn in 2/21/91.
- 5 Sworn in 1/17/91.
- 6 Resigned 8/22/91.
- 7 Sworn in 11/25/91.
- 8 Resigned 7/1/91.
- 9 Sworn in 7/15/91.
- 10 Resigned 1/29/91.
- 11 Sworn in 2/21/91.
- 12 Resigned 3/4/91.
- 13 Sworn in 4/8/91.
- 14 Sworn in 1/31/91.
- 15 Resigned 2/1/91.
- 16 Sworn in 2/21/91.

LAWS

ACTS
ENACTED BY THE
Second Annual Session
OF THE
Two Hundred and Fourth Legislature

CHAPTER 1

AN ACT concerning underground storage tanks, and amending
P.L.1986, c.102.

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

1. Section 3 of P.L.1986, c.102 (C.58:10A-23) is amended to read as follows:

C.58:10A-23 Registration of underground storage facilities.

3. a. The owner or operator of a facility shall, within 180 days of the effective date of this act, on forms and in a manner prescribed by the commissioner, register that facility with the department. The department may extend the registration period for an additional 180 days.

b. The commissioner shall, within 120 days of the effective date of this act and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to provide for the registration of all facilities in the State, prescribing the forms and procedures therefor.

This registration shall require the following:

- (1) The name and address of the owner and operator of the facility;
- (2) A site plan of the facility indicating the number and location of the underground storage tanks;
- (3) The date of installation of each of the underground storage tanks;
- (4) Any other relevant information requested by the commissioner.

These rules and regulations shall provide for the periodic, but in no case more frequent than annual, certification by the owner or operator of the facility that the information contained on the registration remains unchanged. The owner or operator of a facility shall, within 30 days of completing the activities for which a permit

was acquired pursuant to section 4 of this act, register or reregister, as the case may be, in accordance with the provisions of this section.

2. Section 8 of P.L.1986, c.102 (C.58:10A-28) is amended to read as follows:

C.58:10A-28 Leaks, discharges.

8. a. If the inventory records maintained pursuant to section 7 of this act or a monitoring system indicates a leak or discharge, the owner or operator of the facility shall, within 24 hours of discovery, notify the department and the appropriate local health agencies of the leak or discharge.

b. Upon notification, the department shall promptly conduct an inspection to determine the extent and impacts of the leak or discharge.

c. Upon a finding that the leak or discharge is not an imminent threat to the proximate groundwater resources or public health or safety, the commissioner shall order the owner of the underground storage tank to remove, replace, or repair the underground storage tank, establish a date by which the removal, replacement, or repair shall be effected, and take any other action, or require the owner of the tank to take any action, necessary to abate, contain, clean up, or remove, or any combination thereof, the leak or discharge.

d. Upon a finding that the leak or discharge has entered or threatens groundwater resources or public health or safety, the commissioner shall order the immediate removal of the contents of the underground storage tank, and shall take, or require the owner of the underground storage tank to take, all other appropriate actions necessary to abate, contain, clean up, or remove, or any combination thereof, the discharge.

e. If the commissioner provides for the removal, replacement or repair of an underground storage tank by any person other than the owner, or takes other appropriate actions necessary to mitigate the adverse effects of a leak or discharge, the costs of these measures shall be borne by the owner of the underground storage tank.

3. Section 9 of P.L.1986, c.102 (C.58:10A-29) is amended to read as follows:

C.58:10A-29 Secondary containment, monitoring system.

9. The department shall require, by regulation, an orderly phase-in by all facilities of an approved method of secondary containment, or an approved release detection or monitoring system, to be completed not later than December 22, 1993; except that in the case of underground storage tanks for heating oil used for on-site

consumption in nonresidential buildings, the phase-in, to be prescribed by the department, shall be completed by August 6, 1995.

4. Section 17 of P.L.1986, c.102 (C.58:10A-36) is amended to read as follows:

C.58:10A-36 Underground Storage Tank Improvement Fund.

17. a. The State Underground Storage Tank Improvement Fund, hereinafter referred to as the "fund," is established in the department as a revolving fund. The fund shall be administered by the department and shall be credited with such moneys as are appropriated by the Legislature and sums received as repayment of principal and interest on outstanding loans made from the fund, except as otherwise provided herein.

b. Moneys in the fund shall be allocated and used to provide loans which shall bear interest of not more than 6% per year, and shall be for a term of not more than 10 years. These loans shall be made to owners of facilities who have been directed pursuant to law by the Commissioner of Environmental Protection to replace or repair one or more underground storage tanks. These loans shall also be made to owners of facilities for the purpose of installing monitoring systems. These loans shall be made in accordance with criteria developed and adopted by the commissioner pursuant to section 18 of this act.

c. No loan shall be made after December 21, 1993, except that in the case of nonresidential heating oil storage tanks for on-site consumption, no loan shall be made therefor after August 6, 1995. All moneys remaining in the fund or received by the fund after the latter date as repayment for loans made by the fund shall immediately revert to the General Fund.

5. This act shall take effect immediately.

Approved January 14, 1991.

CHAPTER 2

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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

1. There is transferred an amount not to exceed \$863,000 from the Hearing aid assistance for the aged and disabled Grants account within the Casino Revenue Fund to the Payments for medical assistance recipients Grants account within the Casino Revenue Fund to provide the State share of funds necessary to expand the Model Waiver program.

2. Upon certification by the Director of the Division of Budget and Accounting in the Department of the Treasury that federal funds to support the expenditures listed below are available, the following sum is appropriated:

FEDERAL FUNDS	
54 DEPARTMENT OF HUMAN SERVICES	
20 Physical and Mental Health	
24 Special Health Services	
7540 Division of Medical Assistance and Health Services	
22-7540 General Medical Services.....	\$863,000
State Aid and Grants:	
Payments for medical assistance	
recipients.....	(\$863,000)

3. This act shall take effect on January 1, 1991.

Approved January 14, 1991.

CHAPTER 3

AN ACT concerning the evaluation of local school districts, establishing a task force on educational assessment and monitoring and amending and supplementing P.L.1975, c.212.

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

C.18A:7A-14.1 Findings, declarations.

1. The Legislature finds and declares that:

- a. It is the constitutional obligation of the Legislature to provide all children in New Jersey with a thorough and efficient system of free public schools;
- b. The breadth and scope of such a system were defined by the Legislature in P.L.1975, c.212 so as to insure quality educational programs for all children;
- c. In the rapidly changing educational and occupational environment of the 1990s it is imperative that the program in every school district in this State includes all of the major elements identified as essential for that system;
- d. It is the responsibility of the State to insure that any school district which is shown to be deficient in one or more of these major elements takes corrective actions without delay in order to remedy those deficiencies;
- e. This responsibility can best be fulfilled through an effective and efficient system of evaluation and monitoring which will insure quality and comprehensive instructional programming in every school district and provide for immediate and direct corrective action to insure that identified deficiencies do not persist, and which does so within the context of the maximum of local governance and management and the minimum of paperwork and unnecessary procedural requirements.

2. Section 6 of P.L.1975, c.212 (C.18A:7A-6) is amended to read as follows:

C.18A:7A-6 State board; establishment of goals and standards and making rules.

6. The State board, after consultation with the commissioner and review by the Joint Committee on the Public Schools shall (a) establish State goals for pupil proficiency in reading, writing, mathematics, science and health, geography, history, civics, physical education, and the arts, (b) establish State standards which shall be applicable to all public schools in the State, including uniform State-wide standards of pupil proficiency at appropriate points in the educational careers of the pupils of the State, which standards of proficiency shall be reasonably related to those levels of proficiency ultimately necessary as part of the preparations of individuals to function politically, economically and socially in a democratic society, and which shall be consistent with the goals and guidelines established pursuant to sections 4 and 5 of this act, and (c) make rules concerning procedures for the establishment of particular educational goals, objectives and standards by local boards of education.

3. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended to read as follows:

C.18A:7A-14 Failure of school or school districts to show progress; remedial plan; insufficiency; corrective actions; hearing on order to show cause.

14. a.(1) The commissioner shall review the results of the evaluations conducted and reports submitted pursuant to sections 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11). The commissioner shall establish a mechanism for parent, school employee and community resident input into the review process. If the commissioner shall find that a school district satisfies the evaluation criteria, the commissioner shall recommend that the State board certify the school district for a period of seven years as providing a thorough and efficient system of education. If the commissioner finds that a school district can correct the deficiency or deficiencies without additional diagnostic monitoring or technical assistance, the commissioner may certify the school district with the condition that the district correct the deficiency within a period of time to be determined by the commissioner. If the commissioner shall find that a school district has failed to show sufficient progress toward the goals, guidelines, objectives and standards, including the State goals and any local interim goals concerning pupil proficiency in reading, writing, mathematics, science and health, geography, history, civics, physical education and the arts established in and pursuant to this act, the commissioner shall advise the local board of education of such determination, and shall direct that the district enter level II monitoring, as defined pursuant to law and regulation.

(2) The board of education of a school district which is directed to enter level II monitoring may appeal that decision to the State Board of Education. The State board may refer the hearing of that appeal to a committee of not less than three of its members, which committee shall hear the appeal and report thereon, recommending its conclusions, to the board and the board shall decide the appeal by resolution in open meeting. A determination of the appeal by the State board shall be considered final.

b. (1) When a district enters level II monitoring, the commissioner shall establish procedures whereby parents, school employees and community residents may meet with the commissioner or the commissioner's designee to discuss their concerns and the county superintendent shall appoint an external review team whose members shall be qualified by training and experience to

examine the conditions in the specific district. In conjunction with the Department of Education, the team, at the direction of the commissioner, shall either examine only those aspects of the district's operations bearing on the areas of deficiency, or shall examine all aspects of the district's operation, including but not limited to education, governance, management and finance. In addition, the team shall examine conditions in the community which may adversely affect the ability of the pupils to learn and the team may recommend measures to mitigate the effects of those conditions. The team shall report its findings and conclusions, including directives to be utilized by the district in the preparation of a corrective action plan to achieve certification and recommendations as to the technical assistance which the district will require in order to effectively implement the corrective action plan, to the commissioner. The commissioner shall direct the district to respond to the report of the external review team in establishing a corrective action plan. The corrective action plan shall be submitted to and approved by the commissioner. The commissioner shall assure that the local district's budget provides the resources necessary to implement the approved plan, including the necessary technical assistance. The entire cost of those activities associated with the review team shall be paid by the Department of Education.

(2) If the commissioner finds that the district is unsuccessful in correcting the deficiencies noted in the evaluation process, the commissioner shall direct that the district enter level III monitoring, as defined pursuant to law and regulation. However, if the commissioner determines that a district is making reasonable progress toward correcting deficiencies, the commissioner may grant an extension for a specific period of time. During this extension the district will remain under level II monitoring. At the end of the extension the commissioner shall determine whether the district is eligible for certification or if the district must be directed to enter level III monitoring.

c. (1) When a district which has had a comprehensive examination of all aspects of the district's operations by an external review team pursuant to subsection b. of this section is directed to enter level III monitoring the commissioner shall prepare an administrative order directing the corrective actions which shall be taken by the district based upon the findings and conclusions of the level II external review team and the department's monitoring of the level II plan. The commissioner shall insure that technical assistance is provided to the district in order to implement those actions. The

commissioner shall also have the power to order necessary budgetary reallocations within the district, or such other measures as the commissioner deems necessary and appropriate.

(2) When a district which has not had a comprehensive examination of all aspects of the district's operations by an external review team pursuant to subsection b. of this section is directed to enter level III monitoring, the commissioner shall designate the county superintendent to appoint an external review team whose members shall be qualified by training and experience to examine the conditions in the specific district. In conjunction with the Department of Education, the team shall examine all aspects of the district's operations including but not limited to education, governance, management and finance. The team shall report its findings and conclusions, including directives to be utilized in the preparation of a corrective action plan to achieve certification, to the commissioner. The commissioner shall prepare an administrative order directing the corrective actions which shall be taken by the district based upon the findings and conclusions of the level III external review team and the department's monitoring of the level II plan. The commissioner shall insure that technical assistance is provided to the district in order to implement those actions. The commissioner shall also have the power to order necessary budgetary reallocations within the district, or such other measures as the commissioner deems necessary and appropriate.

(3) The board of education of a school district which is directed to enter level III monitoring may appeal that decision to the State Board of Education. The State board may refer the hearing of that appeal to a committee of not less than three of its members, which committee shall hear the appeal and report thereon, recommending its conclusions, to the board and the board shall decide the appeal by resolution in open meeting. A determination of the appeal by the State board shall be considered final.

(4) If the commissioner finds, based upon the findings and directives of the level II or level III review team and the Department of Education, that conditions within the district may preclude the successful implementation of a corrective action plan or that the district has failed to make reasonable progress in the implementation of a corrective action plan to achieve certification, the commissioner shall direct that a comprehensive compliance investigation be conducted by the Department of Education. If the commissioner directs that a comprehensive compliance investigation be conducted, the commissioner may

order any necessary action to insure the security of the books, papers, vouchers and records of the district.

d. Whenever a district in level II monitoring is directed to establish a corrective action plan or whenever a district in level III monitoring shall be required to implement an approved corrective action plan pursuant to this section, the commissioner shall determine the cost to the district of implementation of those portions of the corrective action plan which are directly responsive to the district's deficiencies as identified in the report of the external review team or, where applicable, by the commissioner. In making this fiscal assessment, the commissioner shall identify those aspects of the corrective action plan which are already contained in the district's current expense budget. Where appropriate, the commissioner shall reallocate funds within the district's budget to support the corrective action plan. Once reallocated, any transfers among line items of the district's budget may occur only with the commissioner's approval. The commissioner shall further determine the amount of additional revenue, if any, needed to implement the corrective action plan and shall recertify a budget for the district.

e. A comprehensive compliance investigation shall entail a thorough and detailed examination of a district's educational programs, fiscal practices, governance and management. Based on the investigation, the commissioner shall issue a report which will document any irregularities and list all those aspects of the corrective action plan established pursuant to subsections b. and c. of this section which have not been successfully implemented by the district or the conditions which would preclude the district from successfully implementing a plan. A copy of this report shall be given to the district. The commissioner shall also order the local board to show cause why an administrative order, subject to the provisions of section 15 of P.L.1975, c.212 (C.18A:7A-15) and section 1 of P.L.1987, c.399 (C.18A:7A-34) should not be implemented. The plenary hearing before a judge of the Office of Administrative Law, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause shall be conducted in the manner prescribed by subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes.

In the proceeding the State shall have the burden of showing that the recommended administrative order is not arbitrary, unreasonable or capricious.

4. a. There is established the Task Force on Educational Assessment and Monitoring. The task force shall be chaired by the Commissioner of Education or his designee, and shall include a

representative of the Office of the Governor, the Chancellor of Higher Education or his designee, and nine members appointed by the commissioner to include experts on education assessment, practitioners, and representatives of business and the public at large.

Members of the task force shall serve without compensation, but shall be reimbursed for their expenses actually incurred in the performance of their duties.

b. The task force shall organize as soon as may be practicable after the appointment of its members and shall select a secretary who need not be a member of the commission. It shall be 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. The task force may meet and hold hearings at the place or places it designates.

c. The task force shall review the uniform, Statewide system for evaluating the performance of each school as established pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10), in order to determine the State performance standards which would most effectively achieve the legislative goal of a thorough and efficient system of free public schools and the criteria suitable for the assessment of those standards. This shall include criteria for the certification of school districts and performance indicators for certified school districts. Within eight months of its appointment, the task force shall submit a report to the State Board of Education and the Joint Committee on the Public Schools. It shall include in its report recommendations for a uniform, Statewide system for evaluating the performance of each school which shall be based upon State performance standards which will enable local boards of education to establish particular educational goals, learning objectives and performance standards and which will insure the implementation of these goals, objectives and standards with the maximum of local governance and management and the minimum of paperwork and unnecessary procedural requirements.

C.18A:7A-6.1 Establishment of State goals and standards; rules.

5. Subsequent to the receipt of the report from the task force and not later than December 1, 1992, the State board shall establish State goals and standards as required pursuant to section 6 of P.L.1975, c.212 (C.18A:7A-6) and shall adopt rules concerning

procedures for the establishment and assessment of particular educational goals, learning objectives and performance standards by local boards of education. Within six months of the adoption of the rules by the State board, each local board of education shall establish, pursuant to those rules, particular educational goals, learning objectives and performance standards.

C.18A:7A-14.2 Application of evaluation procedure.

6. a. The procedure for the evaluation of all public schools in the State as established pursuant to section 3 of this act shall first apply on July 1, 1993 to local boards of education which are certified as providing a thorough and efficient system of education as of January 1, 1991. For each such school district, the period of certification shall be extended to seven years from the date of certification.

b. For each school district which is in level II monitoring as of the effective date of this act, the evaluation procedures established pursuant to subsection b. of section 3 of this amendatory and supplementary act shall take effect immediately unless the commissioner shall determine that a school district can correct the deficiency or deficiencies without additional diagnostic monitoring or technical assistance, in which case the commissioner may certify the school district with the condition that the district correct the deficiency within a period of time to be determined by the commissioner.

c. For each school district which is in level III monitoring as of the effective date of this act, the evaluation procedures established pursuant to subsection c. of section 3 of this amendatory and supplementary act shall take effect immediately. If a school district in level III monitoring has not had a comprehensive examination of all aspects of the district's operations by an external review team as of that date, the commissioner shall provide for that examination pursuant to the provisions of subparagraph (2) of subsection c. of section 3 of this amendatory and supplementary act.

d. The rules adopted by the State Board of Education for the establishment and assessment of particular educational goals, learning objectives and performance standards by local boards of education pursuant to sections 2 and 5 of this act shall first apply to all local boards of education on July 1, 1993.

7. This act shall take effect immediately, but shall be subject to the limitations provided for in section 6 of the act.

Approved January 16, 1991.

CHAPTER 4

AN ACT authorizing the use of amber warning lights by certain United States Postal Service employees in certain instances, and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C.39:3-54.21 Rural letter carriers permitted to use amber warning light on motor vehicle; rules, regulations.

1. a. Any employee of the United States Postal Service who, as part of his assigned duties as a rural route letter carrier, is required to use a motor vehicle owned or leased by him or a member of his family in the performance of his duties may display on that motor vehicle an amber warning light.

The amber warning light may be operated only while the motor vehicle is being used by the United States Postal Service employee in the performance of his duties as a rural letter carrier.

The amber warning lights authorized under the provisions of this act shall be temporarily attached, removable lights of the flashing or revolving type, not more than 7 1/2 inches in diameter, not more than 51 candlepower, and shall be controlled by a switch installed inside the vehicle.

While in operation, the amber warning light shall be conspicuously displayed on the roof of the motor vehicle.

Nothing herein shall be construed to grant any person displaying and operating an amber warning light pursuant to the provisions of this act any privileges or exemptions denied to the drivers of other motor vehicles and all such persons shall drive with due regard for the safety of all persons and shall obey the traffic laws of this State.

b. The Director of the Division of Motor Vehicles, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

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

Approved January 17, 1991.

CHAPTER 5

AN ACT concerning relocation assistance and supplementing the "Relocation Assistance Act," 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.20:4-6.1 Relocation payments to persons displaced by government programs.

1. Notwithstanding the limitations set forth in P.L.1971, c.362 (C.20:4-1 et seq.) on the amounts of relocation payments that may be provided to various categories of persons displaced by land acquisition, code-enforcement or rehabilitation programs of State or local government, a displaced person entitled to receive relocation assistance pursuant to the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," Pub.L.91-646 (42 U.S.C. §4601 et seq.), as amended by the "Uniform Relocation Act Amendments of 1987," Title IV of Pub.L.100-17, shall be entitled to receive such amount as may be determined pursuant to that federal act in lieu of any lesser amount determined pursuant to P.L.1971, c.362 (C.20:4-1 et seq.).

2. This act shall take effect immediately.

Approved January 21, 1991.

CHAPTER 6

AN ACT concerning the renewal of electrical contractor licenses and business permits and amending P.L.1972, c.108.

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

1. Section 1 of P.L.1972, c.108 (C.45:1-7) is amended to read as follows:

C.45:1-7 Issuance of certain licenses or certificates of registration.

1. Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration,

except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

2. This act shall take effect immediately and be applicable to licenses and business permits granted or renewed after December 31, 1990.

Approved January 21, 1991.

CHAPTER 7

AN ACT concerning life insurance and supplementing chapter 25 of Title 17B of the New Jersey Statutes.

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

C.17B:25-10.1 Notice mailed to holders of life insurance policy.

1. An insurer shall give written notice by regular mail to the holder of a life insurance policy when, to prevent lapse of the policy, a premium is paid automatically by charging it against the policy's loan value which is derived from the cash value of the policy. The notice shall show the amount of the loan and the loan

interest rate. The notice shall be mailed no later than 30 days after the end of the grace period of the premium paid by loan.

2. This act shall take effect January 1 next following enactment.

Approved January 21, 1991.

CHAPTER 8

AN ACT concerning water pollution and supplementing P.L.1977, c.74 (C.58:10A-1 et seq.).

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

C.58:10A-10.4 Department of Environmental Protection authorized to issue summons.

1. The Department of Environmental Protection or a delegated local agency may issue a summons for a violation of any provision of P.L.1977, c.74 (C.58:10A-1 et seq.), including, in the case of a delegated local agency, a violation of any rule, regulation or pretreatment standard adopted by a delegated local agency if the amount of the civil penalty assessed is \$5,000 or less. The summons shall be enforceable, in accordance with the "penalty enforcement law," N.J.S.2A:58-1 et seq., in the municipal court of the territorial jurisdiction in which the violation occurred. The summons shall be signed and issued by any person authorized to enforce the provisions of P.L.1977, c.74 (C.58:10A-1 et seq.). Proceedings before, and appeals from a decision of, a municipal court shall be in accordance with the Rules Governing the Court of the State of New Jersey. Of the penalty amount collected pursuant to an action brought in a municipal court pursuant to this section, 10% shall be paid to the municipality or municipalities in which the court retains jurisdiction for use for court purposes, with the remainder to be retained by the department or the delegated local agency.

C.58:10A-10.5 Delegated local agency authorized to issue civil administrative penalty; hearing.

2. A delegated local agency may, after consultation with a compliance officer designated by the department, issue a civil administrative penalty for any violation of the provisions of P.L.1977, c.74 (C.58:10A-1 et seq.), including a violation of any rule, regulation or pretreatment standard adopted by a delegated local agency, or assess,

by civil administrative order, any costs recoverable pursuant to subsection c. of section 10 of that act, including the reasonable costs of investigation and inspection, and preparing and litigating the case before an administrative law judge pursuant to this section, except assessments for compensatory damages and economic benefits. Notice of the penalty or assessment shall be given to the violator in writing by the delegated local agency, and payment of the penalty or assessment shall be due and payable, unless a hearing is requested in writing by the violator, within 20 days of receipt of notice. If a hearing is requested, the penalty or assessment shall be deemed a contested case and shall be submitted to the Office of Administrative Law for an administrative hearing in accordance with sections 9 and 10 of P.L.1968, c.410 (C.52:14B-9 and 52:14B-10).

C.58:10A-10.6 Report on decision upon conclusion of administrative hearing; exceptions, objections, replies.

3. Upon conclusion of an administrative hearing held pursuant to section 2 of P.L.1991, c.8 (C.58:10A-10.5), the administrative law judge shall prepare and transmit a recommended report and decision on the case to the head of the delegated local agency and to each party of record, as prescribed in subsection c. of section 10 of P.L.1968, c.410 (C.52:14B-10). The head of the delegated local agency shall afford each party of record an opportunity to file exceptions, objections and replies thereto, and to present arguments, either orally or in writing, as required by the delegated local agency. After reviewing the record of the administrative law judge, and any filings received thereon, but not later than 45 days after receipt of the record and decision, the head of the delegated local agency shall adopt, reject, or modify the recommended report and decision. If the head of the delegated local agency fails to modify or reject the report within the 45-day period, the decision of the administrative law judge shall be deemed adopted as the final decision of the head of the delegated local agency, and the recommended report and decision shall be made a part of the record in the case. For good cause shown, and upon certification by the Director of the Office of Administrative Law and the head of the delegated local agency, the time limits established herein may be extended.

C.58:10A-10.7 Final decision by delegated local agency.

4. A final decision or order of the head of the delegated local agency shall be in writing or stated in the record. A final decision shall include separately stated findings of fact and conclusions of

law, based upon the evidence of record at the hearing of the administrative law judge. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A final decision or order may incorporate by reference any or all of the recommendations of the administrative law judge.

Parties of record shall be notified either by personal service or by mail of any final decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith by registered or certified mail to each party of record and to a party's attorney of record.

A final decision or order shall be effective on the date of delivery or mailing, whichever is sooner, to the party or parties of record, or shall be effective on any date thereafter, as the delegated local agency may provide in the decision or order. The date of delivery or mailing shall be stamped on the face of the final decision or order. A final decision or order shall be considered a final agency action, and shall be appealable in the same manner as a final agency action of a State department or agency.

C.58:10A-10.8 Appeal of civil administrative penalty, collection, interest charged.

5. a. A person appealing a civil administrative penalty or assessment levied in accordance with section 2 of P.L.1991, c.8 (C.58:10A-10.5), whether contested as a contested case pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.) or by appeal to a court of competent jurisdiction, shall, as a condition of filing the appeal, post with the delegated local agency a refundable bond, or other security approved by the delegated local agency, in the amount of the civil administrative penalty or assessment levied pursuant to a civil administrative hearing. If the civil administrative penalty or assessment is upheld in whole or in part, the delegated local agency shall be entitled to a daily interest charge on the amount of the judgment from the date of the posting of the security with the commissioner until that amount is paid in full. The rate of interest shall be that established by the New Jersey Supreme Court for interest rates on judgments, as set forth in the Rules Governing the Courts of the State of New Jersey.

b. A person who is assessed a civil administrative penalty, or is subject to an assessment levied pursuant to section 2 of P.L.1991, c.8 (C.58:10A-10.5), and fails to contest or to pay the penalty or assessment, or fails to enter into a payment schedule with the delegated local agency within 30 days of the date that the penalty or assessment is due and owing, shall be subject to an interest charge on the amount of the penalty or assessment from

“Division” means the Division of Alcoholic Beverage Control in the Department of Law and Public Safety.

“Director” means the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety.

C.33:1-12.42 Plenary retail licensees required to complete educational program.

3. If the Director determines to establish an educational program pursuant to section 4 of this act, all holders of a plenary retail or limited retail distribution license issued under R.S.33:1-12, or their designees pursuant to section 5 of this act, shall be required to successfully complete the educational program prescribed in section 4 of P.L.1991, c.9 (C.33:1-12.43).

C.33:1-12.43 Establishment of educational programs for plenary retail licensees.

4. The director may, in the director’s discretion, establish initial and supplemental educational programs for plenary retail and limited retail distribution licensees and shall grant a certificate of completion when a licensee satisfactorily completes each program.

C.33:1-12.44 Educational program, scheduling, attendance, curriculum, fees.

5. If an educational program is established by the director pursuant to section 4 of this act, the director shall by regulation determine:

- a. The person or persons who may attend the educational programs as designees of the licensee;
- b. The dates and geographic locations at which the programs shall be offered;
- c. The penalties for failure to successfully complete the educational requirements;
- d. The curriculum for the educational programs and the instructors or lecturers who shall conduct the programs; and
- e. Registration fees to be charged licensees for attending initial and supplemental training programs.

C.33:1-12.45 Contract with non-profit educational organization to provide educational program.

6. In order to meet the requirements and intent of this act on the most cost effective basis, the director may contract with a non-profit educational organization chartered in this State to conduct all or part of the educational program. The registration fees collected may be used by the division to defray the cost of the programs. If the director contracts with a non-profit organization to conduct the educational programs, the programs shall be made available and reasonably accessible to all licensees.

C.33:1-12.46 Completion of educational program required within nine months.

7. All plenary retail and limited retail distribution licensees shall be required to successfully complete the initial educational program within nine months of the effective date of regulations establishing any educational program. The director shall determine the time schedule for successful completion of supplemental training programs.

C.33:1-12.47 Certificate of completion of educational program required for license renewal.

8. Upon application for renewal of any plenary retail or limited retail distribution license, the licensee shall present to the licensing authority the certificate of completion of the initial educational program and any supplemental programs which may have been required by the director under the time schedule established pursuant to section 7 of this act. The director shall determine penalties for failure to comply with this section.

C.33:1-12.48 Rules, regulations.

9. The director shall promulgate 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.).

10. This act shall take effect immediately.

Approved January 22, 1991.

CHAPTER 10

AN ACT concerning appointments to certain authorities and amending P.L.1957, c.183 and N.J.S.40A:62-5.

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

1. Section 4 of P.L.1957, c.183 (C.40:14B-4) is amended to read as follows:

C.40:14B-4 Utilities authorities.

4. a. Any governing body may, in the case of a county by resolution or ordinance duly adopted, or in the case of a municipality by ordinance duly adopted, create a public body corporate and

politic under the name and style of "the municipal utilities authority," or of "the county utilities authority," with the name of said county or municipality inserted. Said body shall consist of the five members thereof, who, in the case of a county utilities authority, shall be appointed by the county governing body, or by the county executive pursuant to section 37 of P.L.1972, c.154 (C.40:41A-37), as appropriate. In the case of a municipal utilities authority, the governing body of a municipality which is not organized under the town form of government pursuant to the provisions of N.J.S.40A:62-5, or the mayor of a municipality organized under the town form of government pursuant to the provisions of N.J.S.40A:62-5 shall make the appointment. The appointments shall constitute the county or municipal authority contemplated and provided for in this act and an agency and instrumentality of said county or municipality. After the taking effect of the resolution or ordinance for the creation of said body and the filing of a certified copy thereof as in section 7 of this act provided, five persons shall be appointed as the members of the county or municipal authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februaries next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the county or municipal authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the county or municipal authority occurring during an unexpired term of office, a person shall be appointed as a member of the county or municipal authority to serve for such unexpired term.

b. (1) Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of seven members. The two additional members first appointed pursuant to the resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second and third Februaries next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of the additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by the county governing body as a successor to such additional member, or reappointment of the additional member, to serve for a term commencing on

February 1 of such year and expiring on February 1 in the fifth year after such year.

(2) Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of nine members. The four additional members first appointed pursuant to said resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second, third, fourth and fifth Februaries next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of said additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by said county governing body as a successor to such additional member, to serve for a term commencing on February 1 of such year and expiring on February 1 in the fifth year after such year.

c. Whenever the municipal authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 49 of this act (C.40:14B-49) with one or more municipalities situate within any other county one additional member of the municipal authority for each such other county shall be appointed by the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for such other county shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed, and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the municipal authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If after such appointment of an additional member for such other county the municipal authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 49 of this act (C.40:14B-49) with any municipality situate within such other county, the term of office of such additional member shall thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

d. In any county wherein a county sewer authority is reorganized as a municipal authority pursuant to section 6 of this act (C.40:14B-6), its governing body shall, by resolution or ordinance as appropriate, reappoint the existing members of the authority to terms corresponding to terms of members first appointed to a municipal authority pursuant to subsection a. of this section; provided, however, that, if said county sewer authority has seven members, then the existing members shall be reappointed to the reorganized municipal authority pursuant to subsections a. and b. of this section.

e. The governing body of a county or municipality may provide in the ordinance or resolution creating the utilities authority for not more than two alternate members. In the case of a county utilities authority the county governing body, or the county executive pursuant to section 37 of P.L.1972, c.154 (C.40:41A-37), shall make the appointment. In the case of a municipal utilities authority, the governing body of a municipality which is not organized under the town form of government pursuant to the provisions of N.J.S.40A:62-5, or the mayor of a municipality organized under the town form of government pursuant to the provisions of N.J.S.40A:62-5, shall make the appointment. Alternate members shall be designated by the governing body, or mayor, as appropriate, as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The governing body of the county or municipality shall provide by ordinance or resolution for the order in which the alternates shall serve. The term of each alternate member shall be five years commencing on February 1 of the year of appointment; provided, however, that in the event two alternate members are appointed their initial terms shall be four and five years respectively. The terms of the first alternate members appointed pursuant to this amendatory act shall commence on the day of their appointment and shall expire on the fourth or fifth January 31 next ensuing after the date of their appointments, as the case may be. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

2. N.J.S.40A:62-5 is amended to read as follows:

Powers of the mayor.

40A:62-5. a. The councilman-at-large shall be officially known and designated as the mayor of. (the name of the

town in which he is elected). He shall be so designated in all official documents and instruments of every kind, and shall sign all ordinances, warrants, bonds, notes, contracts and all other official documents and instruments by said title.

b. The mayor shall be the head of the municipal government.

c. The mayor shall have all those powers placed in the mayor by general law.

d. The mayor shall be known as the chairman of the council, preside at all its meetings and possess all the powers of a member of council.

e. Every ordinance adopted by the council shall be presented to the mayor within five days after its passage, Sundays excepted, by the town clerk. The mayor shall, within ten days after receiving the ordinance, either approve it by affixing his signature thereto or return it to the council by delivering it to the clerk together with a statement setting forth his objections thereto. No ordinance shall take effect without the mayor's approval, unless the mayor fails to return the ordinance to the council, as prescribed above, or unless the council, upon consideration of the ordinance following its return, shall, by a vote of two-thirds of all members of the council, resolve to override the veto.

f. No ordinance shall be passed except by a vote of a majority of the members of the council present at the meeting, provided that at least four affirmative votes shall be required for such purpose.

g. The mayor shall appoint all of the members of the municipal utilities authority in municipalities where such an authority has been created by the municipal governing body pursuant to the provisions of P.L.1957, c.183 (C.40:14B-1 et seq.).

3. This act shall take effect immediately.

Approved January 22, 1991.

CHAPTER 11

AN ACT concerning exemptions from the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986" and amending P.L.1989, c.164.

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

1. Section 1 of P.L.1989, c.164 (C.39:3-10j) is amended to read as follows:

C.39:3-10j Findings, declaration.

1. The Legislature finds that:

a. On September 20, 1988, the Secretary of the United States Department of Transportation granted the states of this nation the authority to exempt certain drivers from the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. § 2701 et seq.).

b. The "Commercial Motor Vehicle Safety Act of 1986" requires a commercial driver's license for anyone who operates a vehicle that has a gross weight rating in excess of 26,000 pounds, carries 15 or more passengers or transports hazardous materials.

c. While that act's objectives to regulate and improve the traffic safety of the commercial trucking industry are laudable, it could have an unintended, and largely adverse, impact upon certain non-commercial drivers.

d. Unless the State of New Jersey, in accordance with the Secretary of the United States Department of Transportation's directive, exercises its exemption authority, certain operators of firefighting apparatus, non-civilian operators of military vehicles owned or operated by the United States Department of Defense or the National Guard, and farmers operating farm vehicles will be obligated to secure commercial driver's licenses under that act.

e. There appears to be no significant evidence that the operators of firefighting apparatus, non-civilian operators of military vehicles owned or operated by the United States Department of Defense or the National Guard, or farmers operating farm vehicles in and about their regular agricultural activities pose or have created any safety hazards on the public highways which would warrant their being licensed under the provisions of the "Commercial Motor Vehicle Safety Act of 1986."

The Legislature, therefore, declares that it is altogether fitting and proper to authorize, in accordance with the directives issued by the Secretary of the United States Department of Transportation, that the designated operators of firefighting apparatus, non-civilian operators of military vehicles owned and operated by the United States Department of Defense or the National Guard, and operators of farm vehicles under certain circumstances be exempted from the licensing requirements set forth in the "Commercial Motor Vehicle Safety Act of 1986."

2. Section 2 of P.L.1989, c.164 (C.39:3-10k) is amended to read as follows:

C.39:3-10k Exemption of certain operators of fire, military, farm vehicles.

2. Unless otherwise required by federal law or regulation, and subject to any rules and regulations promulgated pursuant to the provisions of this act, no (1) designated operator of firefighting apparatus, (2) non-civilian operator of a military vehicle owned or operated by the United States Department of Defense or the National Guard, or (3) operator of a farm vehicle controlled and operated by a farmer, used to transport agricultural products, farm machinery or farm supplies to or from a farm, operated within 150 miles of a person's farm, and not used in the operation of a common or contract motor carrier, shall be subject to the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. § 2701 et seq.).

Notwithstanding the provisions of this section, a waiver shall not be granted if the granting of the waiver would place the State in a position of not being in substantial compliance with the requirements of the federal act.

3. This act shall take effect immediately.

Filed January 24, 1991.

CHAPTER 12

AN ACT concerning bilingual education and amending and supplementing P.L.1974, c.197.

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

C.18A:35-19.1 Transfer of bilingual pupil to English-only program.

1. A pupil enrolled in a bilingual education program pursuant to P.L.1974, c.197 (C.18A:35-15 et seq.) shall be placed in the English-only program when the pupil demonstrates readiness to function successfully in the English-only program. The process to determine the readiness or inability of the individual pupil to function successfully in the English-only program shall be initiated by the pupil's level of English proficiency as measured by a State established cut-off score on an English language proficiency test and

the readiness of the pupil shall be further assessed on the basis of multiple indicators which shall, at a minimum, include classroom performance, the pupil's reading level in English, the judgment of the teaching staff member or members responsible for the educational program of the pupil, and performance on achievement tests in English.

C.18A:35-19.2 Appeal of placement decision.

2. If any parent or teaching staff member disagrees with the decision either that a pupil exit from or remain in the district's bilingual education program, the parent or teaching staff member may appeal this decision. After exhausting a local appeal process, any parent or guardian who is not satisfied with the district's explanation for its decision shall have the right to a hearing as a contested case before the Commissioner of Education or his designee. The final decision on a child's placement shall be based on the best interests of the child in accordance with the assessment criteria set forth in section 1 of this amendatory and supplementary act. An appeal under this provision shall be heard and decided by the commissioner or his designee on an expedited basis.

3. Section 8 of P.L.1974, c.197 (C.18A:35-22) is amended to read as follows:

C.18A:35-22 Notification of parents; involvement in programs.

8. Each school district shall notify by mail the parents of the pupils of limited English-speaking ability of the fact that their child has been enrolled in a program of bilingual education. In addition, whenever a school district determines, on the basis of a pupil's level of English proficiency, that a pupil should exit from a program of bilingual education the district shall notify the parents of the pupil by mail. Such notice shall be in writing and in the language of which the child of the parents so notified possesses a primary speaking ability, and in English.

The board shall provide for the maximum practicable involvement of parents of children of limited English-speaking ability in the development and review of program objectives and dissemination of information to and from the local school districts and communities served by the bilingual education program within existing State law.

C.18A:35-19.3 Rules, regulations.

4. The State Board of Education shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of this

act. The Commissioner of Education shall issue guidelines to serve as temporary procedures for effectuating the provisions of this act until such time as the State board promulgates regulations.

5. This act shall take effect immediately.

Approved January 24, 1991.

CHAPTER 13

AN ACT appropriating \$120,035,200 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and authorizing the use of unexpended balances, interest earnings, and loan repayments from certain Green Acres bond acts to enable the State and local government units to acquire and develop 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 "1989 New Jersey Green Acres Fund," established pursuant to section 18 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of \$49,042,000 for the purposes of public acquisition and development of lands by the State for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated as follows:

a. For State acquisition of the following projects, \$34,000,000:

Project	County	Estimated Cost
Bear Swamp WMA	Sussex	\$5,000,000
Belleplain SF	Cape May	\$1,100,000
Cape Island WMA	Cape May	\$1,000,000
D & R Canal Greenway	Mercer	\$2,000,000
Hamburg Mountain WMA	Sussex	\$500,000
Higbee Beach WMA	Cape May	\$775,000
Historic Resource Areas	Statewide	\$1,850,000
Jenny Jump SF	Warren	\$1,400,000
Natural Areas	Cape May/Hunterdon/Ocean/ Sussex/Warren	\$1,125,000
Norvin Green SF	Passaic	\$3,000,000

Project	County	Estimated Cost
Peaslee WMA	Cumberland	\$175,000
Pequest River Greenway	Warren	\$50,000
Recreational Trails	Burlington/Cape May	\$700,000
Salem River/Mannington Meadows Greenway	Salem	\$1,250,000
Skylands Greenway	Bergen/Morris/Passaic/Sussex	\$8,000,000
Water Access Sites	Cumberland/Mercer/Warren	\$700,000
Wharton SF	Burlington	\$225,000
Whittingham WMA	Sussex	\$800,000
Contingency	Statewide	\$4,250,000
Technical Services	Statewide	\$100,000.

b. For the State development of the following projects, \$15,042,000:

Project	County	Estimated Cost
Sanitary/Administrative Facilities	Statewide	\$700,000
Swartswood Bathhouse/Dredging	Sussex	\$1,300,000
Fort Mott Recreation/ Interpretive Pier	Salem	\$700,000
Fishing Access	Statewide	\$900,000
Water/Sewer Supply	Statewide	\$1,050,000
Dam Repair	Statewide	\$1,400,000
Road Improvements	Statewide	\$500,000
Health and Life Safety Projects	Statewide	\$1,000,000
Demolition of Unused Structures	Statewide	\$125,000
Historic Sites	Statewide	\$2,367,000
Liberty Park	Hudson	\$5,000,000.

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

2. a. There is appropriated to the Department of Environmental Protection from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of \$70,993,200 to provide loans and grants to assist local government units to acquire lands for recreation and conservation purposes, which sum shall include administrative costs. The following acquisition projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Atlantic County	Atlantic	Urban Waterfront Pk. Acq.	\$1,310,000

Local Government Unit	County	Project	Approved Amount
Atlantic County	Atlantic	Green Tree Golf Crs. Acq.	\$2,500,000
Somers Point City	Atlantic	Bayfront Area Acq.	\$750,000
Bergen County	Bergen	Hackensack River Pathway Acq.	\$1,500,000
Medford Township	Burlington	DiStefano Tract Acq.	\$2,376,200
Ocean City	Cape May	Beach Area Acq.	\$750,000
East Amwell Township	Hunterdon	Camp Harmony Acq.	\$2,500,000
Tewksbury Township	Hunterdon	Christy Hoffman Farm Acq.	\$3,000,000
Hightstown Borough	Mercer	Peddie Woods Acq.	\$640,000
Hopewell Township	Mercer	Curlis Lake Woods Acq.	\$2,500,000
Lawrence Township	Mercer	Tiffany Woods Park Acq.	\$500,000
Princeton Township	Mercer	Institute Acq.	\$7,500,000
Atlantic Highlands Borough	Monmouth	Bayside Waterfront Pk. Acq.	\$1,700,000
Eatontown Borough	Monmouth	Wampum Lake Additions Acq.	\$1,400,000
Holmdel Township	Monmouth	Indian Hill Tract Acq.	\$2,500,000
Monmouth County	Monmouth	Monmouth Scout Camp Acq.	\$2,500,000
Monmouth County	Monmouth	Manasquan Reser.Add.Acq.	\$2,500,000
Monmouth County	Monmouth	Swimming R. Res. Grnway .Acq.	\$2,500,000
Tinton Falls Borough	Monmouth	Riverdale Pk. Acq.	\$1,600,000
Harding Township	Morris	Blue Mill Fields Acq.	\$2,500,000
Montville Township	Morris	Camp Dawson/Levkovitz Acq.	\$2,000,000
Morris County	Morris	Pyramid Mountain Acq.	\$2,600,000
Rockaway Borough	Morris	Rockaway River Access Acq.	\$200,000
Brick Township	Ocean	Brick Conservation Area Acq.	\$1,000,000
Little Egg Harbor Twp.	Ocean	Parkertown Docks Acq.	\$127,000
Little Egg Harbor Twp.	Ocean	Mystic Beach Acq.	\$240,000
Wayne Township	Passaic	High Mountain Park Acq.	\$7,500,000
Salem County	Salem	Salem River Area Acq.	\$300,000
Bernards Township	Somerset	Basking Ridge Golf Crs.Acq.	\$7,500,000
Montgomery Township	Somerset	Millstone Strm. Corr.2 Acq.	\$2,500,000
Rocky Hill Borough	Somerset	Millstone Strm. Corr. 2 Acq.	\$2,500,000
Hardyston Township	Sussex	Silverlake Park Acq.	\$1,000,000
Stillwater Township	Sussex	Recreation Area Acq.	\$500,000.

b. Any transfer of any funds or project sponsor listed in sections 2 or 4 of this act shall require the approval of the Joint Budget Oversight Committee or its successor.

3. a. There is appropriated to the Department of Environmental Protection the unexpended balances of the amounts appropriated pursuant to P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, and P.L.1989, c.194, from the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of

1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, for the purpose of making loans and grants to local government units for the projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, section 2 of this act, section 1 of P.L.1991, c.15, section 1 of P.L.1991, c.16, and section 1 of P.L.1991, c.14, and for the purpose of administrative costs associated with any such projects, to the extent such funds are available as a result of project withdrawals or cost savings.

b. There is appropriated to the Department of Environmental Protection such sums as may be or become available on or before June 30, 1991, due to interest earnings or loan repayments, in the "Green Trust Fund" created pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, for the purpose of making loans and grants to local government units for the projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, section 2 of this act, section 1 of P.L.1991, c.15, section 1 of P.L.1991, c.16, and section 1 of P.L.1991, c.14, and for the purpose of administrative costs associated with any such projects.

4. To the extent that moneys remain available after the projects listed in section 2 of this act are offered funding from the "1989 New Jersey Green Trust Fund" established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.15, P.L.1991, c.16, and P.L.1991, c.14 shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

5. Pursuant to the provisions of subsection c. of section 9 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as appropriate, all loans made to local government units with moneys appropriated pursuant to this act shall bear interest of not

more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the moneys were appropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

6. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1983, c.354, P.L.1987, c.265, and P.L.1989, c.183, as appropriate.

7. This act shall take effect immediately.

Approved January 24, 1991.

CHAPTER 14

AN ACT appropriating \$5,463,000 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, to enable local government units to develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of \$5,463,000 to provide loans to assist local government units to develop lands for recreation and conservation purposes, which sum shall include administrative costs. The following development projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Atlantic County	Atlantic	Lake Lenape Park Dev.	\$500,000
Buena Borough	Atlantic	Bruno Melini Pk. Ph.II Dev.	\$73,000
Hammonton Town	Atlantic	Ninth Street Park Dev.	\$150,000
Burlington Township	Burlington	Assiscunk Creek Dev.	\$150,000
Haddon Heights Borough	Camden	Devon Ave. Tennis Cts. Dev.	\$144,000
Cedar Grove Township	Essex	Morgan's Farm Dev.	\$392,000

Local Government Unit	County	Project	Approved Amount
West Caldwell Twp.	Essex	Richard Park Dev.	\$150,000
Washington Township	Gloucester	Grenloch Lake Park Dev.	\$500,000
Clinton Township	Hunterdon	Walter Edge Foran Pk.II Dev.	\$145,000
Ewing Township	Mercer	Municipal Complex Pk. Dev.	\$500,000
Washington Township	Mercer	Tantum Park Dev.	\$500,000
West Windsor Twp.	Mercer	Grover's Mill Pond Dev.	\$150,000
Middlesex Borough	Middlesex	Ballfield Lighting Dev.	\$105,000
Woodbridge Township	Middlesex	5th District Park Dev.	\$150,000
Butler Borough	Morris	Stonybrook Park Dev.	\$150,000
Roxbury Township	Morris	Kiwanis Park Dev.	\$150,000
Point Pleasant Borough	Ocean	River & Maxson Aves. Bch. Dev.	\$150,000
Seaside Park Borough	Ocean	Multi Waterfront Pks. Dev.	\$126,000
Stafford Township	Ocean	Mill Creek Park Dev.	\$348,000
Little Falls Twp.	Passaic	Amity Street Park Dev.	\$150,000
Franklin Township	Somerset	Bunker Hill Evn. Cntr. Dev.	\$150,000
Somerville Borough	Somerset	Peter's Brook Path Dev.	\$145,000
Cranford Township	Union	Hanson Park Dev.	\$258,000
Oxford Township	Warren	Furnace Lk. Chang. Hs. Dev.	\$77,000
Pohatcong Township	Warren	Pohatcong Park Dev.	\$150,000.

b. Any transfer of any funds or project sponsor listed in section 1 or 2 of this act shall require the approval of the Joint Budget Oversight Committee or its successor.

2. To the extent that moneys remain available after the projects listed in section 1 of this act are offered funding from the "1989 New Jersey Green Trust Fund" established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.15, and P.L.1991, c.16 shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

3. Pursuant to the provisions of subsection c. of section 9 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as

appropriate, all loans made to local government units with moneys appropriated pursuant to this act shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the moneys were appropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1983, c.354, P.L.1987, c.265, and P.L.1989, c.183, as appropriate.

5. This act shall take effect immediately.

Approved January 24, 1991.

CHAPTER 15

AN ACT appropriating \$9,744,300 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, to enable local government units to acquire lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of \$9,744,300 to provide loans to assist local government units to acquire lands for recreation and conservation purposes, which sum shall include administrative costs. The following acquisition projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Atlantic County	Atlantic	Liepe Farm Schoolhs. Acq.	\$350,000
Galloway Township	Atlantic	Gabriel Fld. Ext. Acq.	\$125,000
Cresskill Borough	Bergen	Hoke Property Acq.	\$120,000
Voorhees Township	Camden	Kresson Golf Course Acq.	\$3,000,000
Voorhees Township	Camden	Rabinowitz Addition Acq.	\$180,000

Local Government Unit	County	Project	Approved Amount
Hunterdon County	Hunterdon	County Park Add. Acq.	\$74,300
Lawrence Township	Mercer	Village Park Add. Acq.	\$525,000
Ocean Township	Monmouth	Wayside Park Ext. Acq.	\$575,000
East Hanover Township	Morris	Cook (Halfway) House Acq.	\$350,000
Montville Township	Morris	Reilly Field Exp. Acq.	\$150,000
Morris Plains Borough	Morris	Boro Park Acq.	\$540,000
Bridgewater Township	Somerset	Harry Ally Park Add. Acq.	\$620,000
Somerset County	Somerset	Howe Estate Acq.	\$3,000,000
Knowlton Township	Warren	Knowlton Park Acq.	\$135,000.

b. Any transfer of any funds or project sponsor listed in section 1 or 2 of this act shall require the approval of the Joint Budget Oversight Committee or its successor.

2. To the extent that moneys remain available after the projects listed in section 1 of this act are offered funding from the "1989 New Jersey Green Trust Fund" established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.16, and P.L.1991, c.14 shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

3. Pursuant to the provisions of subsection c. of section 9 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as appropriate, all loans made to local government units with moneys appropriated pursuant to this act shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the moneys were appropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1983, c.354, P.L.1987, c.265, and P.L.1989, c.183, as appropriate.

5. This act shall take effect immediately.

Approved January 24, 1991.

CHAPTER 16

AN ACT appropriating \$17,099,000 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, to enable local government units to acquire and develop lands for recreation and conservation purposes.

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

1. a. There is appropriated to the Department of Environmental Protection from the "1989 New Jersey Green Trust Fund," established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of \$17,099,000 to provide loans and grants to assist local government units to acquire and develop lands for recreation and conservation purposes, which sum shall include administrative costs. The following acquisition and development projects are eligible for funding with the moneys appropriated pursuant to this section:

Local Government Unit	County	Project	Approved Amount
Cumberland County	Cumberland	Eastlyn Golf Crs.Acq.Ph.1	\$2,000,000
Orange City	Essex	Ropes Playground Dev.Ph.1	\$250,000
Deptford Township	Gloucester	Almonesson Crk.Dev. Ph.1	\$150,000
Hudson County	Hudson	Multi Parks Dev. Ph.1	\$4,535,000
North Bergen Twp.	Hudson	Blvd. East/Brd.Snct.Dev.Ph.1	\$440,000
North Bergen Twp.	Hudson	46th Street Park Dev.Ph.1	\$146,000
Weehawken Township	Hudson	Blvd. East Walkway Dev.Ph.3	\$1,800,000
West New York Town	Hudson	Donnelly & Vets.Pk.Dev.Ph.1	\$1,350,000
Trenton City	Mercer	Columbus Park Dev. Ph.1	\$250,000
Trenton City	Mercer	Mercer Cemetery Pk. Dev. Ph.1	\$250,000
New Brunswick City	Middlesex	Boyd Park Dev. Ph.1	\$5,928,000

b. Any transfer of any funds or project sponsor listed in section 1 or 2 of this act shall require the approval of the Joint Budget Oversight Committee or its successor.

2. To the extent that moneys remain available after the projects listed in section 1 of this act are offered funding from the "1989 New Jersey Green Trust Fund" established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.15, and P.L.1991, c.14 that involve local government units eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), shall be eligible for funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection, and shall require the approval of the Joint Budget Oversight Committee or its successor.

3. Pursuant to the provisions of subsection c. of section 9 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, and subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as appropriate, all loans made to local government units with moneys appropriated pursuant to this act shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the moneys were appropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be approved by the State Treasurer.

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1983, c.354, P.L.1987, c.265, and P.L.1989, c.183, as appropriate.

5. This act shall take effect immediately.

Approved January 24, 1991.

CHAPTER 17

AN ACT concerning the professional qualifications of high school directors of athletics and supplementing chapter 6 of Title 18A of the New Jersey Statutes.

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

C.18A:26-2.1 Certification for director of athletics.

1. To be eligible for appointment as the director of athletics in any public secondary school an applicant shall possess a supervisory certificate issued by the State Board of Examiners.

C.18A:26-2.2 Current director of athletics, continuance of employment.

2. Notwithstanding the provisions of section 1 of this act, any individual who possesses a New Jersey teacher's certificate and who is employed as a director of athletics in a public high school prior to the effective date of this act may continue to be so employed.

3. This act shall take effect July 1 next following three years after the date of enactment.

Approved January 29, 1991.

CHAPTER 18

AN ACT concerning the sale of title insurance and supplementing P.L.1975, c.106 (C.17:46B-1 et seq.).

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

C.17:46B-30.1 Title insurance company; licensure or acts of certain persons as insurance producers prohibited; selection of company prohibited.

1. 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 insurance producer 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 insurance producer a condition precedent to the granting of any mortgage loan.

2. This act shall take effect immediately.

Approved January 29, 1991.

CHAPTER 19

AN ACT concerning the taxation of petroleum products purchased for use by the United States government, amending and supplementing P.L.1990, c.42.

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

1. Section 5 of P.L.1990, c.42 (C.54:15B-5) is amended to read as follows:

C.54:15B-5 Gross receipts; credit against petroleum products tax.

5. a. Gross receipts of a company making first sales of petroleum products within this State shall not include consideration derived from the first sale of petroleum products within this State sold for exportation from this State for use outside this State.

b. Gross receipts of a company making first sales of petroleum products within this State shall not include consideration derived from the first sale of petroleum products within this State to the United States government, or to any of its departments, agencies or instrumentalities, for use in a federal government function or operation. A company making a first sale of petroleum products the gross receipts from which are exempt from tax pursuant to this subsection shall report such sales to the director at such times and in such detail as the director may require. This exemption may be claimed by a company otherwise subject to the tax under this act at any time within two years after the date of the first sale of petroleum products within this State for which the exemption is claimed, but no claim made after the expiration of that two year period shall be recognized for any purpose by the State or any agency thereof.

c. A company shall be allowed a credit against the tax imposed by subsection a. of section 3 of this act if a purchaser of petroleum products first sold within this State subsequently sells

the petroleum products for exportation from this State for use outside this State; provided:

(1) the purchaser who makes the sale for exportation from this State for use outside this State issues a certification, on such form as the director may prescribe, evidencing a sale outside this State, and

(2) the company liable for the tax imposed under the provisions of this act has paid to the purchaser making the sale outside this State an amount equal to the tax imposed on the gross receipts derived from the first sale of petroleum products within this State to such purchaser.

C.54:15B-9 Payment of petroleum products tax, nonpayment, fourth degree crime.

2. a. A person who shall purchase or otherwise acquire petroleum products, upon which the petroleum products gross receipts tax has not been paid and is not due pursuant to subsection b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a reimbursement payment has been paid pursuant to section 3 of this act, from a federal government department, agency or instrumentality, or any agent or officer thereof, for use not specifically associated with any federal government function or operation, shall pay to the State a tax equivalent to two and three-quarters percent (2 3/4%) of the consideration given or contracted to be given for the purchase or acquisition of the petroleum products in accordance with the procedures set forth in the "Petroleum Products Gross Receipts Tax Act," P.L.1990, c.42 (C.54:15B-1 et seq.).

b. A person who knowingly uses, or who conspires with an official, agent or employee of a federal government department, agency or instrumentality, for the use of, a requisition, purchase order, or a card or an authority to which the person is not specifically entitled by government regulations, with the intent to obtain petroleum products from a federal government department, agency or instrumentality for a use not specifically associated with a federal government function or operation, upon which the petroleum products gross receipts tax has not been paid, is guilty of a crime of the fourth degree.

C.54:15B-10 Reimbursement of petroleum products tax to federal entity.

3. a. A federal government department, agency or instrumentality, that purchases petroleum products other than by the first sale of that product in this State for use in a federal government function or operation, upon which petroleum products the petroleum products gross receipts tax has been paid or is due and payable, shall be reimbursed and paid an amount equivalent to two and three-quarters percent (2 3/4%) of the consideration given or contracted to be

given by the federal government department, agency or instrumentality for the purchase of the petroleum products.

b. The reimbursement shall be claimed by presenting to the Director of the Division of Taxation in the Department of the Treasury an application for the reimbursement, on a 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 shall be supported by an invoice, or invoices, showing the name and address of the person from whom the petroleum products were purchased, the name of the purchaser, the date of purchase, the quantity of the product purchased, the price paid for the purchase of the product, and an acknowledgment by the seller that payment of the cost of the product to the seller, including the petroleum gross receipts tax due 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.

c. If petroleum products are sold to a federal government department, agency or instrumentality that shall be entitled to a reimbursement under this act, the seller of the petroleum products shall supply the purchaser with an invoice that conforms with the requirements of subsection b. of this section.

C.54:15B-11 Payment of reimbursement, fraudulent collection, fourth degree crime.

4. a. Upon approval by the director of an application for reimbursement, a warrant shall be drawn upon the State Treasurer for the amount of such claim in favor of the claimant and the warrant shall be paid from the revenue collected from the petroleum products gross receipts tax. The application for reimbursement shall be filed with the director on or before the last business day of the month following the calendar quarter in which the petroleum products in question were purchased.

b. A person who makes a false or fraudulent statement in an application required for reimbursement under this act, or who shall knowingly collect or cause to be repaid to any person or claimant any such reimbursement without being entitled to the same, is guilty of a crime of the fourth degree.

5. This act shall take effect immediately and reimbursements hereunder shall apply to purchases of petroleum products made on and after July 1, 1990.

Approved January 31, 1991.

CHAPTER 20

AN ACT concerning the Medicaid program and amending P.L.1968, c.413.

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

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

C.30:4D-3 Definitions.

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

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

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

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

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

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

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

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

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

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

(1) Is a recipient of Aid to Families with Dependent Children;

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

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

(4) Would be eligible to receive public assistance under a categorical assistance program except for failure to meet an eligibility condition or requirement imposed under such State program which is prohibited under Title XIX of the federal Social Security Act such as a durational residency requirement, relative responsibility, consent to imposition of a lien;

(5) Is a child between 18 and 21 years of age who would be eligible for Aid to Families with Dependent Children, living in the family group except for lack of school attendance or pursuit of formalized vocational or technical training;

(6) Is an individual under 21 years of age who qualifies for categorical assistance on the basis of financial eligibility, but does not qualify as a dependent child under the State's program of Aid to Families with Dependent Children (AFDC), or groups of such individuals, including but not limited to, children in foster placement under supervision of the Division of Youth and Family Services whose maintenance is being paid in whole or in part from public funds, children placed in a foster home or institution by a private adoption agency in New Jersey or children in intermediate care facilities, including institutions for the mentally retarded, or in psychiatric hospitals;

(7) Meets the standard of need applicable to his circumstances under a categorical assistance program or Supplemental Security Income program, but is not receiving such assistance and applies for medical assistance only.

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

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

(i) Pregnant women;

(ii) Dependent children under the age of 21;

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

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

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

(i) For one person and two person households, the income standard shall be the maximum allowable under federal law, but shall not exceed 133 1/3% of the State's payment level to two person households eligible to receive assistance pursuant to P.L.1959, c.86 (C.44:10-1 et seq.); and

(ii) For households of three or more persons, the income standard shall be set at 133 1/3% of the State's payment level to similar size households eligible to receive assistance pursuant to P.L.1959, c.86 (C.44:10-1 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

(9) (a) Is a pregnant woman, or is a child who is under one year of age, or, on and after October 1, 1987, is a child under two years of age; and

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

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

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

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

An individual who has, within 30 months of applying to be a qualified applicant for Medicaid services in a nursing facility or a medical institution, or for home or community-based services under

section 1915(c) of the federal Social Security Act (42 U.S.C. §1396n(c)), disposed of resources for less than fair market value shall be ineligible for assistance for nursing facility services, an equivalent level of services in a medical institution, or home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. §1396n(c)). The period of the ineligibility shall be the lesser of 30 months or the number of months resulting from dividing the uncompensated value of the transferred resources by the average monthly private payment rate for nursing facility services in the State as determined annually by the commissioner.

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

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

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

m. "Third party" means any person, institution, corporation, insurance company, public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

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

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

p. "Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Sub-

title B, the "Community Services Block Grant Act," of Pub.L. 97-35 (42 U.S.C. §9902(2)).

2. Section 6 of P.L.1968, c.413 (C.30:4D-6) is amended to read as follows:

C.30:4D-6 Basic medical care and services.

6. a. Subject to the requirements of Title XIX of the federal Social Security Act, the limitations imposed by this act and by the rules and regulations promulgated pursuant thereto, the department shall provide medical assistance to qualified applicants, including authorized services within each of the following classifications:

- (1) Inpatient hospital services;
- (2) Outpatient hospital services;
- (3) Other laboratory and X-ray services;
- (4)(a) Skilled nursing or intermediate care facility services;

(b) Such early and periodic screening and diagnosis of individuals who are eligible under the program and are under age 21, ascertain their physical or mental defects and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary of the federal Department of Health and Human Services and approved by the commissioner;

(5) Physician's services furnished in the office, the patient's home, a hospital, a skilled nursing or intermediate care facility or elsewhere.

b. Subject to the limitations imposed by federal law, by this act, and by the rules and regulations promulgated pursuant thereto, the medical assistance program may be expanded to include authorized services within each of the following classifications:

(1) Medical care not included in subsection a.(5) above, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice, as defined by State law;

- (2) Home health care services;
- (3) Clinic services;
- (4) Dental services;
- (5) Physical therapy and related services;

(6) Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

- (7) Optometric services;
- (8) Podiatric services;

- (9) Chiropractic services;
- (10) Psychological services;
- (11) Inpatient psychiatric hospital services for individuals under 21 years of age, or under age 22 if they are receiving such services immediately before attaining age 21;
- (12) Other diagnostic, screening, preventive, and rehabilitative services, and other remedial care;
- (13) Inpatient hospital services, skilled nursing facility services and intermediate care facility services for individuals 65 years of age or over in an institution for mental diseases;
- (14) Intermediate care facility services;
- (15) Transportation services;
- (16) Services in connection with the inpatient or outpatient treatment or care of drug abuse, when the treatment is prescribed by a physician and provided in a licensed hospital or in a narcotic and drug abuse treatment center approved by the Department of Health pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) and whose staff includes a medical director, and limited to those services eligible for federal financial participation under Title XIX of the federal Social Security Act;
- (17) Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary of the federal Department of Health and Human Services, and approved by the commissioner;
- (18) Comprehensive maternity care, which may include: the basic number of prenatal and postpartum visits recommended by the American College of Obstetrics and Gynecology; additional prenatal and postpartum visits that are medically necessary; necessary laboratory, nutritional assessment and counseling, health education, personal counseling, managed care, outreach and follow-up services; treatment of conditions which may complicate pregnancy; and physician or certified nurse-midwife delivery services;
- (19) Comprehensive pediatric care, which may include: ambulatory, preventive and primary care health services. The preventive services shall include, at a minimum, the basic number of preventive visits recommended by the American Academy of Pediatrics;
- (20) Services provided by a hospice which is participating in the Medicare program established pursuant to Title XVIII of the Social Security Act, Pub. L.89-97 (42 U.S.C. § 1395 et seq.). Hospice services shall be provided subject to approval of the Secretary of the federal Department of Health and Human Services for federal reimbursement.

c. Payments for the foregoing services, goods and supplies furnished pursuant to this act shall be made to the extent authorized by this act, the rules and regulations promulgated pursuant thereto and, where applicable, subject to the agreement of insurance provided for under this act. Said payments shall constitute payment in full to the provider on behalf of the recipient. Every provider making a claim for payment pursuant to this act shall certify in writing on the claim submitted that no additional amount will be charged to the recipient, his family, his representative or others on his behalf for the services, goods and supplies furnished pursuant to this act.

No provider whose claim for payment pursuant to this act has been denied because the services, goods or supplies were determined to be medically unnecessary shall seek reimbursement from the recipient, his family, his representative or others on his behalf for such services, goods and supplies provided pursuant to this act; provided, however, a provider may seek reimbursement from a recipient for services, goods or supplies not authorized by this act, if the recipient elected to receive the services, goods or supplies with the knowledge that they were not authorized.

d. Any individual eligible for medical assistance (including drugs) may obtain such assistance from any person qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability on a prepayment basis), who undertakes to provide him such services.

No copayment or other form of cost-sharing shall be imposed on any individual eligible for medical assistance, except as mandated by federal law as a condition of federal financial participation.

e. Anything in this act to the contrary notwithstanding, no payments for medical assistance shall be made under this act with respect to care or services for any individual who:

(1) Is an inmate of a public institution (except as a patient in a medical institution); provided, however, that an individual who is otherwise eligible may continue to receive services for the month in which he becomes an inmate, should the commissioner determine to expand the scope of Medicaid eligibility to include such an individual, subject to the limitations imposed by federal law and regulations, or

(2) Has not attained 65 years of age and who is a patient in an institution for mental diseases, or

(3) Is over 21 years of age and who is receiving inpatient psychiatric hospital services in a psychiatric facility; provided, however, that an individual who was receiving such services

immediately prior to attaining age 21 may continue to receive such services until he reaches age 22. Nothing in this subsection shall prohibit the commissioner from extending medical assistance to all eligible persons receiving inpatient psychiatric services; provided that there is federal financial participation available.

f. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment for goods and services to an individual because of that individual's eligibility for or receipt of Medicaid benefits shall be null and void, and no payments shall be made under this act as a result of any such provision.

g. The following services shall be provided to eligible medically needy individuals as follows:

(1) Pregnant women shall be provided prenatal care and delivery services and postpartum care, including the services cited in subsection a.(1), (3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1)-(10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(2) Dependent children shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1), (2), (3), (4), (5), (6), (7), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(3) Individuals who are 65 years of age or older shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(4) Individuals who are blind or disabled shall be provided with services cited in subsection a.(3) and (5) of section 6 of P.L.1968, c.413 (C.30:4D-6) and subsection b.(1)-(5), (6) excluding prescribed drugs, (7), (8), (10), (12), (15) and (17) of section 6 of P.L.1968, c.413 (C.30:4D-6).

(5)(a) Inpatient hospital services, subsection a.(1) of section 6 of P.L.1968, c.413 (C.30:4D-6), shall only be provided to eligible medically needy individuals, other than pregnant women, if the federal Department of Health and Human Services discontinues the State's waiver to establish inpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Act Amendments of 1983, Pub.L.98-21 (42 U.S.C. § 1395ww(c)(5)). Inpatient hospital services may be extended to other eligible medically needy individuals if the federal Department of Health and Human Services directs that these services be included.

(b) Outpatient hospital services, subsection a.(2) of section 6 of P.L.1968, c.413 (C.30:4D-6), shall only be provided to eligible medically needy individuals if the federal Department of Health and Human Services discontinues the State's waiver to establish outpatient hospital reimbursement rates for the Medicare and Medicaid programs under the authority of section 601(c)(3) of the Social Security Amendments of 1983, Pub.L.98-21 (42 U.S.C. § 1395ww(c)(5)). Outpatient hospital services may be extended to all or to certain medically needy individuals if the federal Department of Health and Human Services directs that these services be included. However, the use of outpatient hospital services shall be limited to clinic services and to emergency room services for injuries and significant acute medical conditions.

(c) The division shall monitor the use of inpatient and outpatient hospital services by medically needy persons.

h. In the case of a qualified disabled and working individual pursuant to section 6408 of Pub.L. 101-239 (42 U.S.C. §1396d), the only medical assistance provided under this act shall be the payment of premiums for Medicare part A under 42 U.S.C. §1395i-2 and §1395r.

3. This act shall take effect immediately, except that section 2 shall take effect on April 1, 1991.

Approved February 1, 1991.

CHAPTER 21

AN ACT establishing the date for the 1991 annual school election.

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

1. Notwithstanding any other law to the contrary, the 1991 annual school election shall be held on Tuesday, April 30, 1991. The Commissioner of Education is authorized to make any adjustments to the school budget and election calendar which are necessary to implement the provisions of this act, including any

necessary adjustment to the date established pursuant to section 1 of P.L.1971, c.436 (C.18A:27-10).

2. This act shall take effect immediately.

Approved February 6, 1991.

CHAPTER 22

AN ACT concerning the determination of parentage for purposes of intestate succession and amending N.J.S.3B:5-10.

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

1. N.J.S.3B:5-10 is amended to read as follows:

Establishment of Parent-Child Relationship.

3B:5-10. Establishment of Parent-Child Relationship.

If, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person, in cases not covered by N.J.S.3B:5-9, a person is the child of the person's parents regardless of the marital state of the person's parents, and the parent and child relationship may be established as provided by the "New Jersey Parentage Act," P.L.1983, c.17 (C.9:17-38 et seq.).

2. This act shall take effect immediately.

Approved February 19, 1991.

CHAPTER 23

AN ACT concerning a tax on hotel occupancy and amending and supplementing P.L.1981, c.77 (C.40:48E-1 et seq.).

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

1. Section 5 of P.L.1981, c.77 (C.40:48E-5) is amended to read as follows:

C.40:48E-5 Hotel owners, tax payments; calculation, refund.

5. a. For any calendar year, the owner of a hotel shall be required to pay the greater of the real property tax (defined to be the payment of ad valorem taxes or payment in lieu of taxes or payment of annual service charges) or the hotel use or occupancy tax, to be calculated as follows:

(1) If the quarterly installment of the real property tax is less than the quarterly installment of the hotel use or occupancy tax, the owner shall be required to pay only the hotel use or occupancy tax.

(2) If the quarterly installment of the real property tax is greater than the quarterly installment of the hotel use or occupancy tax, the owner shall be required to pay the hotel use or occupancy tax, and, in addition, the owner shall be required to make a supplemental payment. For the purposes of this section, "supplemental payment" means an amount equal to the excess of the real property tax installment over the hotel use or occupancy tax installment.

b. At the end of the calendar year, the total hotel use or occupancy tax payments made during the year shall be adjusted as follows:

(1) If the total of the hotel use or occupancy tax payments, excluding any supplemental payments, made during the year exceeds the total real property tax for that year, the city shall refund to the owner the total amount of the supplemental payments, if any, made during the year; or

(2) If the total of the hotel use or occupancy tax payments, excluding any supplemental payments, made during the year does not exceed the total real property tax for the year, and if the total of the hotel use or occupancy tax payments and supplemental payments made during the year does exceed the total real property tax for the year, the city shall refund to the owner the difference between: (a) the total property tax paid and (b) the sum of the hotel or occupancy tax paid plus the supplemental payments paid.

c. The refunds shall be paid to the owner without interest by July 1 of the succeeding year or 15 days after the adoption of the annual budget by the municipal council, whichever is later.

d. No refund shall be made in any year in which the owner has failed to be current in its hotel use or occupancy tax, including any supplemental payments required under this section. For the purposes of this section, "current" means that quarterly installments of tax have been paid in accordance with R.S.54:4-66.

2. Any amounts which have accrued as a surplus prior to the effective date of this act and which have been credited pursuant to section 5 of P.L.1981, c.77 (C.40:48E-5) are hereby cancelled.

3. Section 3 of P.L.1981, c.77 (C.40:48E-3) is amended to read as follows:

C.40:48E-3 Additional tax may be imposed.

3. The governing body of any city of the first class or the governing body of any city of the second class in which there is located a terminal of an international airport may make, amend, repeal and enforce an ordinance imposing in the city a tax, not to exceed 6%, on charges for the use or occupation of rooms in hotels which tax shall be in addition to any other tax imposed by law.

4. This act shall take effect immediately.

Approved February 19, 1991.

CHAPTER 24

AN ACT extending the expiration date of certain provisions of the "Pinelands Development Credit Bank Act," P.L.1985, c.310 (C.13:18A-30 et seq.), and amending P.L.1985, c.310.

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

1. Section 19 of P.L.1985, c.310 (C.13:18A-48) is amended to read as follows:

C.13:18A-48 Extension of pinelands development credit guarantee.

19. Notwithstanding any other provisions of this act:

- a. No pinelands development credit guarantee shall be extended for a period of time in excess of five years;
- b. No pinelands development credit guarantee shall be extended after December 31, 1992;
- c. No pinelands development credit shall be purchased by the bank after December 31, 1992.

2. This act shall take effect immediately.

Approved February 19, 1991.

CHAPTER 25

AN ACT concerning fees imposed pursuant the "Worker and Community Right To Know Act," and amending P.L.1983, c.315.

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

1. Section 3 of P.L.1983, c.315 (C.34:5A-3) is amended to read as follows:

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" means 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 which has a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the federal Office of Management and Budget, within the following Major Group Numbers, Group Numbers, or Industry Numbers, as the case may be, except as otherwise provided herein: Major Group Number 07 (Agricultural Services),

only Industry Number 0782--Lawn and garden services; Major Group Numbers 20 through 39 inclusive (manufacturing industries); Major Group Number 45 (Transportation by Air), only Industry Number 4511--Air Transportation, certified carriers, and Group Number 458--Air Transportation Services; Major Group Number 46 (Pipelines, Except Natural Gas); Major Group Number 47 (Transportation Services), only Group Numbers 471--Freight Forwarding, 474--Rental of Railroad Cars, and 478--Miscellaneous Services Incidental to Transportation; Major Group Number 48 (Communication), only Group Numbers 481--Telephone Communication, and 482--Telegraph Communication; Major Group Number 49 (Electric, Gas and Sanitary Services); Major Group Number 50 (Wholesale Trade--Durable Goods), only Industry Numbers 5085--Industrial Supplies, 5087--Service Establishment Equipment and Supplies, and 5093--Scrap and Waste Materials; Major Group Number 51 (Wholesale trade, nondurable goods), only Group Numbers 512--Drugs, Drug Proprietaries and Druggist's Sundries, 516--Chemicals and Allied Products, 517--Petroleum and petroleum products, 518--Beer, Wine and Distilled Alcoholic Beverages, and 519--Miscellaneous Nondurable Goods; Major Group Number 55 (Automobile Dealers and Gasoline Service Stations), only Group Numbers 551--Motor Vehicle Dealers (New and Used), 552--Motor Vehicle Dealers (Used only), and 554--Gasoline Service Stations; Major Group Number 72 (Personal Services), only Industry Numbers 7216--Dry Cleaning Plants, Except Rug Cleaning, 7217--Carpet and Upholstery Cleaning, and 7218--Industrial Launderers; Major Group Number 73 (Business Services), only Industry Number 7397 Commercial testing laboratories; Major Group Number 75 (automotive repair, services, and garages), only Group Number 753--Automotive Repair Shops; Major Group Number 76 (miscellaneous repair services), only Industry Number 7692--Welding Repair; Major Group Number 80 (health services), only Group Number 806--Hospitals; and Major Group Number 82 (educational services), only Group Numbers 821--Elementary and Secondary Schools and 822--Colleges and Universities, and Industry Number 8249--Vocational Schools. 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, or any non-profit, non-public school, college or university.

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 nonpoint-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, flammability, 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 pos-

sess 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.

2. This act shall take effect immediately.

Approved February 19, 1991.

CHAPTER 26

AN ACT exempting certain agencies from the licensing requirements of clinical laboratories and amending P.L.1975, c.166.

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

1. Section 8 of P.L.1975, c.166 (C.45:9-42.33) is amended to read as follows:

C.45:9-42.33 Provisions not applicable.

8. The provisions of this act shall not apply to:

a. Clinical laboratories operated and maintained exclusively for research and teaching purposes, involving no patient or public health services whatsoever;

b. Clinical laboratories operated by the United States Government, or blood banks licensed under P.L.1963, c.33 (C.26:2A-2 et seq.);

c. Clinical laboratories specifically exempted from the provisions of this act by rules and regulations promulgated by the Public Health Council pursuant to section 9 of P.L.1975, c.166 (C.45:9-42.34); or

d. Clinical laboratories which are operated by the Department of Corrections, any county jail, any county probation department, or any drug or alcohol treatment center providing services to persons under the jurisdiction of any of these agencies or in a program of supervisory treatment pursuant to the provisions of N.J.S.2C:43-13 and which perform only urinalysis for screening purposes to detect the presence of alcohol or illegal substances. The Attorney General shall approve procedures, methods and devices used by these agencies or centers in screening for alcohol or illegal substances.

2. This act shall take effect immediately.

Approved February 19, 1991.

CHAPTER 27

AN ACT regulating landscape irrigation contractors.

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

C.45:5AA-1 Short title.

1. This act shall be known and may be cited as the "Landscape Irrigation Contractor Certification Act of 1991."

C.45:5AA-2 Definitions.

2. As used in this act:

a. "Board" means the Landscape Irrigation Contractors Examining Board established pursuant to section 5 of this act.

b. "Department" means the Department of Environmental Protection.

c. "Landscape irrigation contracting" means the construction, repair, maintenance, improvement and alteration of any portion of a landscape irrigation system, including required wiring within that system and connection to the required power supply and the installation and connection to a public or private water supply system under the terms and conditions of a contract.

d. "Landscape irrigation contractor" means a person who is certified to do landscape irrigation contracting.

e. "Landscape irrigation contractor certificate" or "certificate" means the certificate issued by the board pursuant to the provisions of this act.

f. "Landscape irrigation system" means any assemblage of components, materials or special equipment which is designed, constructed and installed for controlled dispersion of water from any safe and suitable source, including properly treated wastewater, for the purpose of irrigating landscape vegetation or the control of dust and erosion on landscaped areas, including integral pumping systems or integral control systems for manual, semi-automatic or automatic control of the operation of these systems.

C.45:5AA-3 Landscape irrigation contractor certificate.

3. a. No person shall engage in the business of landscape irrigation contracting without securing from the board a landscape irrigation contractor certificate in accordance with the provisions of this act; except that officers, employees, and duly authorized representatives of the United States, the State, or any political subdivision thereof performing work on the property of the public entity; vendors of landscape irrigation components, materials, or equipment who perform only such functions as delivery, rendering of advice or assistance in the installation or normal warranty service or exchange of defective or damaged goods; contractors engaged in the design, fabrication, installation or construction of irrigation apparatus, or irrigation equipment of any type which is to be used solely for agricultural purposes in the production of harvestable and saleable vegetative or animal products; plumbing contractors as defined by section 2 of P.L.1968, c.362 (C.45:14C-2); and persons engaged in landscape irrigation contracting

solely as an employee of a landscape irrigation contractor, are exempt from the requirement of a certificate imposed by this act.

b. If a landscape irrigation system is connected to a potable water supply, the landscape irrigation contractor's connection is to begin at the downstream side of a properly installed backflow prevention device as required by the Plumbing Subcode of the Uniform Construction Code adopted pursuant to section 5 of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-123).

c. Nothing in this act shall be construed to prevent individuals licensed or certified in this State under any other law from engaging in the profession for which they are licensed or certified.

C.45:5AA-4 Application for certification as landscape irrigation contractor.

4. A person seeking certification as a landscape irrigation contractor shall apply therefor on forms prescribed and provided by the board, and pay the application fee established by the board. In addition to any other information or documents that may be required by the board, each applicant shall submit satisfactory evidence that the applicant is of good moral character, is at least 18 years of age, and has a minimum of three years' experience in the field of landscape irrigation.

C.45:5AA-5 Landscape Irrigation Contractors Examining Board established.

5. a. There is established in the Department of Environmental Protection the Landscape Irrigation Contractors Examining Board, which shall consist of six members, one of whom shall be the Commissioner of Environmental Protection, or the commissioner's designated representative, who shall serve ex officio, four of whom shall be landscape irrigation contractors and residents of the State, and one of whom shall be a licensed professional engineer, appointed by the Governor with the advice and consent of the Senate, for terms of three years. Of the public members first appointed by the Governor, who shall not be required to be certified pursuant to section 7 of this act, two shall be appointed for terms of three years, two shall be appointed for a term of two years, and one shall be appointed for a term of one year. Each of these members shall hold office for the term of the appointment and until a successor is appointed and qualified. A member is eligible for reappointment to one additional term. Any vacancy in the membership occurring other than by expiration of a term shall be filled in the same manner as the original appointment, but for the expired term only.

b. The members of the board shall elect from among their number a chairman, who shall schedule, convene, and chair board meetings, and a vice-chairman who shall act as chairman in the chairman's absence.

c. The powers of the board are vested in the members thereof in office, and a majority of the total authorized membership of the board is required to exercise its powers at any meeting thereof.

d. The members of the board shall serve without compensation, but the board may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

e. The board shall meet twice annually, and at such other times as may be necessary, at a place provided by the department.

C.45:5AA-6 Duties, powers of board.

6. The board shall:

a. Review the qualifications of an applicant for certification as a landscape irrigation contractor;

b. Insure the proper conduct and standards of examinations for the certification of landscape irrigation contractors;

c. Issue and renew certificates pursuant to this act, as appropriate;

d. Refuse to issue or renew or shall suspend or revoke a certificate issued under this act pursuant to section 8 of this act;

e. Maintain a registry of landscape irrigation contractor certificates which shall record the name and address of the contractor, the date the certificate was issued, and the number of the certificate;

f. Adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to carry out the provisions of this act; and

g. Adopt, pursuant to the "Administrative Procedure Act," fees for examinations, application and renewal of a certificate. These fees shall be prescribed or changed to the extent necessary to defray the expenses incurred by the board in the performance of its duties but shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

C.45:5AA-7 Development, administration of qualifying examination.

7. a. The board shall develop an examination to evaluate the knowledge, ability, and fitness of applicants to perform as landscape irrigation contractors and for the certification thereof and shall administer these examinations at least semi-annually at times and places to be determined by the board. The board shall provide adequate written notice of the time and place of the examination. An applicant who fails an examination may not

retake the examination sooner than six months after the initial examination. The board shall issue a certificate to an applicant who successfully passes the examination and otherwise meets the standards and qualifications established by the board.

b. Each initial certificate issued pursuant to this act shall expire on January 31 of the second calendar year following issuance. All certificates issued thereafter shall remain valid for a period of two years and shall expire on January 31 of the second calendar year. A new certificate issued any time after the regular January 31 date of issuance shall remain valid until the regular January 31 date of expiration.

c. A person may seek renewal of a certificate upon submission of a renewal application and the renewal fee established by the board.

d. If a renewal application and fee are not received by the board, the certificate shall expire, except that a person may renew a certificate within two years of its expiration upon payment of a prorated fee. A new certificate, issued pursuant to the provisions of this act, shall be required of a person who fails to renew a certificate within two years of its expiration.

C.45:5AA-8 Denial, suspension of certificate.

8. The board may refuse to admit a person to an examination or may refuse to issue or renew or may suspend or revoke any certificate issued by the board pursuant to this act upon proof that the applicant or holder of the certificate:

- a. Has obtained a certificate or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence or gross incompetence;
- d. Has engaged in repeated acts of negligence or incompetence;
- e. Has engaged in occupational misconduct as may be determined by the board;
- f. Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by the board. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of this act; or

i. Is incapable, for medical or any other good cause, of discharging the functions of a certificate holder in a manner consistent with the public's health, safety and welfare.

C.45:5AA-9 Violations, penalties.

9. Any person violating any provision of this act shall be liable to a civil penalty of not more than \$2,500 for the first offense and not more than \$5,000 for the second and each subsequent offense. In lieu of an administrative proceeding, the board may bring an action for the collection or enforcement of civil penalties for the violation of any provision of this act. The action may be brought in summary manner pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

C.45:5AA-10 Injunction prohibiting violative act, practice.

10. Whenever it shall appear to the board that a violation of this act, including engaging in landscape irrigation contracting without a certificate, has occurred, is occurring or will occur, the board may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting the act or practice. In this proceeding the court may assess a civil penalty in accordance with the provisions of this act and may enter those orders necessary to prevent the performance of an unlawful practice in the future.

C.45:5AA-11 Other licenses, fees required of certificate holder.

11. The issuance of a certificate by the board shall authorize any certificate holder to perform landscape irrigation contracting in any municipality, county or other political subdivision of the State, and no further examination or special license shall be required of the certificate holder, except business licenses, permit fees, and such other standard licenses and fees as may be required of any person doing business within the jurisdiction of the political subdivision.

12. This act shall take effect immediately except that section 3 shall remain inoperative for 180 days following enactment.

Approved February 19, 1991.

CHAPTER 28

AN ACT defining the responsibilities and liabilities of roller skating rink operators and persons who utilize roller skating rinks and supplementing Title 5 of the Revised Statutes.

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

C.5:14-1 Short title.

1. This act shall be known and may be cited as the “New Jersey Roller Skating Rink Safety and Fair Liability Act.”

C.5:14-2 Findings, declarations.

2. a. The Legislature finds and declares that the recreational sport of roller skating is practiced by a large number of citizens of this State; provides a wholesome and healthy family activity which should be encouraged, and attracts to this State a large number of nonresidents, significantly contributing to the economy of this State. Therefore, the allocation of the risks and costs of roller skating is an important matter of public policy.

b. The Legislature finds and declares that roller skating rink owners face great difficulty in obtaining liability insurance coverage, and that when such insurance coverage is available, drastic increases in the cost of the insurance have taken place and many roller skating rink owners are no longer able to afford it.

This lack of insurance coverage adversely affects not only the roller skating rink owners themselves, but also patrons who may suffer personal injury and property damage as a result of accidents which occur on the premises of the roller skating rink.

In order to make it economically feasible for insurance companies to provide coverage to roller skating rinks, the incidence of liability should be more predictable. That predictability may be achieved by defining the limits of the liabilities of roller skating rink operators in order to encourage the development and implementation of risk reduction techniques.

C.5:14-3 Definitions.

3. As used in this act:

a. “Operator” means a person or entity who owns, manages, controls or directs or who has operational responsibility for a roller skating rink.

b. “Roller skater” means a person wearing roller skates while in a roller skating rink for the purpose of recreational or competitive roller skating.

Roller skater also includes any person in such roller skating rink who is an invitee, whether or not said person pays consideration.

c. "Roller skating rink" means a building, facility or premises which provides an area specifically designed to be used by the public for recreational or competitive roller skating.

d. "Spectator" means a person who is present in a roller skating rink only for the purpose of observing recreational or competitive roller skating.

C.5:14-4 Responsibilities of operator.

4. It shall be the responsibility of the operator to the extent practicable to:

a. Post the duties of roller skaters and spectators and the duties, obligations and liabilities of the operator as prescribed in this act, in conspicuous places in at least three locations in the roller skating rink;

b. Maintain the stability and legibility of all signs, symbols and posted notices required by this act;

c. When the rink is open for sessions, have at least one floor guard on duty for every approximately 200 skaters;

d. Maintain the skating surface in reasonably safe condition and clean and inspect the skating surface before each session;

e. Maintain the railings, kickboards and wall surrounding the skating surface in good condition;

f. In rinks with step-up or step-down skating surfaces, insure that the covering on the riser is securely fastened;

g. Install fire extinguishers and inspect fire extinguishers at recommended intervals;

h. Provide reasonable security in parking areas during operational hours;

i. Inspect emergency lighting units periodically to insure the lights are in proper order;

j. Keep exit lights and lights in service areas on when skating surface lights are turned off during special numbers;

k. Check rental skates on a regular basis to insure the skates are in good mechanical condition;

l. Prohibit the sale or use of alcoholic beverages on the premises; and

m. Comply with all applicable State and local safety codes.

C.5:14-5 Responsibilities of roller skater.

5. Each roller skater shall:

- a. Maintain reasonable control of his speed and course at all times;
- b. Heed all posted signs and warnings;
- c. Maintain a proper outlook to avoid other roller skaters and objects;
- d. Accept the responsibility for knowing the range of his own ability to negotiate the intended direction of travel while on roller skates and to skate within the limits of that ability; and
- e. Refrain from acting in a manner which may cause or contribute to the injury of himself or any other person.

C.5:14-6 Risks of roller skating.

6. Roller skaters and spectators are deemed to have knowledge of and to assume the inherent risks of roller skating, insofar as those risks are obvious and necessary. These risks include, but are not limited to, injuries which result from incidental contact with other roller skaters or spectators, injuries which result from falls caused by loss of balance, and injuries which involve objects or artificial structures properly within the intended path of travel of the roller skater, which are not otherwise attributable to a rink operator's breach of his duties as set forth in section 4 of this act.

C.5:14-7 Failure to adhere to duties, defense against suit.

7. The assumption of risk set forth in section 6 of this act shall be a complete bar of suit and shall serve as a complete defense to a suit against an operator by a roller skater or spectator for injuries resulting from the assumed risks, notwithstanding the provisions of P.L.1973, c.146 (C.2A:15-5.1 et seq.), relating to comparative negligence, unless an operator has violated his duties or responsibilities under this act, in which case the provisions of P.L.1973, c.146 shall apply. Failure to adhere to the duties set out in sections 5 and 6 of this act shall bar suit against an operator to compensate for injuries resulting from roller skating activities, where such failure is found to be a contributory factor in the resulting injury, unless the operator has violated his duties or responsibilities under the act, in which case the provisions of P.L.1973, c.146 shall apply.

8. This act shall take effect immediately.

Approved February 19, 1991.

CHAPTER 29

AN ACT concerning standards of ethical conduct for officers and employees of local government and repealing section 1 of P.L.1983, c.188 (C.40:23-6.51).

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

C.40A:9-22.1 Short title.

1. This act shall be known and may be cited as the "Local Government Ethics Law."

C.40A:9-22.2 Findings, declarations.

2. The Legislature finds and declares that:
 - a. Public office and employment are a public trust;
 - b. The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives;
 - c. Whenever the public perceives a conflict between the private interests and the public duties of a government officer or employee, that confidence is imperiled;
 - d. Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed, and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties; and
 - e. It is the purpose of this act to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for local government officers and employees shall be clear, consistent, uniform in their application, and enforceable on a Statewide basis, and to provide local officers or employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.

C.40A:9-22.3 Definitions.

3. As used in this act:
 - a. "Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs;
 - b. "Business organization" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity;
 - c. "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;

d. "Interest" means the ownership or control of more than 10% of the profits, assets or stock of a business organization but shall not include the control of assets in a nonprofit entity or labor union;

e. "Local government agency" means any agency, board, governing body, including the chief executive officer, bureau, division, office, commission or other instrumentality within a county or municipality, and any independent local authority, including any entity created by more than one county or municipality, which performs functions other than of a purely advisory nature, but shall not include a school board;

f. "Local government employee" means any person, whether compensated or not, whether part-time or full-time, employed by or serving on a local government agency who is not a local government officer, but shall not mean any employee of a school district;

g. "Local government officer" means any person whether compensated or not, whether part-time or full-time: (1) elected to any office of a local government agency; (2) serving on a local government agency which has the authority to enact ordinances, approve development applications or grant zoning variances; (3) who is a member of an independent municipal, county or regional authority; or (4) who is a managerial executive or confidential employee of a local government agency, as defined in section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3), but shall not mean any employee of a school district or member of a school board;

h. "Local government officer or employee" means a local government officer or a local government employee;

i. "Member of immediate family" means the spouse or dependent child of a local government officer or employee residing in the same household.

C.40A:9-22.4 Local Finance Board to have jurisdiction.

4. The Local Finance Board in the Division of Local Government Services in the Department of Community Affairs shall have jurisdiction to govern and guide the conduct of local government officers or employees regarding violations of the provisions of this act who are not otherwise regulated by a county or municipal

code of ethics promulgated by a county or municipal ethics board in accordance with the provisions of this act. Local government officers or employees serving a local government agency created by more than one county or municipality shall be under the jurisdiction of the board. The board in interpreting and applying the provisions of this act shall recognize that under the principles of democracy, public officers and employees cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officers and employees have a right to private interests of a personal, financial and economic nature; and that standards of conduct shall distinguish between those conflicts of interest which are legitimate and unavoidable in a free society and those conflicts of interest which are prejudicial and material and are, therefore, corruptive of democracy and free society.

C.40A:9-22.5 Provisions requiring compliance by local government officers, employees.

5. Local government officers or employees under the jurisdiction of the Local Finance Board shall comply with the following provisions:

a. No local government officer or employee or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

b. No independent local authority shall, for a period of one year next subsequent to the termination of office of a member of that authority:

(1) award any contract which is not publicly bid to a former member of that authority;

(2) allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or

(3) employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.

The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.

c. No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others;

d. No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

e. No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

f. No local government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his official duties;

g. No local government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;

h. No local government officer or employee or business organization in which he has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he serves. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;

i. No local government officer shall be deemed in conflict with these provisions if, by reason of his participation in the

enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;

j. No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of his immediate family, whether directly or indirectly, in return therefor; and

k. Nothing shall prohibit any local government officer or employee, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests.

C.40A:9-22.6 Annual financial disclosure statement.

6. a. Local government officers shall annually file a financial disclosure statement. All financial disclosure statements filed pursuant to this act shall include the following information which shall specify, where applicable, the name and address of each source and the local government officer's job title:

(1) Each source of income, earned or unearned, exceeding \$2,000 received by the local government officer or a member of his immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the local government officer or member of his immediate family has an interest in the business organization;

(2) Each source of fees and honorariums having an aggregate amount exceeding \$250 from any single source for personal appearances, speeches or writings received by the local government officer or a member of his immediate family during the preceding calendar year;

(3) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received by the local government officer or a member of his immediate family during the preceding calendar year;

(4) The name and address of all business organizations in which the local government officer or a member of his immediate family had an interest during the preceding calendar year; and

(5) The address and brief description of all real property in the State in which the local government officer or a member of his immediate family held an interest during the preceding calendar year.

b. The Local Finance Board shall prescribe a financial disclosure statement form for filing purposes. For counties and municipalities which have not established ethics boards, the board shall transmit sufficient copies of the forms to the municipal clerk in each municipality and the county clerk in each county for filing in accordance with this act. The municipal clerk shall make the forms available to the local government officers serving the municipality. The county clerk shall make the forms available to the local government officers serving the county.

For counties and municipalities which have established ethics boards, the Local Finance Board shall transmit sufficient copies of the forms to the ethics boards for filing in accordance with this act. The ethics boards shall make the forms available to the local government officers within their jurisdiction.

For local government officers serving the municipality, the original statement shall be filed with the municipal clerk in the municipality in which the local government officer serves. For local government officers serving the county, the original statement shall be filed with the county clerk in the county in which the local government officer serves. A copy of the statement shall be filed with the board. In counties or municipalities which have established ethics boards a copy of the statement shall also be filed with the ethics board having jurisdiction over the local government officer. Local government officers shall file the initial financial disclosure statement within 90 days following the effective date of this act. Thereafter, statements shall be filed on or before April 30th each year.

c. All financial disclosure statements filed shall be public records.

C.40A:9-22.7 Powers of Local Finance Board.

7. With respect to its responsibilities for the implementation of the provisions of this act, the Local Finance Board shall have the following powers:

a. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of this act;

b. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;

c. To hear and determine any appeal of a decision made by a county or municipal ethics board;

d. To forward to the county prosecutor or the Attorney General or other governmental body any information concerning 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;

e. To render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of this act;

f. To enforce the provisions of this act and to impose penalties for the violation thereof as are authorized by this act; and

g. To adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and to do other things as are necessary to implement the purposes of this act.

C.40A:9-22.8 Request for advisory opinion from Local Finance Board.

8. A local government officer or employee not regulated by a county or municipal code of ethics may request and obtain from the Local Finance Board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the provisions of this act. Advisory opinions of the board shall not be made public, except when the board by the vote of two-thirds of all of its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the board in directing that the opinion be made public so determines.

C.40A:9-22.9 Response by Local Finance Board to written complaint.

9. The Local Finance Board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee, not regulated by a county or municipal code of ethics, is in conflict with the provisions of this act, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the board shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall

have the opportunity to present the board with any statement or information concerning the complaint which he wishes. Thereafter, if the board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the provisions of this act, the board shall conduct a hearing in the manner prescribed by section 12 of this act, concerning the possible violation and any other facts and circumstances which may have come to the attention of the board with respect to the conduct of the local government officer or employee. The board shall render a decision as to whether the conduct of the officer or employee is in conflict with the provisions of this act. This decision shall be made by no less than two-thirds of all members of the board. If the board determines that the officer or employee is in conflict with the provisions of this act, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the board may be appealed in the same manner as any other final State agency decision.

C.40A:9-22.10 Violations, penalties.

10. a. An appointed local government officer or employee found guilty by the Local Finance Board or a county or municipal ethics board of the violation of any provision of this act or of any code of ethics in effect pursuant to this act, shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The board or a county or municipal ethics board shall report its findings to the office or agency having the power of removal or discipline of the appointed local government officer or employee and may recommend that further disciplinary action be taken.

b. An elected local government officer or employee found guilty by the Local Finance Board or a county or municipal ethics board of the violation of any provision of this act or of any code of ethics in effect pursuant to this act, shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

C.40A:9-22.11 Disciplinary actions against officer, employee found guilty of violation.

11. The finding by the Local Finance Board or a county or municipal ethics board that an appointed local government officer or employee is guilty of the violation of the provisions of this act,

or of any code of ethics in effect pursuant to this act, shall be sufficient cause for his removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is charged with violating the provisions of this act or any code of ethics in effect pursuant to this act, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

C.40A:9-22.12 Conducting of hearings.

12. All hearings required pursuant to this act shall be conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a State agency in contested cases under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.40A:9-22.13 Establishment of county ethics board.

13. a. Each county of the State governed under the provisions of P.L.1972, c.154 (C.40:41A-1 et seq.) may, by ordinance, and the remaining counties may, by resolution establish a county ethics board consisting of six members who are residents of the county, at least two of whom shall be public members. The members of the ethics board shall be appointed by the governing body of the county and no more than one of whom shall be from the same municipality. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the ethics board shall be of the same political party.

b. The members of the county ethics board shall annually elect a chairman from among the membership.

c. The members shall serve for a term of five years; except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of four years, and the remaining members shall be appointed to serve for a term of three years. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring in the membership of the ethics board shall be filled in the same manner as the original appointment for the unexpired term.

d. Members of the ethics board shall serve without compensation but shall be reimbursed by the county for necessary expenses incurred in the performance of their duties under this act.

C.40A:9-22.14 Provision of offices to county ethics board.

14. a. The governing body of the county shall provide the county ethics board with offices for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.

b. All necessary expenses incurred by the county ethics board and its members shall be paid, upon certification of the chairman, by the county treasurer within the limits of funds appropriated by the county governing body by annual or emergency appropriations for those purposes.

c. The county ethics board may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this act within the limits of funds appropriated by the county governing body for those purposes.

C.40A:9-22.15 County code of ethics established.

15. Within 90 days after the establishment of a county ethics board, that ethics board shall promulgate, by resolution, a county code of ethics for all local government officers and employees serving the county. Local government officers and employees serving a county independent authority shall be deemed to be serving the county for purposes of this act.

The county code of ethics so promulgated shall be either identical to the provisions set forth in section 5 of this act or more restrictive, but shall not be less restrictive. Within 15 days following the promulgation thereof, the county code of ethics, and a notice of the date of the public hearing to be held thereon, shall be published in at least one newspaper circulating within the county and shall be distributed to the county clerk and to the heads of the local government agencies serving the county for circulation among the local government officers and employees serving the county. The county ethics board shall hold a public hearing on the county code of ethics not less than 30 days following its promulgation at which any local government officer or employee serving the county and any other person wishing to be heard shall be permitted to testify. As a result of the hearing, the ethics board may amend or supplement the county code of ethics as it deems necessary. If the county code of ethics is not identical to the provisions set forth in section 5 of this act, the county ethics board shall thereafter submit the county code of ethics to the Local Finance Board for approval. The board shall approve or disapprove a county code of ethics within 60 days following

receipt. If the board fails to act within that period, the county code of ethics shall be deemed approved. A county code of ethics requiring board approval shall take effect for all local government officers and employees serving the county 60 days after approval by the board. A county code of ethics identical to the provisions set forth in section 5 of this act shall take effect 10 days after the public hearing thereon. The county ethics board shall forward a copy of the county code of ethics to the county clerk and shall make copies of the county code of ethics available to local government officers and employees serving the county.

C.40A:9-22.16 Powers of county ethics board.

16. A county ethics board shall have the following powers:

a. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the county code of ethics or financial disclosure requirements by local government officers or employees serving the county;

b. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;

c. To forward to the county prosecutor or the Attorney General or other governmental body any information concerning violations of the county code of ethics or financial disclosure requirements by local government officers or employees serving the county which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General;

d. To render advisory opinions to local government officers or employees serving the county as to whether a given set of facts and circumstances would constitute a violation of any provision of the county code of ethics or financial disclosure requirements;

e. To enforce the provisions of the county code of ethics and financial disclosure requirements with regard to local government officers or employees serving the county and to impose penalties for the violation thereof as are authorized by this act; and

f. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this act.

C.40A:9-22.17 Request for advisory opinion from county ethics board.

17. A local government officer or employee serving the county may request and obtain from the county ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the county code of ethics or

any financial disclosure requirements. Advisory opinions of the county ethics board shall not be made public, except when the ethics board by the vote of two-thirds of all of its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the ethics board in directing that the opinion be made public so determines.

C.40A:9-22.18 Response by county ethics board to written complaint.

18. The county ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the county is in conflict with the county code of ethics or any financial disclosure requirements shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The ethics board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the ethics board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the ethics board shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the ethics board with any statement or information concerning the complaint which he wishes. Thereafter, if the ethics board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the county code of ethics or any financial disclosure requirements, it shall conduct a hearing in the manner prescribed by section 12 of this act, concerning the possible violation and any other facts and circumstances which may have come to its attention with respect to the conduct of the local government officer or employee. The ethics board shall render a decision as to whether the conduct of the officer or employee is in conflict with the county code of ethics or any financial disclosure requirements. This decision shall be made by no less than two-thirds of all members of the ethics board. If the ethics board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the ethics board may be appealed to the Local Finance Board within 30 days of the decision.

C.40A:9-22.19 Establishment of municipal ethics board.

19. a. Each municipality of the State may, by ordinance, establish a municipal ethics board consisting of six members who are residents of the municipality, at least two of whom shall be public members. The members of the ethics board shall be appointed by the governing body of the municipality. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the ethics board shall be of the same political party.

b. The members of the municipal ethics board shall annually elect a chairman from among the membership.

c. The members shall serve for a term of five years; except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of four years, and the remaining members shall be appointed to serve for a term of three years. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring in the membership of the ethics board shall be filled in the same manner as the original appointment for the unexpired term.

d. Members of the ethics board shall serve without compensation but shall be reimbursed by the municipality for necessary expenses incurred in the performance of their duties under this act.

C.40A:9-22.20 Provision of offices to municipal ethics board.

20. a. The governing body of the municipality shall provide the municipal ethics board with offices for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.

b. All necessary expenses incurred by the municipal ethics board and its members shall be paid, upon certification of the chairman, by the municipal treasurer within the limits of funds appropriated by the municipal governing body by annual or emergency appropriations for those purposes.

c. The municipal ethics board may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this act within the limits of funds appropriated by the municipal governing body for those purposes.

C.40A:9-22.21 Municipal code of ethics established.

21. Within 90 days after the establishment of a municipal ethics board, that ethics board shall promulgate by resolution a municipal code of ethics for all local government officers and employees serv-

ing the municipality. Local government officers and employees serving a municipal independent authority shall be deemed to be serving the municipality for purposes of this act.

The municipal code of ethics so promulgated shall be either identical to the provisions set forth in section 5 of this act or more restrictive, but shall not be less restrictive. Within 15 days following the promulgation thereof, the municipal code of ethics, and a notice of the date of the public hearing to be held thereon, shall be published in at least one newspaper circulating within the municipality and shall be distributed to the municipal clerk and to the heads of the local government agencies serving the municipality for circulation among the local government officers and employees serving the municipality. The municipal ethics board shall hold a public hearing on the municipal code of ethics not less than 30 days following its promulgation at which any local government officer or employee serving the municipality and any other person wishing to be heard shall be permitted to testify. As a result of the hearing, the ethics board may amend or supplement the municipal code of ethics as it deems necessary. If the municipal code of ethics is not identical to the provisions set forth in section 5 of this act, the municipal ethics board shall thereafter submit the municipal code of ethics to the Local Finance Board for approval. The board shall approve or disapprove a municipal code of ethics within 60 days following receipt. If the board fails to act within that period, the municipal code of ethics shall be deemed approved. A municipal code of ethics requiring board approval shall take effect for all local government officers and employees serving the municipality 60 days after approval by the board. A municipal code of ethics identical to the provisions set forth in section 5 of this act shall take effect 10 days after the public hearing held thereon. The municipal ethics board shall forward a copy of the municipal code of ethics to the municipal clerk and shall make copies of the municipal code of ethics available to local government officers and employees serving the municipality.

C.40A:9-22.22 Powers of municipal ethics board.

22. A municipal ethics board shall have the following powers:

- a. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the municipal code of ethics or financial disclosure requirements by local government officers or employees serving the municipality;

b. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;

c. To forward to the county prosecutor or the Attorney General or other governmental body any information concerning violations of the municipal code of ethics or financial disclosure requirements by local government officers or employees serving the municipality which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General;

d. To render advisory opinions to local government officers or employees serving the municipality as to whether a given set of facts and circumstances would constitute a violation of any provision of the municipal code of ethics or financial disclosure requirements;

e. To enforce the provisions of the municipal code of ethics and financial disclosure requirements with regard to local government officers or employees serving the municipality and to impose penalties for the violation thereof as are authorized by this act; and

f. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this act.

C.40A:9-22.23 Request for advisory opinion from municipal ethics board.

23. A local government officer or employee serving the municipality may request and obtain from the municipal ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the municipal code of ethics or any financial disclosure requirements. Advisory opinions of the municipal ethics board shall not be made public, except when the ethics board by the vote of two-thirds of all of its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the ethics board in directing that the opinion be made public so determines.

C.40A:9-22.24 Response by municipal ethics board to written complaint.

24. The municipal ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the municipality is in conflict with the municipal code of ethics or financial disclosure requirements, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The ethics board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the ethics board shall conclude that the complaint is outside its jurisdic-

tion, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the ethics board shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the ethics board with any statement or information concerning the complaint which he wishes. Thereafter, if the ethics board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements, it shall conduct a hearing in the manner prescribed by section 12 of this act, concerning the possible violation and any other facts and circumstances which may have come to its attention with respect to the conduct of the local government officer or employee. The ethics board shall render a decision as to whether the conduct of the officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements. This decision shall be made by no less than two-thirds of all members of the ethics board.

If the ethics board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the ethics board may be appealed to the Local Finance Board within 30 days of the decision.

C.40A:9-22.25 Written materials to be preserved for at least five years.

25. All statements, complaints, requests or other written materials filed pursuant to this act, and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant to this act shall be preserved for a period of at least five years from the date of filing or preparation, as the case may be.

Repealer.

26. Section 1 of P.L.1983, c.188 (C.40:23-6.51) is repealed.

27. This act shall take effect on the 90th day following enactment, except that any appointments authorized by this act and any administrative preparations for carrying its provisions into effect may be made prior to the effective date.

Approved February 20, 1991.

CHAPTER 30

AN ACT concerning juveniles over the age of 14 years charged with death by auto and amending P.L.1982, c.77.

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

1. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read as follows:

C.2A:4A-26 Referral to another court without juvenile's consent.

7. Referral to another court without juvenile's consent.

a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the family court to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing that:

(1) The juvenile was 14 years of age or older at the time of the charged delinquent act; and

(2) There is probable cause to believe that the juvenile committed a delinquent act or acts which if committed by an adult would constitute:

(a) Criminal homicide other than death by auto, strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would constitute a crime of the first degree, aggravated sexual assault, sexual assault, aggravated assault which would constitute a crime of the second degree, kidnapping or aggravated arson; or

(b) A crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted, on the basis of any of the offenses enumerated in subsection a. (2) (a); or

(c) A crime committed at a time when the juvenile had previously been sentenced and confined in an adult penal institution; or

(d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a. (2) (a) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or

(e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5; or

(f) Crimes which are a part of a continuing criminal activity in concert with two or more persons and the circumstances of the crimes show the juvenile has knowingly devoted himself to criminal activity as a source of livelihood; or

(g) An attempt or conspiracy to commit any of the acts enumerated in paragraph (a), (d) or (e) of this subsection; and

(3) Except with respect to any of the acts enumerated in subsection a. (2) (a) of this section, or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

However, if in any case the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted.

b. In every case where there is a motion seeking waiver, the prosecutor shall within a reasonable time thereafter file a statement with the Attorney General setting forth the basis for the motion. In addition, the court shall in writing, state its reasons for granting or denying the waiver motion. The Attorney General shall compile this information and report its findings to the Legislature 18 months after the effective date of this act with the objective of developing, where appropriate, guidelines as to the waiver of juveniles from the family court.

c. An order referring a case shall incorporate therein not only the alleged act or acts upon which the referral is premised, but also all other delinquent acts arising out of or related to the same transaction.

d. A motion seeking waiver shall be filed by the prosecutor within 30 days of receipt of the complaint. This time limit shall not, except for good cause shown, be extended.

2. This act shall take effect immediately.

Approved February 21, 1991.

CHAPTER 31

AN ACT concerning the licensing and regulating of respiratory care practitioners, supplementing Title 45 of the Revised Statutes and amending P.L.1971, c.60, P.L.1974, c.46 and P.L.1978, c.73.

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

C.45:14E-1 Short title.

1. This act shall be known and may be cited as the “Respiratory Care Practitioner Licensing Act.”

C.45:14E-2 Findings, declarations.

2. The Legislature finds and declares that the public interest requires the regulation of the practice of respiratory care and the establishment of clear licensure standards for respiratory care practitioners; 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 respiratory care.

C.45:14E-3 Definitions.

3. As used in this act:

a. “Board” means the State Board of Respiratory Care established pursuant to section 4 of this act.

b. “Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

c. “Respiratory care” means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardio-respiratory system. The care shall include the use of medical gases, air and oxygen-administering apparatus, environmental control systems, humidification and aerosols, drugs and medications, apparatus for cardio-respiratory support and control, postural drainage, chest percussion and vibration and breathing exercise, respiratory rehabilitation, assistance with cardio-pulmonary resuscitation, maintenance of natural and mechanical airways, and insertion and maintenance of artificial airways. The care shall also include testing techniques to assist in diagnosis, monitoring, treatment and research, including but not necessarily limited to, the measurement of cardio-respiratory volumes, pressure and flow, and the drawing and analyzing of samples of arterial, capillary and venous blood.

d. “Respiratory care practitioner” means a person licensed by the board to practice respiratory care under the direction or supervision of a physician.

C.45:14E-4 State Board of Respiratory Care created.

4. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Respiratory Care. 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 respiratory care practitioners who have been actively engaged in the practice of respiratory care 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 six respiratory care practitioners initially appointed need not be licensed in this State.

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 respiratory care practitioner 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 shall serve more than two successive terms in addition to any unexpired term to which he has been appointed.

C.45:14E-5 Compensation for board members.

5. 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.45:14E-6 Election of officers, meetings.

6. The board shall annually elect from among its members a chairman and a vice-chairman. The board shall meet twice per year and may hold additional meetings as necessary to discharge its duties.

C.45:14E-7 Duties of the board.

7. The board shall:
 - a. Review the qualifications of applicants for licensure;
 - b. Insure the proper conduct and standards of examinations;
 - c. Issue and renew licenses to respiratory care practitioners pursuant to this act;
 - d. Suspend, revoke or fail to renew the license of a respiratory care practitioner pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

e. Maintain a record of every respiratory care practitioner licensed in this State, his place of business, his place of residence, and the date and number of his license;

f. Promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of this act, except that the initial rules and regulations shall be promulgated by the director; and

g. Establish fees for applications for licensure, examinations, initial licensure, renewals, late renewals, temporary licenses and for duplication of lost licenses, pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

C.45:14E-8 Appointment of Executive Director.

8. The Executive Director of the board shall be appointed by the director and shall serve at the director's pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants as are necessary to administer this act.

C.45:14E-9 Licensing for respiratory care practitioners required.

9. a. No person shall practice, nor present himself as able to practice, respiratory care unless he possesses a valid license as a respiratory care practitioner in accordance with the provisions of this act.

b. This section shall not be construed to prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a trainee's clinical service, provided the duties are performed under the supervision and direction of a physician or licensed respiratory care practitioner.

c. Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the State of New Jersey, provided such duties are consistent with the accepted standards of the member's profession and if the member does not present himself as a respiratory care practitioner.

C.45:14E-10 Licensing of qualified applicants.

10. The board shall license as a respiratory care practitioner any applicant whom the board determines to be qualified to perform the duties of a respiratory care practitioner. In making a determination, the board shall require evidence that the applicant has successfully completed a respiratory care training program which meets the board's approval and that he successfully com-

pletes an examination prescribed by the board. The fee prescribed by the board shall accompany the application.

C.45:14E-11 Issuance of license, renewal.

11. Licenses shall be issued for a period of two years, except in the case of a temporary license issued pursuant to section 14 or 15 of this act, 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 the expiration 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.45:14E-12 Written examination required for licensure.

12. The written examination provided for in section 10 of this act shall test the applicant's knowledge of basic and clinical sciences as they relate to respiratory care and respiratory care theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice respiratory care or act as a respiratory care practitioner. 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.

Additional examinations shall be in accordance with standards set by the board.

C.45:14E-13 Licensing of out-of-State license holders.

13. 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 respiratory care practitioner 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, that, 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.45:14E-14 Issuance of temporary license.

14. 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 respiratory care practitioner. A temporary license shall expire automatically upon failure of the licensure exam by the applicant 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 respiratory care 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 respiratory care 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.45:14E-15 Issuance of license to applicants who have passed certain examinations, or currently function as respiratory care practitioners.

15. The board shall issue a license to perform respiratory care to an applicant, who, at the time of the effective date of this act, has passed the administered Entry Level or Advanced Practitioner examination offered by the National Board for Respiratory Care, or their equivalent. Other applicants who have not passed either of these examinations or their equivalent at the time of the effective date of the act, and who, through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this act, shall be given a temporary license to continue their practice as a respiratory care practitioner for a period of 18 months from the effective date of the act. Those applicants must pass the licensure examination administered by the board during the 18-month period in order to be issued a license to practice respiratory care.

16. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical

Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, and the State Board of Respiratory Care.

17. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, and the State Board of Respiratory Care.

18. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by or through such boards: the New Jersey State Board of Accountancy, the New

Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, and the State Board of Respiratory Care.

19. This act shall take effect 180 days following enactment, except that sections 4, 6, and 8 and subsection f. of section 7 of this act shall take effect immediately.

Approved February 21, 1991.

CHAPTER 32

AN ACT concerning the incurrence of indebtedness and the issuance of obligations thereto for the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing or redevelopment projects, and amending P.L.1950, c.298.

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

1. Section 5 of P.L.1950, c.298 (C.55:14B-4.1) is amended to read as follows:

C.55:14B-4.1 Bonds and notes of municipalities to aid projects.

5. (a) Any city, town, borough, village or township is hereby authorized and empowered to incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds for the purpose

of aiding any housing authority with respect to any housing project which is located within said municipality and as to which the federal government shall have contracted to furnish financial assistance.

(b) Any city, town, borough, village or township is hereby authorized and empowered to incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds for the purpose of aiding any housing authority, redevelopment agency or a municipality exercising directly the powers conferred by the redevelopment agencies law with respect to any redevelopment project which is located within said municipality. Such indebtedness may be incurred and the obligations issued prior to the approval of the redevelopment plan, but the money obtained from the issuance of such obligations, other than the costs of issuance, may not be expended until after the approval of such redevelopment plan.

(c) Any bonds of any city, town, borough, village or township issued under this act shall be authorized by ordinance adopted by the governing body of said municipality in the manner or mode of procedure prescribed by the local bond law, constituting chapter 2 of Title 40A of the New Jersey Statutes, and said bonds shall be issued in manner or mode of procedure prescribed by said law, except that (1) said ordinance may be adopted notwithstanding the provisions of section 40A:2-6 of said law and, subject to the provisions of paragraph (e) of this section, said bonds may be authorized and issued notwithstanding any debt or other limit prescribed by said law, (2) said ordinance may be adopted notwithstanding the provisions of section 40A:2-11 of said law and no down payment shall be required, (3) said bonds shall mature in annual installments, commencing not more than two and ending not more than 40 years from the date of said bonds, and (4) said ordinance need set forth only a brief and general description of the location and designation of the housing or redevelopment project with respect to which said bonds are authorized, the amount of the appropriation made thereby, the maximum amount of bonds to be issued pursuant thereto, and the rate or maximum rate of interest (not exceeding 6% per annum) the bonds shall bear. Such bonds may be made subject to redemption prior to maturity with or without premium at such times and on such terms and conditions as may be provided by resolution of the governing body adopted prior to their issuance, and all matters relating to such bonds not hereinabove required to be stated in such ordinance may be performed or determined by resolution or resolutions of the governing body adopted prior to their issuance.

(d) Any bonds, issued or authorized, including bonds heretofore issued or authorized, pursuant to paragraph (b) of this section by any city, town, borough, village or township, for the purpose of providing cash to meet cash grant-in-aid requirements of any housing authority or redevelopment agency or a municipality exercising directly the powers conferred by the redevelopment agencies law with respect to any redevelopment project which is located within said municipality and as to which the federal government shall have contracted to furnish financial assistance shall be deductible from the gross debt of such municipality on any debt statement filed in accordance with the local bond law. Any bonds issued or authorized pursuant to paragraph (b) of this section by any city, town, borough, village or township for the purpose of providing cash to enable any housing authority, redevelopment agency or municipality exercising directly the powers conferred by the "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et seq.), to extend credit or make loans to redevelopers pursuant to section 12(k) of P.L.1949, c.306 (C.40:55C-12) with respect to any redevelopment project that is located within the municipality shall be deductible from the gross debt of the municipality for a period from the date of adoption of the ordinance until one year after the completion of construction or rehabilitation of the project or until the end of the fifth fiscal year commencing subsequent to the date of adoption of the ordinance, whichever period is shorter, if the Local Finance Board upon request and filing with it of a certified copy of the ordinance as finally adopted, shall have made a determination by resolution on the basis of a project report that such project will generate revenues annually for the municipality from rental payments, loan repayments, real property taxes, including payments in lieu of taxes, income from the investment of proceeds of obligations authorized by the ordinance, or other sources, direct or indirect, including like revenues generated from related projects, that the Local Finance Board finds justifiable in its discretion, in an amount equal to or exceeding the annual debt service requirement for such obligations, and in any subsequent fiscal year if the municipality shall not have been required to make payment in such fiscal year on account of principal of or interest on any obligations issued for said purpose in excess of an amount equal to amounts generated by the project from rental payments, loan repayments, real property taxes, including payments in lieu of such taxes, income from the investment of proceeds of obliga-

tions authorized by the ordinance, or such other sources as may have been approved by the Local Finance Board. Upon making such determination the board shall endorse its approval on the certified copy of the ordinance. If, within 60 days of such request and filing, the board shall not be satisfied as to the matters described above, it shall cause its disapproval to be endorsed on the certified copy and shall deliver to the municipality a statement of its reasons for the endorsement of disapproval.

(e) If it appears from the supplemental debt statement filed pursuant to section 40A:2-10 of said local bond law with respect to an ordinance relating to a housing project or a redevelopment project the bonds for which are not deductible from the gross debt pursuant to paragraph (d) of this section, adopted pursuant to this act that the percentage of the net debt as stated therein exceeds the limit prescribed by section 40A:2-6 of said law, such ordinance shall not take effect unless and until there shall be indorsed upon a certified copy thereof, as adopted, the approval of the Local Government Board of the Division of Local Government in the Department of the Treasury. A certified copy of any such ordinance shall upon adoption be filed with said board together with such statements and information with respect thereto or regarding the financial condition of the municipality as said board may prescribe. Said board shall cause its approval to be indorsed upon such certified copy if it shall be satisfied and shall record upon its minutes its estimates that (a) the amounts to be expended by said municipality for such project are not unreasonable or exorbitant, (b) issuance of said bonds will not materially impair the credit of said municipality or substantially reduce its ability during the ensuing 10 years to pay punctually the principal and interest of its debts and supply essential public improvements and services and (c) taking into consideration trends in population and in values and uses of property and in needs for essential public improvements, the percentage of net debt of said municipality, computed as provided in said local bond law, will at some date within 10 years be either less than the debt limit prescribed by the local bond law or less than the percentage appearing from said supplemental debt statement. If said board shall not within 60 days after filing of said certified copy with it be satisfied as to the matters described above, it shall cause its disapproval to be indorsed on such certified copy and shall deliver to said municipality a statement of its reasons for such indorsement of disapproval.

(f) Any city, town, borough, village or township may issue its negotiable notes, at public or private sale, in anticipation of the

issuance of bonds authorized by any such ordinance after such ordinance has taken effect and may, from time to time, renew any such notes in accordance with the provisions of the Local Bond Law (N.J.S.40A:2-1 et seq.).

(g) All bonds and notes issued hereunder shall be direct and general obligations of the city, town, borough, village or township issuing them and, unless payment is otherwise made or provided for, a tax sufficient in an amount to pay the principal and interest on such bonds and notes shall be levied and collected by said municipality in the year in which the same shall become due and payable. Such bonds and notes may contain a recital that they are issued pursuant to this act in the manner or mode of procedure prescribed by said local bond law and such recitals shall be conclusive evidence of their validity and of the regularity of their issuance.

(h) The powers conferred by this section shall be in addition to the powers conferred by any other laws and bonds may be issued hereunder for the purposes herein provided notwithstanding that other laws may provide for the issuance of bonds for like purposes.

The provisions of chapter 4 of Title 40A of the New Jersey Statutes shall not apply to any public body in the exercise of the powers conferred upon it by this section toward the fulfillment of the purposes of this act or of the act to which this act is supplemental.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 33

AN ACT concerning criminal coercion in certain circumstances and amending N.J.S.2C:28-5.

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

1. N.J.S.2C:28-5 is amended to read as follows:

Tampering with witnesses and informants; retaliation against them.

2C:28-5. Tampering With Witnesses and Informants; Retaliation Against Them.

a. Tampering. A person commits an offense if, believing that an official proceeding or investigation is pending or about to be instituted, he knowingly attempts to induce or otherwise cause a witness or informant to:

- (1) Testify or inform falsely;
- (2) Withhold any testimony, information, document or thing;
- (3) Elude legal process summoning him to testify or supply evidence; or
- (4) Absent himself from any proceeding or investigation to which he has been legally summoned.

The offense is a crime of the second degree if the actor employs force or threat of force. Otherwise it is a crime of the third degree. Privileged communications may not be used as evidence in any prosecution for violations of paragraph (2), (3) or (4).

b. Retaliation against witness or informant. A person commits a crime of the fourth degree if he harms another by an unlawful act with purpose to retaliate for or on account of the service of another as a witness or informant.

c. Witness or informant taking bribe. A person commits a crime of the third degree if he solicits, accepts or agrees to accept any benefit in consideration of his doing any of the things specified in subsection a. (1) through (4) of this section.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 34

AN ACT concerning persons admitted to the Intensive Supervision Program and the crime of escape and amending N.J.S.2C:29-5.

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

1. N.J.S.2C:29-5 is amended to read as follows:

Escape.

2C:29-5. Escape. a. Escape. A person commits an offense if he without lawful authority removes himself from official detention or fails to return to official detention following temporary leave

granted for a specific purpose or limited period. "Official detention" means arrest, detention in any facility for custody of persons under charge or conviction of a crime or offense, or committed pursuant to chapter 4 of this Title, or alleged or found to be delinquent, detention for extradition or deportation, or any other detention for law enforcement purposes; but "official detention" does not include supervision of probation or parole, or constraint incidental to release on bail.

b. Absconding from parole. A person subject to parole commits a crime of the third degree if the person goes into hiding or leaves the State with a purpose of avoiding supervision. As used in this subsection, "parole" includes participation in the Intensive Supervision Program (ISP) established pursuant to the Rules Governing the Courts of the State of New Jersey. Abandoning a place of residence without the prior permission of or notice to the appropriate supervising authority shall constitute prima facie evidence that the person intended to avoid such supervision.

c. Permitting or facilitating escape. A public servant concerned in detention commits an offense if he knowingly or recklessly permits an escape. Any person who knowingly causes or facilitates an escape commits an offense.

d. Effect of legal irregularity in detention. Irregularity in bringing about or maintaining detention, or lack of jurisdiction of the committing or detaining authority, shall not be a defense to prosecution under this section if the escape is from a prison or other custodial facility or from detention pursuant to commitment by official proceedings. In the case of other detentions, irregularity or lack of jurisdiction shall be a defense only if:

- (1) The escape involved no substantial risk of harm to the person or property of anyone other than the detainee; or
- (2) The detaining authority did not act in good faith under color of law.

e. Grading of offenses. An offense under subsection a. or c. of this section is a crime of the second degree where the actor employs force, threat, deadly weapon or other dangerous instrumentality to effect the escape. Otherwise it is a crime of the third degree.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 35

AN ACT concerning solid waste disposal tariffs, and supplementing P.L.1970, c.40, (C.48:13A-1 et seq.).

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

C.48:13A-6.3 Increase of tariffs for solid waste facilities.

1. a.. The Board of Public Utilities may, in accordance with the provisions of P.L.1970, c.40 (C.48:13A-1 et seq.) and upon receipt of a petition therefor, issue an appropriate order increasing current tariffs established pursuant to law for the solid waste disposal operations of a publicly owned or operated solid waste facility subject to its jurisdiction as may be necessary to recover the costs associated with implementing a district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13). These costs shall include, but need not be limited to:

(1) Capital expenditures reasonably incurred for the construction of a recycling center as defined in section 2 of P.L.1987, c.102 (C.13:1E-99.12);

(2) Expenditures for the collection, processing, disposition or marketing of recyclable materials as defined in section 2 of P.L.1987, c.102 (C.13:1E-99.12); or

(3) Expenditures for the disposal of nonrecyclable household hazardous waste recovered from the municipal solid waste stream.

b. For the purposes of this section, all municipal, county, and State contracts for solid waste collection or disposal shall be considered tariffs for solid waste collection, and shall be subject to any adjustment of tariffs resulting from the provisions of subsection a. of this section.

c. In issuing any order pursuant to this section, the Board of Public Utilities shall be exempt from the provisions of R.S.48:2-21.

For the purposes of this section, "household hazardous waste" means any solid or other waste determined by the Department of Environmental Protection to be hazardous pursuant to section 6 of P.L.1970, c.39 (C.13:1E-6) or any other law, containing reactive, combustible, corrosive or toxic substances, including pesticides and herbicides, which waste is generated by residential units; and "municipal solid waste stream" means all residential, commercial and institutional solid waste generated within the boundaries of any municipality.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 36

AN ACT concerning the procedure for adopting health ordinances or codes and amending R.S.26:3-66.

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

1. R.S.26:3-66 is amended to read as follows:

Procedure in enactment of ordinances.

26:3-66. No health ordinance or code shall be finally adopted unless it shall have been:

a. Given a first reading, which first reading may be by title, at a meeting held at least one week prior to final passage;

b. Published in a newspaper published and circulating in the municipality or county for which the local board is organized, and in the case of a municipal board of health, if there be no such newspaper, then in at least one newspaper published and circulating in the county in which the municipality is located, at least two days prior to final passage.

The publication shall contain a notice stating the time and place when and where the local board will consider the final passage of the proposed ordinance or code;

c. Posted on the bulletin board or other place upon which public notices are customarily posted in the building where the local board regularly meets prior to the meeting for final consideration. Copies of the ordinance or code shall be made available to members of the general public of the county upon request; and

d. Upon the opening of the meeting for final consideration of the ordinance or code, given a second reading, which reading may be by title. Thereafter, the ordinance may be passed with or without amendments, or rejected.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 37

AN ACT concerning the verification of claims by school districts
and amending N.J.S.18A:19-3.

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

1. N.J.S.18A:19-3 is amended to read as follows:

Verification of claims.

18A:19-3. All claims and demands, exceeding \$150.00 in amount, except for payrolls and debt service, shall be verified by affidavit, or by a signed declaration in writing, contained therein or annexed thereto, to the effect that the same are correct in all particulars, that the articles have been furnished or the services rendered as stated therein and that no bonus has been given or received on account thereof.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 38

AN ACT concerning student financial assistance and supplement-
ing Title 18A of the New Jersey Statutes.

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

C.18A:71-15.5 Student financial aid recipients considered domiciled in State.

1. A student who is enrolled in an institution of higher education in New Jersey and who is eligible for and receives any form of student financial aid through a program administered by the State shall be considered to remain domiciled in New Jersey and eligible for continued financial assistance notwithstanding the fact that the student is financially dependent upon the student's parents or guardians and that the parents or guardians change their domicile to another state. The Student Assistance Board and the Board of Directors of the New Jersey Educational Opportunity

Fund shall each promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) such rules and regulations as may be necessary to effectuate the purposes of this act.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 39

AN ACT concerning the transfer of a certain veterans assistance program from one principal department to another and amending R.S.38:20-3.

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

1. R.S.38:20-3 is amended to read as follows:

Application for benefits; limited allotments.

38:20-3. Application for such benefits shall be made to the Department of Military and Veterans' Affairs, which shall make rules and regulations to effectuate the provisions thereof. It shall ascertain and approve the educational aptitude of the applicant for the course of study desired to be pursued in accordance with tests or standards prescribed or approved by the State Department of Education and the financial need of the applicant and may satisfy itself of the attendance of such applicants and the accuracy of the charges made by the institution which the applicant attends. No more than four annual allotments of \$500.00 each shall be allowed any such applicant.

2. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 40

AN ACT concerning the New Jersey Transportation Trust Fund Authority, amending P.L.1984, c.73 and P.L.1987, c.460 and making an appropriation.

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

1. Section 2 of P.L.1984, c.73 (C.27:1B-2) is amended to read as follows:

C.27:1B-2 Findings, declarations.

2. The Legislature finds and declares that:

a. A sound, balanced transportation system is vital to the future of the State and is a key factor in its continued economic development.

b. The transportation infrastructure of the State is among the most heavily used in the nation and has deteriorated alarmingly in recent years, with parts of the highway system reaching the end of their useful lives. This deterioration has been caused, in part, because New Jersey, unlike most states and the federal government, has not provided a stable source of transportation funding.

c. There exists an urgent need for a stable and assured method of financing the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the State's transportation system, including the financing of the State's share under federal aid highway laws of the cost of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing, and rehabilitation of public highways and of the State's share of the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and other transportation projects in the State, that will enable the State to construct and maintain the safe, balanced, sound and efficient transportation system necessary for the well-being of the State's citizens.

d. Unless additional State funding is provided immediately for the State's transportation system, the cost of repair and reconstruction will increase geometrically and the economic well-being and safety of users of the State's transportation system will be endangered.

e. Transportation facilities under the jurisdiction of counties and municipalities form an integral and vital part of the State's transportation system. Without State aid, counties and municipalities will be unable to meet the cost of maintaining, rehabilitating and improving these facilities.

f. The State's commitment to the payment for and financing of the State transportation system in a stable fashion, thus ensuring a predictable and continuing public investment in transportation and allowing the State to take full advantage of

funds provided by the federal government, is a public use and public purpose for which public money may be expended and tax exemptions granted. The powers and duties of the New Jersey Transportation Trust Fund Authority and the other measures hereinafter described are necessary and proper for the purpose of achieving the ends herein recited.

2. Section 3 of P.L.1984, c.73 (C.27:1B-3) is amended to read as follows:

C.27:1B-3 Definitions.

3. The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

- a. "Act" means this New Jersey Transportation Trust Fund Authority Act of 1984.
- b. "Authority" means the New Jersey Transportation Trust Fund Authority created by section 4 of this act.
- c. "Bonds" means bonds issued by the authority pursuant to the act.
- d. "Commissioner" means the Commissioner of Transportation.
- e. "Department" means the Department of Transportation.
- f. "Federal aid highway" means any highway within the State in connection with which the State receives payment or reimbursement from the federal government under the terms of Title 23, United States Code or any amendment, successor, or replacement thereof, for the purposes contained in the act.
- g. "Federal government" means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.
- h. "New Jersey Expressway Authority" means the public corporation created by section 4 of chapter 10 of the Laws of New Jersey of 1962 as amended or its successor.
- i. "New Jersey Highway Authority" means the public corporation created by section 4 of chapter 16 of the Laws of New Jersey of 1952 as amended or its successor.
- j. "New Jersey Turnpike Authority" means the public corporation created by section 3 of chapter 454 of the Laws of New Jersey of 1948 as amended or its successor.
- k. "Notes" means the notes issued by the authority pursuant to the act.
- l. "Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including

bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, and any facilities, equipment, property, rights of way, easements and interests therein needed for the construction, improvement and maintenance of highways.

m. "Public transportation project" means, in connection with public transportation service, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbuses and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

n. "State agency" means any officers, department, board, commission, bureau, division, agency or instrumentality of the State.

o. "Toll road authorities" means and includes the New Jersey Turnpike Authority, the New Jersey Highway Authority and the New Jersey Expressway Authority.

p. "Transportation project" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods.

q. "Transportation system" means public highways, public transportation projects, other transportation projects, and all other methods of transportation for the movement of people and goods.

r. "Maintenance" means, in relation to public transportation projects, work necessary or useful for preventing or delaying the deterioration, or preserving or maintaining the useful life, of public transportation projects and shall not apply to other transportation projects. The work shall ensure the useful life of the project for not less than three years. This definition shall not apply to the term "maintenance" as used in subsection l. of this section.

3. Section 5 of P.L.1984, c.73 (C.27:1B-5) is amended to read as follows:

C.27:1B-5 Purpose of authority.

5. It shall be the sole purpose of the authority created under this act to provide the payment for and financing of all, or a por-

tion of, the costs incurred by the department for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the State's transportation system, including, without limitation, the State's share (including State advances with respect to any federal share) under federal aid highway laws of the costs of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways, the State's share (including State advances with respect to any federal share) of the costs of planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and other transportation projects in the State, and State aid to counties and municipalities for transportation projects, all in furtherance of the public policy declared in section 2 of the act, in the manner provided for in the act.

4. Section 6 of P.L.1984, c.73 (C.27:1B-6) is amended to read as follows:

C.27:1B-6 Powers of authority.

6. In addition to all other powers granted to the authority in the act, the authority shall have power:

- a. To sue and be sued;
- b. To have an official seal and alter the same at its pleasure;
- c. To make and alter bylaws for its organization and internal management and rules and regulations for the conduct of its affairs and business;
- d. To maintain an office at a place or places within the State as it may determine;
- e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;
- f. To acquire, own, lease as lessee or lessor, hold, use, sell, transfer, and dispose of real or personal property for its purposes;
- g. To borrow money and to issue its bonds, notes or other obligations and to secure the same by its revenues or other funds and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof and to provide for the refunding thereof, all as provided in the act;
- h. To issue subordinated indebtedness and to enter into bank loan agreements, lines of credit, letters of credit and other security agreements as provided for in the act;
- i. In its own name or in the name of the State, to apply for and receive and accept appropriations or grants of property, money,

services or reimbursements for money previously spent and other assistance offered or made available to it by or from any person, government agency, public authority or any public and private entity whatever for any lawful corporate purpose of the authority, including, without limitation, grants, appropriations or reimbursements from the State or federal government with respect to their respective shares under federal aid highway laws of the costs of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways or the costs of planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and other transportation projects in the State and the authority's operating expenses and to apply and negotiate for the same upon such terms and conditions as may be required by any person, government agency, authority or entity or as the authority may determine to be necessary, convenient or desirable;

j. Subject to any agreement with the holders of bonds, notes or other obligations, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, in obligations, securities and other investments as the authority shall deem prudent;

k. Subject to any agreements with holders of bonds, notes or other obligations, to purchase bonds, notes or other obligations of the authority out of any funds or moneys of the authority available therefor, and to hold, cancel or resell the bonds, notes or other obligations;

l. For its sole purpose as established in section 5 of this act, to appoint and employ an executive director and such additional officers, who need not be members of the authority and such other personnel and staff as it may require, at an annual expense not to exceed \$100,000.00, all without regard to the provisions of Title 11A of the New Jersey Statutes;

m. To do and perform any acts and things authorized by the act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation or any public body;

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

o. To make and enter into any and all contracts and agreements which the authority determines are necessary, incidental, convenient or desirable to the performance of its duties and the execution of its powers under the act; and

p. To do any and all things necessary, convenient or desirable to carry out its purposes and exercise the powers given and granted in the act.

5. Section 9 of P.L.1984, c.73 (C.27:1B-9) is amended to read as follows:

C.27:1B-9 Issuance of bonds.

9. a. The authority shall have the power and is hereby authorized after November 15, 1984 and from time to time thereafter to issue its bonds, notes or other obligations in principal amounts as in the opinion of the authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or notes. No resolution or other action of the authority providing for the issuance of bonds, refunding bonds or other obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and either the State Treasurer or the Director of the Division of Budget and Accounting in the Department of the Treasury.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may provide the security and payment provisions for its bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the authority, and other moneys or funds as the authority shall determine. In addition, the authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or

other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the authority or appropriations, grants, reimbursements or other funds or revenues of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A.

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the authority and a corporate trustee within or without the State. All other obligations of the authority shall be authorized by resolution containing terms and conditions as the authority shall determine.

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine. Every bond issued on or before the effective date of P.L.1987, c.460 (C.27:1B-4 et al.) shall mature and be paid not later than 17 years from the date thereof, except that no bond, note or other obligation shall mature and be paid later

than 22 years from the effective date of P.L.1984, c.73 (C.27:1B-1 et seq.), nor shall any refunding of such obligations mature or be paid later than that date. Every bond issued after the effective date of P.L.1987, c.460 (C.27:1B-4 et al.) shall mature and be paid not later than 11 years from the date thereof, except that no bond, note or other obligation shall mature and be paid later than 22 years from the effective date of P.L.1984, c.73 (C.27:1B-1 et seq.).

Notes, the initial series of bonds and bonds issued for refunding purposes of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine.

Except as noted above, all bonds of the authority shall be sold at such price or prices and in such manner as the authority shall determine, after notice of 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 the City of New York, 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 made in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the authority, at any time within 60 days from the date of such advertised sale, may sell such bonds at private sale upon terms not less favorable to the State than the terms offered by any rejected bid. The authority 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.

f. Bonds or notes may be issued and other obligations incurred under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, 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 the act.

g. Bonds, notes and other obligations of the authority issued or incurred under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the authority, shall be payable solely from revenues or funds

pledged or available for their payment as authorized in the act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the 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 the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the authority.

h. All expenses incurred in carrying out the provisions of the act shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of the act and nothing in the act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

i. The aggregate principal amount of bonds, notes or other obligations outstanding at any one time, including subordinated indebtedness of the authority, may not exceed \$1,700,000,000.00. If in any fiscal year appropriations by the Legislature to the authority, and amounts received in accordance with contracts entered into with the toll road authorities, if those amounts are not included in legislative appropriations, shall be in excess of \$143,000,000.00 in any fiscal year through the fiscal year beginning on July 1, 1986 or \$201,000,000.00 for the fiscal year beginning on July 1, 1987 or \$331,000,000.00 in any fiscal year thereafter, the aggregate principal amount of \$1,700,000,000.00 shall be reduced by an amount equal to the excess. In computing the foregoing limitations there shall be excluded all the bonds, notes or other obligations, including subordinated indebtedness of the authority, which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings.

The authority shall minimize debt incurrence by first relying on appropriations and other revenues available to the authority before incurring debt to meet its statutory purposes.

The authority shall not incur debt at any time in any fiscal year in excess of the difference between the amount of appropriations and other revenues to the authority theretofore made in that fiscal year and the amount which the Department of Transportation is permitted to commit for transportation projects under the act in that fiscal year as indicated in the budget, plus reasonably necessary

expenses, required debt reserve funds, debt service and outstanding financial obligations from prior fiscal years of the authority.

Debt which would have been incurred pursuant to this section, which is not incurred in any fiscal year, may be issued in subsequent years.

6. Section 8 of P.L.1987, c.460 (C.27:1B-21.1) is amended to read as follows:

C.27:1B-21.1 Annual funding maximums.

8. a. Commencing with the report of the commissioner required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 1988 for the fiscal year commencing July 1, 1988 and for the reports of the commissioner required to be submitted pursuant thereto for each of the next six fiscal years, the amount reported by the commissioner for proposed projects to be financed shall not exceed \$365,000,000.00 exclusive of federal funds, for each of those fiscal years except that in the fiscal year commencing July 1, 1990 and in the fiscal year commencing July 1, 1991 the amount shall not exceed \$565,000,000 exclusive of federal funds, except as provided herein. If, in the discretion of the commissioner, a greater amount is determined to be necessary to meet the financing requirements for the ensuing fiscal year, the commissioner may include in a report an amount in excess of \$365,000,000.00 exclusive of federal funds or in excess of \$565,000,000 exclusive of federal funds in the two fiscal years in which an additional appropriation is authorized; provided that in no event shall that amount be an amount greater than 105% of that \$365,000,000.00 or of that \$565,000,000 respectively.

In any fiscal year for which an amount exceeding \$365,000,000.00 exclusive of federal funds or exceeding \$565,000,000 exclusive of federal funds in the two fiscal years in which an additional appropriation is authorized, was appropriated pursuant to subsection b. of this section, the commissioner shall report on or before March 1 of that fiscal year for the ensuing fiscal year an amount for proposed projects to be financed not greater than the maximum amount authorized to be appropriated for that ensuing fiscal year pursuant to subsection b. of this section.

b. Commencing with the fiscal year beginning on July 1, 1988 and for each of the next six fiscal years, the total amount authorized to be appropriated from the revenues and other nonfederal funds of the New Jersey Transportation Trust Fund Authority for the projects listed in the appropriations act pursuant to section 21

of P.L.1984, c.73 (C.27:1B-21), shall not exceed \$365,000,000.00 exclusive of federal funds in any fiscal year except that in the fiscal year commencing July 1, 1990 and the fiscal year commencing July 1, 1991 the amount shall not exceed \$565,000,000 exclusive of federal funds, except as provided herein. If, in any fiscal year, a greater amount is determined to be necessary to meet the financing requirements, the amount appropriated may be in excess of \$365,000,000.00 exclusive of federal funds or in excess of \$565,000,000 exclusive of federal funds in the two fiscal years in which an additional appropriation is authorized; provided that: (1) in no event shall there be appropriated an amount greater than 105% of that \$365,000,000.00 or of that \$565,000,000 in any of the two fiscal years in which an additional appropriation is authorized, and provided further, that (2) if, pursuant to paragraph (1) of this subsection, a greater fiscal year appropriation is authorized in excess of \$365,000,000 for a fiscal year, the ensuing fiscal year appropriation is to be reduced by the same amount that the appropriation for that fiscal year exceeds \$365,000,000, except that in the two fiscal years in which an additional appropriation is authorized the appropriation for the ensuing fiscal year is to be reduced by the amount the appropriation exceeds \$565,000,000.

c. (Deleted by amendment P.L.1991, c.40).

d. For the purposes of this section, "the two fiscal years in which an additional appropriation is authorized" means the fiscal years commencing July 1, 1990 and July 1, 1991.

e. The department shall develop procedures for the auditing of expenditures made by the department and the New Jersey Transit Corporation from funds appropriated on and after the effective date of P.L.1991, c.40 for transportation projects from the revenues of the authority and shall cause an audit to be made of these expenditures in order to determine the extent to which these funds are expended for costs directly related to the projects, including but not limited to salaries and other administrative expenses. This audit shall be subject to review by the State Auditor and transmitted not less than annually to the presiding officer of each House of the Legislature, and to the Chair of the Senate Revenue, Finance and Appropriations Committee, the Senate Transportation and Public Utilities Committee, the Assembly Appropriations Committee, the Assembly Transportation Committee, and the Assembly Transportation Authorities, Telecommunications and Technology Committee or their successors.

7. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to read as follows:

C.27:1B-25 County, municipal projects.

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.), the commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined in 23 U.S.C. §103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature

according to law and pursuant to the provisions of subsection d. of this section, allocate at his discretion State aid to municipalities for public highways under their jurisdiction and for emergency transportation projects, except that the amount to be appropriated for this program shall be 15% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsection d. of this section, allocate State aid to municipalities for public highways under their jurisdiction, except that the amount to be appropriated for this purpose shall be 85% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{P_c}{P_s} + \frac{C_m}{S_m}$$

where, DF equals the distribution factor

P_c equals county population

P_s equals State population

C_m equals municipal road mileage within the county

S_m equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least \$30,000,000.00 in each fiscal year for the purposes provided herein and in subsections b. and c. of this section. (1) Of that appropriation, the commissioner shall allocate \$5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality

receives aid under P.L.1978, c.14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of subsections b. and c. of this section.

8. Notwithstanding the provisions of any other law to the contrary, there is appropriated to the Department of Transportation from the revenues and other nonfederal funds of the New Jersey Transportation Trust Fund Authority the sum of \$200,000,000 for the following additional specific projects identified under the six general program headings as follows:

A. STATE

(1) Construction

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
		Type II Noise Barriers	Various	(\$7,000,000)
9	13E	Contract 2, Trunk Line, Drainage at Decatur Avenue	Atlantic	(1,532,000)
23	3AB	Wind Beam Road to south of Cutlass Road	Morris	(5,519,000)
30	6A5E	Fir Avenue to Chester Avenue	Atlantic	(9,810,000)
30/130	1H	Cooper River to Airport Circle and Circle to Stand	Camden	(13,662,000)
35	12R	Victory Bridge, fender repairs	Middlesex	(1,000,000)
49	2J3G	North of Freas Road to Griffith Avenue (Salem River flooding)	Salem	(5,351,000)
70/41	2G2F 3D	Ellisburg Circle cut-through and Route 70 improvements	Camden	(3,285,000)
70	1J	Racetrack Circle elimination	Camden	(11,192,000)
79	3C	Culvert replacement at Big Brook (#1322-153)	Monmouth	(2,160,000)
83	1B	Removal of structure over railroad right-of-way (#0512-151)	Cape May	(1,926,000)
129/ 33/1	11B 1C1N	Barlow Street and Route 1 to Hamilton Avenue,		

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
208	3R1D	east of Walnut to Clinton, Broad, State Goffle Avenue to north of Cedar Hill Road (safety improvements)	Mercer Bergen/ Passaic	(13,077,000) (5,867,000)
287		Sedimentation cleanup Betterments	Various Various	(2,067,000) (21,621,000)

(2) Right-of-way

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
1&9	7E	Advance acquisition Paterson Plank Road Intersection	Various Hudson	(2,238,000) (500,000)
1&9	6J	Secaucus Road Intersection	Hudson	(500,000)
1&295	2M9E	Grovers Mill Road extension at motor vehicle station	Mercer	(2,400,000)
9	21F	Aldrich Road ramps	Monmouth	(1,064,000)
15	4B5D	Route 15 and Route 94 intersection improve- ments and climbing lane	Sussex	(800,000)
23	3S	Cutlass Road to Kiel Road	Morris	(9,000,000)
34	6B	Resurfacing and intersection improve- ments, vicinity of Cottrell Road	Middlesex	(500,000)
47	11C	Landis Avenue circle	Cumberland	(685,000)
49	6D	West of Commerce St. to west of West Avenue (Milepost 21.4 to 24.5)	Cumberland	(236,000)
202	10D	Church Street to north of Finney Avenue and Childs Lane	Somerset	(100,000)
206/94	1B	Trinity Street to Hampton-Newton line	Sussex	(750,000)
206/94	1C	Hampton-Newton Township line to south of Route 94	Sussex	(362,000)

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
322	5B	Union Road to west of Horseshoe Run Stream	Gloucester	(100,000)

(3) Engineering

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
1&9	6J	Secaucus Road Intersection	Hudson	(941,000)
1&9	7E	Paterson Plank Road	Hudson	(600,000)
1&295	2M9E	Grovers Mill Road extension at motor vehicle station	Mercer	(60,000)
21		Over Interstate 78 and Conrail, interim repairs	Essex	(500,000)
21		Traffic Safety Management (TSM) improvements (4 sections)	Essex	(1,600,000)
24	(5)	East Madison connector	Morris	(1,000,000)
31	8M	Halstead Street to County Route 513	Hunterdon	(400,000)
31	(6)B	Bartles Corner Road to Stanton Station Road	Hunterdon	(2,000,000)
		Miscellaneous contract adjustments (Engineering/ Right-of-way/ Construction)	Various	(1,488,000)
		Preconstruction Engineering Management System (PEMS) operation		(667,000)
		Computer Aided Design and Drafting (CADD)/Geographic Information System (GIS)		(2,900,000)
		Traffic Management System "MAGIC," Phase I, (Routes 80, 46, 4, 3 and 280)	Various	(1,000,000)
		Computerized signing inventory		(2,500,000)
		Corridor improvement studies	Various	(500,000)

<u>Route</u>	<u>Section</u>	<u>Description</u>	<u>County</u>	<u>Amount</u>
		Proposal development/ problem studies	Various	(1,000,000)
		Unmanned drawbridge repairs	Various	(1,000,000)
		Bridge decks at Routes 80, 280, 287, and 206	Various	(200,000)

B. BRIDGES

<u>Description</u>	<u>County</u>	<u>Amount</u>
State match to various local bridge projects sponsored by local jurisdictions	Various	(4,000,000)

C. STATE AID

<u>Description</u>	<u>County</u>	<u>Amount</u>
State aid to counties	Various	(5,000,000)
State aid to municipalities	Various	(20,000,000)

D. CAPITAL PROGRAM IMPLEMENTATION

<u>Description</u>	<u>Amount</u>
Department of Transportation	(8,500,000)
New Jersey Transit Corporation	(1,500,000)

E. RAIL

<u>Description</u>	<u>County</u>	<u>Amount</u>
Rail Infrastructure		
Support facilities/equipment		(1,600,000)
Immediate action		(1,000,000)
Rail New Initiatives		
Secaucus Transfer, design and engineering	Hudson	(11,340,000)

F. BUS

<u>Description</u>	<u>Amount</u>
Bus Maintenance Facilities and Support Equipment	
Bus equipment leases	(3,130,000)
Bus operations support equipment	(1,270,000)

The amount appropriated hereinabove under the general program heading of Capital Program Implementation, not to exceed

\$8,500,000 for the Department of Transportation or \$1,500,000 for the New Jersey Transit Corporation, shall be available for personal services by contract or in lieu thereof by Department of Transportation and New Jersey Transit Corporation employees for planning, engineering, design, research, construction, right-of-way acquisition, or other costs directly related to projects in the New Jersey transportation construction program.

Of the amount appropriated hereinabove for State aid to municipalities cited under the general program heading of State Aid, the Commissioner of Transportation shall allocate \$5,000,000 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14. Of the remaining amount of the appropriation, \$10,000,000 shall be allocated pursuant to the provisions of subsections b. and c. of section 25 of P.L.1984, c.73 (C.27:1B-25).

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations by specific project identified in this act and in P.L.1990, c.43, the transfer provisions in P.L.1990, c.43 relating to the projects authorized to be funded by the revenues and other funds of the Transportation Trust Fund authority shall apply to this section.

9. This act shall take effect immediately.

Approved February 25, 1991.

CHAPTER 41

AN ACT creating the "Historic Preservation Revolving Loan Fund," 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-15.115a "Historic Preservation Revolving Loan Fund" created.

1. There is created a revolving loan fund to be known as the "Historic Preservation Revolving Loan Fund," authorized pursuant to subsection b. of section 10 of P.L.1987, c.265. The "Historic Preservation Revolving Loan Fund" shall be adminis-

tered by the New Jersey Historic Trust. Monies in the fund shall be used for loans for historic preservation projects.

C.13:1B-15.115b Appropriation to "Historic Preservation Revolving Loan Fund;" approval, terms.

2. a. There is appropriated to the "Historic Preservation Revolving Loan Fund" from the "Cultural Centers and Historic Preservation Fund" created pursuant to section 20 of P.L.1987, c.265 the sum of \$3,000,000 for the purpose of making low-interest loans, to the extent sufficient funds are available, to units of county or municipal government, or to tax-exempt nonprofit organizations, to finance the historic preservation costs of acquiring, restoring, repairing, or rehabilitating historic structures.

b. Prior to awarding any loans under this section, the New Jersey Historic Trust shall submit to the Legislature for its approval, which approval shall be in the form of the passage of a concurrent resolution, a list of projects that are to receive loans and the amount of each loan.

c. Loans issued from the "Historic Preservation Revolving Loan Fund" shall be for a term not to exceed 20 years and at an interest rate not to exceed 4 percent per year. The terms of any loan agreements shall be approved by the State Treasurer.

C.13:1B-15.115c Criteria for awarding loan.

3. Any loan made by the New Jersey Historic Trust pursuant to this act shall be awarded based on the criteria established pursuant to section 5 of P.L.1987, c.265, except that no specific proportion of matching funds shall be required of loan applicants. The New Jersey Historic Trust shall, however, consider the extent of matching funds in reviewing loan applications.

C.13:1B-15.115d Rules, regulations for expenditure of funds.

4. The expenditure of funds pursuant to this act shall be subject to the provisions and conditions of P.L.1987, c.265 and any rules and regulations adopted pursuant thereto.

C.13:1B-15.115e Repayment of loans.

5. All repayments of loans made pursuant to this act, and interest thereon, shall be deposited in the "Historic Preservation Revolving Loan Fund." Earnings received from monies in the fund shall be credited to the fund.

6. This act shall take effect immediately.

Approved February 26, 1991.

CHAPTER 42

AN ACT permitting, under certain circumstances, the conversion of State chartered savings and loan associations into State chartered savings banks and State chartered savings banks into State chartered savings and loan associations, amending P.L.1948, c.67, and supplementing Title 17 of the Revised Statutes.

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

C.17:16M-1 Definitions.

1. As used in this act:

“Capital stock association” shall have the meaning ascribed to it in section 15 of P.L.1974, c.137 (C.17:12B-244).

“Capital stock savings bank” shall have the meaning ascribed to it in section 1 of P.L.1982, c.9 (C.17:9A-8.1).

“Commissioner” means the Commissioner of Banking.

“Department” means the Department of Banking.

“Federal Deposit Insurance Corporation” means the corporation so named, organized pursuant to an Act of Congress, or any federal corporation, instrumentality or agency which succeeds to the powers and functions of the Federal Deposit Insurance Corporation or undertakes to discharge the purposes for which said corporation was created.

“Mutual savings bank” means any savings bank organized pursuant to the provisions of P.L.1948, c.67 (C.17:9A-1 et seq.) without capital stock.

“State association” and “mutual association” shall have the meanings ascribed to those terms in section 5 of P.L.1963, c.144 (C.17:12B-5).

“Savings bank” shall have the meaning ascribed to it in section 1 of P.L.1948, c.67 (C.17:9A-1).

C.17:16M-2 Conversion of mutual association to mutual savings bank; capital stock association to capital stock savings bank.

2. Any mutual association may apply to the commissioner to convert itself to a mutual savings bank by organizing and transferring its assets and liabilities to a newly-chartered mutual savings bank, and any capital stock association may apply to the commissioner to convert itself to a capital stock savings bank by organizing and transferring its assets and liabilities to a newly-chartered capital stock savings bank, and the proceedings to effect either application for conversion shall be as follows:

a. When in the judgment of the board of such State association it shall be deemed advisable and in the best interests of its members or stockholders that the same shall be converted into a savings bank of this State, the board of directors shall adopt a resolution to that effect.

b. After the adoption of such resolution, a meeting of the members or stockholders, as the case may be, of the State association shall be held upon not less than 10 days' written notice to the members or stockholders by mail, postage prepaid, directed to their addresses appearing on the books of the State association, which notice shall contain a statement of the time, place and purpose for which such meeting is called.

c. At such meeting, the members or stockholders may by the affirmative vote of 2/3 of the members present, or shares eligible to be voted which are represented at the meeting, either in person or by proxy, declare by resolution the determination to convert the State association into a savings bank of this State.

d. If the authority for the proposed conversion has been approved by the board of directors and by the members or stockholders as required by this section, the board of directors of the State association may apply to the commissioner to convert to a savings bank.

C.17:16M-3 Application for conversion to savings bank.

3. An application by a State association to convert to a savings bank shall contain the following:

a. Duplicate copies of the minutes of the proceedings of the meeting of the members or stockholders, verified by the affidavit of the president or vice-president, and the secretary of the meeting;

b. A certified copy of the resolution of the board of directors authorizing the conversion;

c. A certificate of incorporation meeting the requirements set forth in section 7 of P.L.1948, c.67 (C.17:9A-7) or section 2 of P.L.1982, c.9 (C.17:9A-8.2);

d. Copies of all applications and approvals required from federal regulators incident to the conversion; and

e. Such other information or materials as the commissioner may require by regulation.

C.17:16M-4 Approval of conversion by commissioner.

4. The commissioner shall not approve an application of a State association to convert to a savings bank unless the commissioner finds, after appropriate investigation, and a public hearing

if deemed by the commissioner to be necessary, that the following requirements have been met:

- a. The application is complete;
- b. The converting State association was insured by the Federal Deposit Insurance Corporation, and the resulting savings bank will also be insured by that agency;
- c. The converting State association satisfies all capital maintenance requirements for State associations set forth by the Federal Deposit Insurance Corporation, any other federal regulator and the department;
- d. The converting State association is not subject to any outstanding supervisory order, agreement or memorandum of understanding of the Federal Deposit Insurance Corporation, any other federal regulator or the department;
- e. The proposed conversion will result in a savings bank that will satisfy all capital maintenance requirements for savings banks set forth by the Federal Deposit Insurance Corporation, any other federal regulator and the department;
- f. Directors or managers designated in the certificate of incorporation possess the qualifications, experience and character required for the duties and responsibilities with which they will be charged; and
- g. The interests of the State association's depositors and creditors, and the public generally, will not be jeopardized by the proposed conversion.

C.17:16M-5 Approval of application of State association not satisfying certain requirements.

5. The commissioner may approve the application of a State association which does not satisfy the capital maintenance requirements set forth in subsection c. of section 4 of this act or which is subject to an outstanding supervisory order, agreement or memorandum of understanding, as provided by subsection d. of section 4 of this act, relating only to its capital condition or which fails to meet both requirements, to convert to a savings bank when the following requirements, in addition to the requirements set forth in section 4 of this act other than the requirements set forth in subsections c. and d. of section 4 relating to the capital condition of the converting State association, have been met:

- a. Simultaneous with the conversion to a savings bank, the converting State association shall merge with and into, or be acquired by a savings bank; and
- b. The resulting savings bank immediately after the conversion and merger or acquisition will satisfy all capital maintenance require-

ments for savings banks set forth by the Federal Deposit Insurance Corporation, any other federal regulator and the department.

C.17:16M-6 Notification of applicant.

6. a. Within 60 days of receiving all of the information and documents specified in section 3 of this act and such other information as the commissioner may require, the commissioner shall notify the applicant as to whether the commissioner intends to approve the application, or whether it is denied. The intent of approval may be conditioned upon the applicant satisfying conditions set by the commissioner. If the commissioner denies the application, the commissioner shall notify the applicant in writing and shall state the basis for the denial.

b. Upon a finding that the applicant has met all of the requirements of this act and all conditions imposed on the commissioner's intent of approval, the commissioner shall issue a certificate of approval of the conversion which shall be endorsed upon or annexed to the certificate of incorporation.

C.17:16M-7 Filing of certificate of incorporation.

7. The certificate of incorporation with the commissioner's approval endorsed thereon or annexed thereto shall be filed in the department, and shall be recorded within 30 days after such approval in the same manner and places as required by section 12 of P.L.1948, c.67 (C.17:9A-12). Upon the approval by the commissioner and the filing of the certificate of incorporation as aforesaid, the State association shall cease to be a State association. Upon the conversion of the State association, the legal existence of the State association shall terminate and the newly-chartered savings bank shall succeed to all the obligations and relations of the State association, and to all property of the State association, including the right, title and interest in and to all property of whatsoever kind and nature, whether real, personal or mixed and things, and choses in action, and every right, privilege, interest and asset of every conceivable value or benefit then existing or pertaining to it, or which would inure to it, immediately by operation of law and without the necessity for any conveyance or transfer and without any further act or deed, shall vest in the savings bank into which the State association has been converted. The savings bank shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the State association. All pending actions and other judicial or administrative proceedings to which the

State association was a party shall not be discontinued by reason of the conversion, but may be prosecuted to final judgment or order in the same manner as if the conversion had not been made and the savings bank resulting from the conversion may continue such actions in its name after conversion. Any judgment or order may be rendered for or against it which might have been rendered for or against the State association theretofore involved in the judicial proceedings.

C.17:16M-8 Conversion of savings bank to State association.

8. Any savings bank chartered pursuant to the laws of this State may apply to the commissioner to convert to a State association by complying with the procedures and standards set forth in rules and regulations promulgated by the commissioner pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). These procedures and standards shall be at least equivalent to those established in sections 2 through 7 of this act concerning conversion of a State association into a savings bank, and may include any additional procedures and standards the commissioner may establish by regulation.

C.17:16M-9 Rules, regulations.

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

10. Section 333 of P.L.1948, c.67 (C.17:9A-333) is amended to read as follows:

C.17:9A-333 Department of Banking fees.

333. A bank or savings bank shall pay to the commissioner for the use of the State a fee, to be prescribed by the commissioner by regulation, in an amount not less than or not more than, the following minimum and maximum amounts:

	<u>Minimum</u>	<u>Maximum</u>
(1) For filing an application for charter.....	\$10,000.00	\$20,000.00
(2) For the issuance by the commissioner of a certificate of authority	500.00	1,000.00
(3) For filing a certificate of amendment of a certificate of incorporation, or an amended certificate of incorporation	200.00	500.00
(4) For filing any other certificate	50.00	250.00
(5) (a) For filing an application for approval of the establishment of a full branch office	1,000.00	3,000.00

	<u>Minimum</u>	<u>Maximum</u>
(b) For filing an application for approval of the establishment of a mini-branch office	1,000.00	3,000.00
(c) For filing an application for approval of the establishment of a communication terminal branch office ..	500.00	2,000.00
(6) For filing an agreement of merger, per bank	1,500.00	4,000.00
(7) For filing a copy of a plan of reorganization	250.00	1,000.00
(8) For filing a report required by this act	100.00	250.00
(9) For filing an affidavit required by this act	50.00	100.00
(10) For filing proof of publication and mailing, or other proof required by this act	50.00	100.00
(11) For filing application for approval of a change in location of principal office or full branch office	500.00	2,000.00
(12) For filing an application for approval of the cost of the establishment of an auxiliary office	500.00	2,000.00
(13) For the issuance of a certified copy of any certificate of incorporation or merger or plan of reorganization or any other certificate or affidavit filed in the department	25.00	100.00
plus \$2.00 per page		
(14) For filing an application for approval of an interchange between principal office and full branch office	250.00	1,000.00
(15) For the issuance of any other approval by the commissioner	100.00	250.00
plus per diem charges where applicable		
(16) For the issuance of any extension by the commissioner	50.00	150.00
plus per diem charges where applicable		
(17) For filing a pension plan.....	250.00	500.00
(18) For filing an amendment or alteration to a pension plan.....	100.00	250.00

	<u>Minimum</u>	<u>Maximum</u>
(19)For filing plans of acquisition, per company, per bank or savings bank ...	1,500.00	4,000.00
(20)Conversion from mutual to stock savings bank	3,500.00	10,000.00
(21)Request to commissioner to require an institution to share access to its communication terminal branch office	100.00	250.00
(22)Conversion from savings bank to State association	5,000.00	10,000.00
(23)In addition to above fees, a per diem charge may be assessed when a special investigation of a filing is required.		

11. This act shall take effect immediately.

Approved February 26, 1991.

CHAPTER 43

AN ACT concerning the sale of striped bass, amending P.L.1987,
c.83 and supplementing P.L.1983, c.506 (C.23:5-43 et seq.).

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

1. Section 1 of P.L.1987, c.83 (C.23:5-45.1) is amended to
read as follows:

C.23:5-45.1 Daily limits for taking striped bass.

1. a. No person shall take from the waters of the State in any
one day, or have in his possession at any time, more than one
striped bass not less than 28 inches in length on or after January
1, 1990, except not less than 36 inches in length from the waters
of the Delaware Bay or the Delaware River, or their tributaries.
No person shall have in his possession any striped bass not less
than 36 inches in length while on or angling in the Delaware Bay
or the Delaware River, or their tributaries.

b. The possession of any striped bass or parts of a striped bass
from which the head or tail has been removed other than immedi-
ately prior to preparation or being served as food, which is less
than 28 inches in length on or after January 1, 1990, except not

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less than 36 inches in length while on or angling in the waters of the Delaware Bay or the Delaware River, or their tributaries, shall be presumed to be possessed in violation of this section.

c. Notwithstanding the provisions of subsections a. and b. of this section to the contrary, upon approval by the Atlantic States Marine Fisheries Commission, the Department of Environmental Protection shall, by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), provide that no person may take from the waters of the State, other than the Delaware Bay and the Delaware River, and their tributaries, in any one day, or have in his possession at any time, more than two striped bass, of which one shall be not less than 28 inches in length and the other shall be not less than 38 inches in length.

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 28 inches in length, shall be presumed to be possessed in violation of this section, except the minimum limit shall be 38 inches in length for a second fish possessed.

The department shall monitor the catch provided for in this subsection and provide for its discontinuance as necessary to keep the State in compliance with the allowances of the commission.

C.23:5-45.3 Sale of striped bass prohibited.

2. No person shall sell, barter, possess for sale or barter, or offer for sale or barter any striped bass, whether caught within the jurisdictional limits of this State or otherwise, provided that this section shall not prohibit the shipment or transportation of striped bass from another state or country into the State which is destined for shipment or transportation out of the State or prohibit the sale of commercially raised hybrid striped bass.

3. This act shall take effect immediately.

Approved February 26, 1991.

CHAPTER 44

AN ACT to create a crime victim's right to make a statement about the impact of crime prior to prosecutor's decision concerning prosecution, and prior to the imposition of sentence, and amending P.L.1985, c.249 and P.L.1985, c.404.

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

1. Section 3 of P.L.1985, c.249 (C.52:4B-36) is amended to read as follows:

C.52:4B-36 Findings, declarations.

3. The Legislature finds and declares that crime victims and witnesses are entitled to the following rights:

- a. To be treated with dignity and compassion by the criminal justice system;
- b. To be informed about the criminal justice process;
- c. To be free from intimidation;
- d. To have inconveniences associated with participation in the criminal justice process minimized to the fullest extent possible;
- e. To make at least one telephone call provided the call is reasonable in both length and location called;
- f. To medical assistance if, in the judgment of the law enforcement agency, medical assistance appears necessary;
- g. To be notified if presence in court is not needed;
- h. To be informed about available remedies, financial assistance and social services;
- i. To be compensated for their loss whenever possible;
- j. To be provided a secure, but not necessarily separate, waiting area during court proceedings;
- k. To be advised of case progress and final disposition;
- l. To the prompt return of property when no longer needed as evidence;
- m. To submit a written statement about the impact of the crime to a representative of the county prosecutor's office which shall be considered prior to the prosecutor's final decision concerning whether formal criminal charges will be filed; and
- n. To make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime.

This statement is to be made in addition to the statement permitted for inclusion in the presentence report by N.J.S.2C:44-6.

2. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read as follows:

C.52:4B-44 Standards for law enforcement agencies to ensure rights of crime victims.

6. a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the

Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:

(1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;

(2) Notification of any change in the case status and of final disposition;

(3) Information on crime prevention and on available responses to witness intimidation;

(4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;

(5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;

(6) Advance notice of when presence in court is not needed;

(7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;

(8) A waiting or reception area separate from the defendant for use during court proceedings;

(9) An escort or accompaniment for intimidated victims or witnesses during court appearances;

(10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;

(11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;

(12) Assistance in making travel and lodging arrangements for out-of-State witnesses;

(13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;

(14) Notification of the case disposition, including the trial and sentencing;

(15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;

(16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;

(17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime; and

(18) Expediting the return of property when no longer needed as evidence.

3. This act shall take effect immediately.

Approved March 1, 1991.

CHAPTER 45

AN ACT temporarily prohibiting eviction actions by landlords against tenants with respect to condominium or cooperative conversions.

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

1. Notwithstanding the provisions of P.L.1974, c.49 (C.2A:18-61.1 et al.) or any other law to the contrary, no action shall be instituted pursuant to subsection k. of section 2 of P.L.1974, c.49 (C.2A:18-61.1) and no judgment shall be rendered based on an action instituted pursuant to that section with respect to any dwelling unit or park site. Notwithstanding the provisions of this section, the period of notice required pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2) shall not extend beyond the date on which the three-year period expires or June 1, 1992, whichever date occurs later.

2. Notwithstanding the provisions of P.L.1974, c.49 (C.2A:18-61.1 et al.) or any other law to the contrary, any lessee or tenant or the assigns, under-tenants or legal representatives of any such lessee or tenant of a dwelling unit or park site against whom an action has been instituted pursuant to subsection k. of section 2 of P.L.1974, c.49 (C.2A:18-61.1) or against whom a judgment has been rendered based on an action instituted pursuant to that section, but who has not been

removed from the residential premises as of the effective date of this act, shall not be removed from the residential premises in accordance with any judgment rendered in such action until June 1, 1992.

3. Sections 1 and 2 of P.L.1991, c.45 shall not apply to those units for which the owner has, prior to the effective date of this act, executed a contract to sell the unit to a buyer who seeks to personally occupy it, provided that the owner otherwise complies with the requirements of section 2 of P.L.1974, c.49 (C.2A:18-61.1).

4. This act shall take effect immediately and expire on June 1, 1992.

Approved March 4, 1991.

CHAPTER 46

AN ACT concerning the jurisdictional authority of special law enforcement officers and amending P.L.1985, c.439.

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

1. Section 7 of P.L.1985, c.439 (C.40A:14-146.14) is amended to read as follows:

C.40A:14-146.14 Special law enforcement officers, appointment, term, regulations.

7. a. Special law enforcement officers may be appointed for terms not to exceed one year, and the appointments may be revoked by the local unit for cause after adequate hearing, unless the appointment is for four months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the local unit, and their powers and duties as determined pursuant to this act shall cease at the expiration of the term for which appointed.

b. No special law enforcement officer may carry a firearm except while engaged in the actual performance of the officer's official duties and when specifically authorized by the chief of

police, or, in the absence of the chief, other chief law enforcement officer of the local unit to carry a firearm and provided that the officer has satisfactorily completed the basic firearms course required by the commission for regular police officers and annual requalification examinations as required for permanent, regularly appointed full-time officers in the local unit.

A special law enforcement officer shall be deemed to be on duty only while he is performing the public safety functions on behalf of the local unit pursuant to this act and when he is receiving compensation, if any, from the local unit at the rates or stipends as shall be established by ordinance. A special law enforcement officer shall not be deemed to be on duty for purposes of this act while performing private security duties for private employers, which duties are not assigned by the chief of police, or, in the absence of the chief, other chief law enforcement officer of the local unit, or while receiving compensation for those duties from a private employer. A special law enforcement officer may, however, be assigned by the chief of police or, in the absence of the chief, other chief law enforcement officer, to perform public safety functions for a private entity if the chief of police or other chief law enforcement officer supervises the performance of the public safety functions. If the chief of police or other chief law enforcement officer assigns the public safety duties and supervises the performance of those duties, then, notwithstanding that the local unit is reimbursed for the cost of assigning a special law enforcement officer at a private entity, the special law enforcement officer shall be deemed to be on duty.

The reimbursement for the duties of a special law enforcement officer, which is made to a municipality with a population in excess of 300,000, according to the 1980 federal decennial census, may be by direct payments from the employer to the special law enforcement officer, provided that records of the hours worked are forwarded to and maintained by the chief of police or other chief law enforcement officer responsible for assigning the special law enforcement officer those public safety duties.

Any firearm utilized by a special law enforcement officer shall be returned at the end of the officer's workday to the officer in charge of the station house, unless the firearm is owned by the special law enforcement officer and was acquired in compliance with a condition of employment established by the local unit. Any special law enforcement officer first appointed after the effective date of this act shall only use a firearm supplied by the local unit.

No such special police officer shall carry a revolver or other similar weapon when off duty; but if any such special police officer appointed by the governing body of any municipality having a population in excess of 300,000, according to the 1980 federal census, who is a resident of the municipality and is employed as a special police officer at least 35 hours per week, or less at the discretion of the chief of police and mayor, shall, at the direction of the chief of police, have taken and successfully completed a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and has successfully completed within three years of the effective date of P.L.1985, c.45 or three years of the date of appointment of the special police officer, whichever is later, 280 hours of training in arrest, search and seizure, criminal law, and the use of deadly force, and shall annually qualify in the use of a revolver or similar weapon, said special police officer shall be permitted to carry a revolver or other similar weapon when off duty within the municipality where he is employed. Specific authorization shall be in the form of a permit which shall not be unreasonably withheld, which is subject to renewal annually and may be revoked at any time by the chief of police. The permit shall be on the person of the special police officer whenever a revolver or other similar weapon is carried off duty. No permit shall be issued until the special police officer has successfully completed all training courses required under this section. Any training courses completed by a special police officer under the direction of the chief of police in a school and a curriculum approved by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), shall be credited towards the 280 hours of training required to be completed by this section. Any training required by this section shall commence within 90 days of the effective date of P.L.1985, c.45 or within 90 days of the date of the appointment of the special police officer, whichever is later.

c. A special law enforcement officer shall be under the supervision and direction of the chief of police or, in the absence of the chief, other chief law enforcement officer of the local unit wherein the officer is appointed, and shall perform his duties only in the local unit except when in fresh pursuit of any person pursuant to chapter 156 of Title 2A of the New Jersey Statutes or when authorized to perform duties in another unit pursuant to a mutual aid agreement enacted in accordance with section 1 of P.L.1976, c.45 (C.40A:14-156.1).

d. The officer shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the local unit, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

e. Notwithstanding any provision of P.L.1985, c.439 (C.40A:14-146.8 et seq.) to the contrary, a special law enforcement officer may travel through another local unit to reach a noncontiguous area of the local unit in which his appointment was issued or to transport persons to and from a correctional facility.

2. This act shall take effect immediately.

Approved March 4, 1991.

CHAPTER 47

AN ACT prohibiting industrial homework in the manufacture of women's apparel and amending P.L.1941, c.308.

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

1. Section 3 of P.L.1941, c.308 (C.34:6-136.3) is amended to read as follows:

C.34:6-136.3 Prohibited homework.

3. Prohibited homework. The manufacture of any of the following by industrial homework shall be unlawful, and no permit or certificate issued under this act shall be deemed to authorize such manufacture: (1) Articles of food or drink, (2) Articles for use in connection with the serving of food or drink, (3) Toys and dolls, (4) Tobacco, (5) Drugs and poisons, (6) Bandages and other sanitary goods, (7) Explosives, fireworks, and articles of like character, (8) Articles of infants' and children's wearing apparel, (9) Articles of women's or men's wearing apparel, (10) Articles, the processing of which requires exposure to substances determined by the commissioner to be hazardous to the health or safety of persons so exposed, (11) the manufacture or distribution of

dolls' clothing in any tenement house is hereby prohibited, anything to the contrary herein notwithstanding.

2. This act shall take effect immediately.

Approved March 4, 1991.

CHAPTER 48

AN ACT concerning the administration and management of condominiums, amending P.L.1969, c.257.

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

1. Section 13 of P.L.1969, c.257 (C.46:8B-13) is amended to read as follows:

C.46:8B-13 Bylaws.

13. The administration and management of the condominium and condominium property and the actions of the association shall be governed by bylaws which shall initially be recorded with the master deed and shall provide, in addition to any other lawful provisions, for the following:

(a) The form of administration, indicating the titles of the officers and governing board of the association, if any, and specifying the powers, duties and manner of selection, removal and compensation, if any, of officers and board members. If the bylaws provide that any of the powers and duties of the association as set forth in sections 14 and 15 of P.L.1969, c.257 (C.46:8B-14 and 46:8B-15) be exercised through a governing board elected by the membership of the association, or through officers of the association responsible to and under the direction of such a governing board, all meetings of that governing board, except conference or working sessions at which no binding votes are to be taken, shall be open to attendance by all unit owners, and adequate notice of any such meeting shall be given to all unit owners in such manner as the bylaws shall prescribe; except that the governing board may exclude or restrict attendance at those meetings, or portions of meetings, dealing with (1) any matter the disclosure of

which would constitute an unwarranted invasion of individual privacy; (2) any pending or anticipated litigation or contract negotiations; (3) any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer, or (4) any matter involving the employment, promotion, discipline or dismissal of a specific officer or employee of the association. At each meeting required under this subsection to be open to all unit owners, minutes of the proceedings shall be taken, and copies of those minutes shall be made available to all unit owners before the next open meeting.

(b) The method of calling meetings of unit owners, the percentage of unit owners or voting rights required to make decisions and to constitute a quorum, but such bylaws may nevertheless provide that unit owners may waive notice of meetings or may act by written agreement without meetings.

(c) The manner of collecting from unit owners their respective shares of common expenses and the method of distribution to the unit owners of their respective shares of common surplus or such other application of common surplus as may be duly authorized by the bylaws.

(d) The method by which the bylaws may be amended, provided that no amendment shall be effective until recorded in the same office as the then existing bylaws. The bylaws may also provide a method for the adoption, amendment and enforcement of reasonable administrative rules and regulations relating to the operation, use, maintenance and enjoyment of the units and of the common elements including limited common elements.

C.46:8B-13.1 Explanatory materials, guidelines for condominium associations, administrators.

2. The Commissioner of Community Affairs shall cause to be prepared and distributed, for the use and guidance of condominium associations and administrators, explanatory materials and guidelines to assist them in achieving proper and timely compliance with the requirements of this act. Such guidelines may include the text of model bylaw provisions suggested or recommended for adoption. Failure or refusal of a condominium association to make proper amendment or supplementation of its bylaws prior to the effective date of section 1 of this act shall not, however, affect its obligation of compliance therewith on and after that effective date.

3. This act shall take effect six months after enactment, except that section 2 shall take effect immediately.

Approved March 6, 1991.

CHAPTER 49

AN ACT concerning handicapped driver certification and amending P.L.1949, c.280.

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

1. Section 1 of P.L.1949, c.280 (C.39:4-204) is amended to read as follows:

C.39:4-204 Handicapped person defined.

1. The term "handicapped person" as employed herein shall include any person who has lost the use of one or more limbs as a consequence of paralysis, amputation, or other permanent disability or who is permanently disabled as to be unable to ambulate without the aid of an assisting device or whose mobility is otherwise limited as certified by a physician with a plenary license to practice medicine and surgery or a podiatrist licensed to practice in this State or a bordering state.

2. Section 3 of P.L.1949, c.280 (C.39:4-206) is amended to read as follows:

C.39:4-206 Vehicle identification card.

3. The director shall issue to such applicant, also, a placard of such size and design as shall be determined by the director in consultation with the Division of Vocational Rehabilitation Services in the Department of Labor, indicating that a handicapped person identification card has been issued to the person designated therein, which shall be displayed in such manner as the director shall determine on the motor vehicle used to transport the handicapped person, when the vehicle is parked overtime or in special parking places established for use by handicapped persons.

Notwithstanding any provision of this act to the contrary, the chief of police of each municipality in this State shall issue to any

person who has temporarily lost the use of one or more limbs or is temporarily disabled as to be unable to ambulate without the aid of an assisting device or whose mobility is otherwise temporarily limited, as certified by a physician with a plenary license to practice medicine and surgery or a podiatrist licensed to practice in this State or a bordering state, a temporary placard of not more than six months' duration. Each temporary handicapped placard issued under the provisions of this section shall set forth the date on which it shall become invalid.

The temporary placard shall be granted upon written certification by a physician with a plenary license to practice medicine and surgery or a podiatrist licensed to practice in this State or a bordering state that the person meets the conditions constituting temporary disability as provided in this section. This certification shall be provided on a standard form to be developed by the director in consultation with local chiefs of police and representatives of the handicapped. The form shall contain only those conditions constituting temporary disability as are provided in this section. The physical presence of the handicapped person shall not be required for the issuance of a temporary handicapped placard.

The placard may be renewed one time at the discretion of the issuing authority for a period of not more than six months' duration. The placard shall be displayed on the motor vehicle used by the temporarily handicapped person and shall give the person the right to park overtime or to use special parking places established for use by handicapped persons in any municipality of this State.

The fee for the issuance of such temporary or permanent placard issued pursuant to this section shall be \$4.00 and payable to the Director of the Division of Motor Vehicles.

The director may, in addition, issue license plates bearing the national wheelchair symbol for not more than two motor vehicles owned, operated or leased by a handicapped person or by any person furnishing transportation on his behalf.

The fee for the issuance of such plates shall be \$10.00 for each vehicle.

3. This act shall take effect immediately.

Approved March 6, 1991.

CHAPTER 50

AN ACT concerning the corporate names of certain professional corporations and amending P.L.1969, c.232.

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

1. Section 14 of P.L.1969, c.232 (C.14A:17-14) is amended to read as follows:

C.14A:17-14 Corporate name.

14. a. Corporate name. The corporate name of a professional corporation shall contain the full or last names of one or more of the shareholders or a name descriptive of the type of professional service in which the corporation will be engaged and shall also contain the words "chartered," "professional association" or "a professional corporation," or the abbreviation "P.A." or "P.C." The use of the word "company," "corporation" or "incorporated," or any other word, words, abbreviations, affix or prefix indicating that it is a corporation, in the corporate name of a professional corporation, other than the words "chartered," "professional association" or "a professional corporation," or the abbreviation "P.A." or "P.C.," is specifically prohibited. It shall be permissible, however, for the corporation and the shareholders to render professional services or to exercise its authorized powers under a name which is identical to its corporate name except that the words "chartered," "professional association" or "a professional corporation," or the abbreviation "P.A." or "P.C." is omitted.

b. Notwithstanding the provisions of subsection a. of this section, the corporate name of a professional corporation may contain the name of a deceased person only if, at the time of the person's death:

- (1) that person's name was part of the corporate name; or
- (2) that person's name was part of the name of an existing partnership and at least two-thirds of that partnership's partners become shareholders of the professional corporation.

2. This act shall take effect immediately.

Approved March 6, 1991.

CHAPTER 51

AN ACT concerning community action agencies.

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

C.52:27D-395 Short title.

1. This act shall be known and may be cited as the "Community Action Agency Act."

C.52:27D-396 Findings, declarations.

2. The Legislature finds and declares that:

a. Although the economic well-being and prosperity of this State has surpassed most states in the United States and although these benefits are widely shared throughout the State, poverty continues to affect a substantial number of residents;

b. New Jersey can accomplish its full economic and social potential only if every individual has the opportunity to contribute to the full extent of each individual's capabilities and to participate in the workings of our society;

c. One method to achieve these goals is to combine the resources of the private, public, and social service sectors of this State through the efforts of community action agencies;

d. These community action agencies provide a range of services related to the needs of low-income persons and helping families and individuals overcome particular problems in order to develop self-sufficiency;

e. In addition, these agencies develop and implement programs and projects designed to ensure maximum participation by the residents of the communities served, so as to stimulate and take full advantage of the capabilities of the residents and assure that those programs and projects are otherwise meaningful and widely utilized by their intended beneficiaries;

f. It is, therefore, in the interest of this State to recognize and support the work of community action agencies as these agencies provide efficient and effective means to prevent and eliminate poverty, and so, promote the well-being and prosperity of this State.

C.52:27D-397 Definitions.

3. As used in this act:

a. "Commissioner" means the Commissioner of Community Affairs;

b. "Community" means a municipality, county or any part or combination thereof which represents a reasonable geographic area and sufficient population for community action programs;

c. "Community action agency" means any public, or private nonprofit, agency or organization which was officially designated as a community action agency or a community action program under the provisions of section 210 of the "Economic Opportunity Act of 1964," Pub.L.88-452 (42 U.S.C. §2790; repealed, section 683(a), Pub.L.97-35 (42 U.S.C. §9912(a))) for federal fiscal year 1981, or which came into existence during federal fiscal year 1982 as a direct successor in interest to such a community action agency or community action program, and meets all the requirements under section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. §9904(c)(3)), unless such community action agency or community action program lost its designation under section 210 of the "Economic Opportunity Act of 1964," (42 U.S.C. §9912(a)) as a result of a failure to comply with the provisions of that act. "Community action agency" also means an agency designated by the State in accordance with section 675(c)(4) of the Community Services Block Grant Act (42 U.S.C. §9904(c)(4));

d. "Community action program" means any program or project conducted by an agency or organization as described in subsection c. of this section which uses funds: (1) to provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(2) to provide activities designed to assist participating low-income persons, including the elderly poor, to secure and retain meaningful employment, to attain an adequate education, to make better use of available income, to obtain and maintain adequate housing in a suitable living environment, to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs (including the need for health service, nutritious food, housing and employment-related assistance), to remove obstacles and solve problems which block the achievement of self-sufficiency, to achieve greater participation in the affairs of the community, and to make more effective use of other programs related to the needs of low-income persons;

(3) to provide on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor;

(4) to coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low-income individuals; and

(5) to encourage the use of entities in the private sector of the community and efforts to ameliorate poverty in the community;

e. "Low-income persons" means any individual or family whose gross annual income is at or below the official poverty line as determined by the Director of the federal Office of Management and Budget;

f. "Federal Office of Community Services" means the federal office within the Federal Department of Health and Human Services which distributes Community Services Block Grant Act funds to states; and

g. "Community Services Block Grant Act" means section 671 et seq., subchapter B of chapter 8 of the "Omnibus Budget Reconciliation Act of 1981," Pub.L.97-35 (42 U.S.C. §9901 et seq.), as amended.

C.52:27D-398 Establishment of community action board.

4. a. A community action agency shall establish a community action board to administer the agency and its functions. The agency shall promulgate bylaws which shall include the number of members to be appointed to the board, the length of each term, and the methods by which the board members shall be appointed. At least one-third of the board members shall be elected officials, including chief elected officials, or their designees. When the number of elected officials available and willing to serve equals less than one-third of the membership, appointed public officials may be appointed to meet the requirements. At least one-third of the board members shall be low-income persons appointed by democratic selection procedures. The remainder of the board shall be officials or members of business, industry, labor, religious, welfare, education groups or other community-interest groups. Any board member appointed to serve and represent a specific geographic area shall be a resident of that area. Any vacancy in a board position shall be filled in the same manner as the original appointment.

b. The agency may establish a subsidiary board, council or similar entity to be responsible for budget determinations for community action programs serving certain geographic areas and the members appointed to any such entity shall represent the various community interests of that geographic area.

C.52:27D-399 Purposes of community action agency.

5. A community action agency shall have the following purposes:

a. To research and collect information concerning the obstacles in the community that prevent the self-sufficiency of all

residents, including, but not limited to, unemployment, lack of services, substandard housing and lack of resources;

b. To establish community action programs to eradicate these obstacles and improve the opportunities for low-income persons;

c. To develop, operate and evaluate cost-effective service models and innovative program approaches to address community problems;

d. To determine the level of assistance necessary to effectively fund the community action programs, coordinate the available resources in a cost-efficient manner, and assist community residents in securing available assistance;

e. To work with, and encourage the involvement of, neighborhood organizations, in the community action programs;

f. To involve low-income persons and other community residents in the development and implementation of community action programs; and

g. To encourage public and private organizations to cooperate and participate in community action programs and to stimulate these organizations to develop new employment opportunities and services for low-income persons in the community.

C.52:27D-400 Goals of community action programs.

6. Community action programs shall have, but not be limited to, the following goals:

a. Securing and retaining employment, attaining adequate education and obtaining decent and affordable housing for community residents;

b. Assisting community residents in improving the allocation of available income;

c. Promoting family planning, consistent with personal and family goals;

d. Securing services for the prevention of narcotic addiction and alcoholism and for the rehabilitation of persons addicted to alcohol, narcotics and other addictive substances;

e. Obtaining emergency assistance to meet individual and family needs including health, housing, employment and energy assistance services; and

f. Increasing the participation of community residents in community affairs.

C.52:27D-401 Powers of community action agency.

7. A community action agency shall have the following powers:

a. To adopt bylaws;

b. To implement and administer community action programs;

c. To enter into any agreement or contract with any public, private nonprofit or profit-making agency or organization to assist in fulfilling the agency's purposes and functions;

d. To receive and accept, from any public or private source, funds or real or personal property;

e. To appoint and employ personnel as deemed necessary;

f. To transfer funds and delegate powers to other organizations or agencies, as permitted by its community action board;

g. To carry out any requirement or power permitted by federal law; and

h. To take such other steps as may be necessary or appropriate to provide assistance or benefits to the low-income community it serves.

C.52:27D-402 Assurance of present or future funding.

8. a. Consistent with the Community Services Block Grant Act the State shall provide assurances that any eligible entity which received funding in the previous fiscal year under this act will not have its present or future funding terminated under this act or reduced below the proportional share of funding it received in the previous fiscal year unless after notice, and opportunity for hearing on the record, the State determines that cause existed for such termination or such reduction subject to review by the commissioner as provided in the Community Services Block Grant Act.

For the purpose of making a determination with respect to a funding reduction, the term "cause" includes:

(1) a Statewide redistribution of funds under the Community Services Block Grant Act to respond to:

(a) the results of the most recently available census or other appropriate data;

(b) the establishment of a new eligible entity;

(c) severe economic dislocation; and

(2) corrective measures to bring such agency or organization into compliance with the terms of its agreement to provide services under the Community Services Block Grant Act.

b. An agency's funds will only be withheld in the event that a corrective action plan's requirements for compliance are not accomplished within the specified compliance date.

c. An aggrieved community action agency shall be entitled to an administrative hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. In accordance with the "Administrative Procedure Act," the commissioner or his

designee shall issue the final decision in all cases. The request for a hearing shall be filed with the commissioner within 15 days of the receipt of the Department of Community Affairs' decision.

If requested by the community action agency, the commissioner's decision regarding the termination or reduction of funding shall be subject to the review of the Secretary of the U.S. Department of Health and Human Services consistent with the Community Services Block Grant Act.

d. The Governor of the State of New Jersey may, at the Governor's discretion, determine to provide services with Community Services Block Grant Act funds in an area in which services have not previously been provided by a community action agency or delegate thereof. In the event the Governor so decides to serve an area, the Governor may initially request any community action agency which services any contiguous area to provide the services the Governor has decided to direct to that area or, if no community action agency accepts that request or there is no community action agency providing services contiguous to the area, the Governor may request any community action agencies nearby to the unserved area to provide services in the area. If no contiguous or nearby community action agency, upon request of the Governor, agrees to provide services in the area, the Governor may then select another entity at the Governor's discretion to provide those services.

C.52:27D-403 Approval of allocation of federal funds.

9. The commissioner shall approve the allocation of federal funds for community action agencies according to the requirements of federal law.

C.52:27D-404 Distribution of State Funds.

10. In the event that Community Services Block Grant Act funds are no longer available, and if State funds are then made available to the commissioner for the community action agencies, then those funds shall be distributed according to the provisions of the Community Services Block Grant Act State plan for distribution of funding resources to the community action agencies.

C.52:27D-405 Rules, regulations.

11. The commissioner shall adopt any rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are deemed necessary to effectuate the purposes of this act, including the promulgation of fiscal control and fund accounting procedures to assure the proper management

of, and accounting for, any federal and State funds received by a community action agency.

12. This act shall take effect immediately.

Approved March 6, 1991.

CHAPTER 52

AN ACT concerning school elections and amending N.J.S.18A:14-29.

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

1. N.J.S.18A:14-29 is amended to read as follows:

Sample ballots; when used; preparation.

18A:14-29. The secretary of each board of education of a type II special needs school district, as defined pursuant to P.L.1990, c.52 (C.18A:7D-1 et seq.), located in a city of the first class having a population in excess of 300,000 according to the 1980 federal decennial census, shall prepare sample ballots for each school election and shall mail those sample ballots to the registered voters of the municipality comprising the school district in which the election is to be held. The board of education of all other school districts may, by resolution, direct the secretary of the board to prepare sample ballots and mail those ballots to the voters of the municipalities comprising the school district in which the election is to be held. Those sample ballots, as nearly as possible, shall be facsimiles of the official ballots to be used at such election or, in districts in which voting machines are used, shall be facsimiles in reduced size of the face of the machine so to be used, but shall be printed on paper different in color from the official ballot and shall have the following words printed in large type at the top: "This ballot cannot be voted. It is a sample copy of the official school election ballot to be used on election day."

2. This act shall take effect immediately.

Approved March 8, 1991.

CHAPTER 53

AN ACT permitting counties and municipalities, either separately or jointly with other counties or municipalities, to finance, construct, acquire and operate sewerage facilities, repealing various sections of the statutory law, and enacting chapter 26A 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 26A

Municipal and County Sewerage Facilities

- | | |
|-------------|--|
| 40A:26A-1. | Short Title. |
| 40A:26A-2. | Legislative purpose. |
| 40A:26A-3. | Definitions. |
| 40A:26A-4. | Acquisition, construction or operation of sewerage facilities by one or more local units. |
| 40A:26A-5. | Powers. |
| 40A:26A-6. | Surveys, maps and other costs; reimbursement from bond funds. |
| 40A:26A-7. | Property damaged, repair, restoration or compensation. |
| 40A:26A-8. | Relocation of public utility property |
| 40A:26A-9. | Bonds and security therefor. |
| 40A:26A-10. | Rates, rentals and other charges. |
| 40A:26A-11. | Connection fees. |
| 40A:26A-12. | Rates, rentals, connection fees, or other charges as lien on real property; discontinuance of service. |
| 40A:26A-13. | Improvements financed by means of local improvement assessments. |
| 40A:26A-14. | Local improvement assessments; procedure for and manner of assessment and collection. |
| 40A:26A-15. | Bonds issued by one or more units; debt service payments. |
| 40A:26A-16. | Sewerage facilities deemed a self-liquidating purpose under certain circumstances. |
| 40A:26A-17. | Payments by local unit to another local unit. |
| 40A:26A-18. | Contracts entered into prior to appropriations therefor. |

- 40A:26A-19. Right of entry onto private property to make surveys and investigations; interference therewith.
- 40A:26A-20. Bonds as legal investments.
- 40A:26A-21. Competitive sewerage system; consent of existing authority.
- 40A:26A-22. Statutes repealed.

40A:26A-1 Short Title.

This act shall be known and may be cited as the "Municipal and County Sewerage Act."

40A:26A-2 Legislative Purpose.

The Legislature finds and declares it to be in the public interest and to be the policy of this State to foster and promote the public health by providing for the collection and treatment of sewerage through adequate sewerage facilities. It is the purpose of this act to implement this policy by authorizing municipalities and counties either separately or in combination with other municipalities and counties to finance, acquire, construct, maintain, operate or improve works for the collection, treatment, transport and disposal of sewage and to provide for the financing of these facilities.

Source: New.

40A:26A-3 Definitions.

As used in this act:

"Bonds" means bond anticipation notes or bonds issued in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq.

"Cost" as applied to sewerage facilities or extensions or additions thereto, means the cost of acquisition or the construction including improvement, reconstruction, extension or enlargement, the cost of all lands, property, rights and easements acquired. The cost of demolition or removal of any buildings or structures thereon, financing charges, interest on bonds issued to finance sewerage facilities prior to and during construction, the cost of plans and specifications, surveys or estimates of costs and revenues, the cost of engineering, legal services, and any other expenses necessary or incident to determining the feasibility of construction, administrative and other expenses as may be necessary or incident to the construction or acquisition of sewerage facilities and the financing thereof.

"Local unit" means a county or municipality.

“Sewerage facilities” means the plants, structures or other real and personal property acquired, constructed or operated, or to be financed, acquired, constructed or operated, or any parts thereof, used for the storage, collection, reduction, reclamation, disposal, separation or other treatment of wastewater or sewage sludge or for the final disposal of residues resulting from the treatment of wastewater, including but not limited to, pumping and ventilating stations, treatment plants and works, connections, outfall servers, interceptors, trunk lines and other appurtenances necessary for their use or operation.

Source: C.40:23-19.2 (P.L.1966, c.205, s.2) and New.

40A:26A-4. Acquisition, construction or operation of sewerage facilities by one or more local units.

A local unit may, either separately or in combination with one or more other local units acquire, construct or operate a sewerage facility upon a determination by the governing body of the local unit or each participating local unit that the public health, safety or welfare can best be assured by the acquisition, construction or operation of sewerage facilities by the local unit or units. The determination shall be by ordinance or resolution, or parallel ordinances or resolutions, as the case may be, of the governing body of the local unit or each of the participating local units.

No sewerage facilities may be acquired, constructed or operated pursuant to this act until all necessary permits and approvals have been received from the appropriate State agencies.

Source: C.40:23-19.2 (P.L.1966, c.205, s.2); R.S.40:63-1; R.S.40:63-23 and R.S.40:63-68.

40A:26A-5 Powers.

One or more local units adopting an ordinance or resolution in accordance with N.J.S.40A:26A-4 are authorized and empowered:

- a. To acquire, construct, improve, extend, enlarge or reconstruct and finance sewerage facilities, and to operate, manage and control all or part of these facilities and all properties relating thereto;
- b. To issue bonds of the local unit or units to pay all or part of the cost of the purchase, construction, improvement, extension, enlargement or reconstruction of sewerage facilities;
- c. To receive and accept from the federal or State government, or any agency or instrumentality thereof, grants or loans for, or in aid of, the planning, purchase, construction, improvement extension, enlargement or reconstruction, or financing of sewerage

facilities, and to receive and accept from any source, contributions or money, property, labor or other things of value to be held, used and applied only for the purposes for which the grants or loans and contributions are made;

d. To acquire in the name of the local unit or units by gift, purchase, or by the exercise of the right of eminent domain, lands and rights and interests therein, including lands under water and riparian rights, and personal property as may be deemed necessary for acquisition, construction, improvement, extension, enlargement or reconstruction, or for the efficient operation of any facilities acquired or constructed under the provisions of this act and to hold and dispose of all real and personal property so acquired;

e. To make and enter into all contracts and agreements necessary or incidental to the performance of the local unit's or units' duties and the execution of powers authorized under this act, and to employ engineers, superintendents, managers, attorneys, financial or other consultants or experts, and other employees and agents as may be deemed necessary, and to fix their compensation;

f. Subject to the provisions and restrictions set forth in the ordinance or resolution authorizing or securing any bonds issued under the provisions of this act, to enter into contracts with the federal or State Government, or any agency or instrumentality thereof, or with any other local unit, private corporation, copartnership, association or individual providing for, or relating to, sewerage services which contracts may provide for the furnishing of sewerage facility services either by or to the local unit or units, or the joint construction or operation of sewerage facilities;

g. To fix and collect rates, fees, rents and other charges in accordance with this act;

h. To prevent toxic pollutants from entering the sewerage system;

i. To exercise any other powers necessary or incidental to the effectuation of the general purpose of this act.

Source: C.40:23-19.3 (P.L.1966, c.205, s.3); C.40:23-19.9 (P.L.1966, c.205, s.9) R.S.40:63-1; R.S.40:63-23; R.S.40:63-24; R.S.40:63-41; R.S.40:63-91 and R.S.40:63-92.

40A:26A-6. Surveys, maps and other costs; reimbursement from bond funds.

a. Whenever a local unit pursuant to N.J.S.40A:26A-4 chooses to exercise powers granted hereunder, the local unit shall make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings and estimates of costs and of revenues as may be necessary.

b. The cost of the surveys, investigations, studies, borings, maps, plans, drawings and estimates, or of any other costs relating to the acquisition or construction of a sewerage facility may be paid out of the general funds of the local unit or participating local units. The local unit or units may be reimbursed for part or all of the expenditures made in accordance with this subsection from the proceeds of bonds issued pursuant to this act.

Source: C.40:23-19.4 (P.L.1966, c.205, s.4); R.S.40:63-71 and New.

40A:26A-7. Property damaged, repair, restoration or compensation.

All public or private property damaged or destroyed in carrying out the powers granted by this act shall be restored or repaired and, as nearly as practicable, placed in its original condition, or adequate compensation shall be made therefor.

Source: C.40:23-19.4 (P.L.1966, c.205, s.4) and New.

40A:26A-8. Relocation of public utility property.

Whenever the local unit or units determine that it is necessary that any public utility facilities such as tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility, as defined in R.S.48:2-13, which are now, or hereafter may be located in, on, along, over or under any sewerage facility project, should be removed, the public utility owning or operating the facilities shall relocate or remove the same in accordance with the order of the local unit or units, the cost and expense of the 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 interest in lands, and any other rights acquired to accomplish the relocation or removal, less the cost of any lands or any rights of the public utility paid to the public utility in connection with the relocation or removal of the property, shall be ascertained and paid as a part of the cost of the project. In case of any relocation or removal of facilities pursuant to this section, 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, 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.

Source: New.

40A:26A-9. Bonds and security therefor.

A local unit having adopted an ordinance or resolution pursuant to N.J.S.40A:26A-4, may issue bonds pursuant to the provisions

of the "Local Bond Law," N.J.S.40A:2-1 et seq., for all or part of the cost of sewerage facilities. Proceeds from the bonds shall be used solely for the payment of the costs of the sewerage facilities for which the bonds have been authorized.

Bonds issued by a local unit or local units may be:

a. General obligation bonds payable from unlimited ad valorem taxes which may additionally be secured by a pledge of revenues from rates, rentals or other charges levied and collected pursuant to the provisions of N.J.S.40A:26A-10 and 40A:26A-11;

b. Local improvement assessment bonds payable from local improvement assessments as provided in N.J.S.40A:26A-13, additionally secured by unlimited ad valorem taxes; or

c. General obligation bonds secured and payable from rates, rental and other charges levied and collected pursuant to N.J.S.40A:26A-10 and 40A:26A-11, and additionally secured by unlimited ad valorem taxes. Bonds may additionally be secured by a pledge of any grant, subsidy or contribution received by the issuing local unit from the United States or the State of New Jersey, or any agency, instrumentality or political subdivision thereof.

Source: C.40:23-19.8 (P.L.1966, c.205, s.8); R.S.40:63-28 and R.S.40:63-110.

40A:26A-10. Rates, rentals and other charges.

After the commencement of operation of sewerage facilities, the local unit or units may prescribe and, from time to time, alter rates or rentals to be charged to users of sewerage services. Rates or rentals being in the nature of use or service charges or annual rental charges, shall be uniform and equitable for the same types and classes of use and service may be based on any factors which the governing body or bodies of that local unit or units shall deem proper and equitable within the region served.

In fixing rates, rental and other charges for supplying sewerage services, the local unit or units shall establish a rate structure that allows, within the limits of any lawful covenants made with bondholders, the local unit to:

a. Recover all costs of acquisition, construction or operation, including the costs of raw materials, administration, real or personal property, maintenance, taxes, debt service charges, fees and an amount equal to any operating budget deficit occurring in the immediately preceding fiscal year;

b. Establish a surplus in an amount sufficient to provide for the reasonable anticipation of any contingency that may affect the

operating of the sewerage facility, and, at the discretion of the local unit or units, allow for the transfer of moneys from the budget for the sewerage facilities to the local budget in accordance with section 5 of P.L.1983, c.111 (C.40A:4-35.1).

Source: C.40:23-19.7 (P.L.1966, c.205, s.7); R.S.40:63-7 and New.

40A:26A-11. Connection fees.

In addition to rates and rentals, a separate charge in the nature of a connection fee or tapping fee for each connection of any property to the sewerage system may be imposed upon the owner or occupant at the property so connected. The connection charges shall be uniform within each class of users and the amount thereof shall not exceed the actual cost of the physical connection plus an amount representing a fair payment towards the cost of the system and computed in the following manner:

a. The amount representing all debt service, including but not limited to sinking funds, reserve funds, the principal and interest on bonds, and the amount of any loans and interest thereon, paid by the local unit or units to defray the capital cost of developing the system as of the end of the immediately preceding budget year shall be added to all capital expenditures made by a local unit or units not funded by a bond ordinance or debt for the development of the system as of the end of the immediately preceding budget year;

b. Any gifts, contributions or subsidies to the local unit or units received from, and not reimbursed or reimbursable to, any federal, State, county or municipal government or agency or any private person, and that portion of amounts paid to the local unit or units by a public entity under a service agreement or service contract which is not repaid to the public entity by the local unit or units, shall then be subtracted;

c. The remainder shall be divided by the total number of service units served by the local unit or units at the end of the immediately preceding budget year, and the results shall then be apportioned to each new customer according to the number of service units attributed to that connector, to produce the connector's contribution to the cost of the system. In attributing service units to each connector, the estimated average daily flow of sewage for the connector shall be divided by the average daily flow of sewage for the average single family residence in the area served by the local unit or units to produce the number of service units to be attributed.

The connection fee shall be recomputed at the end of each budget year, after a public hearing is held. The revised connection fee

may be imposed upon those who subsequently connect to the system in that budget year.

The combination of the connection fee or tapping fee and the aforesaid sewerage service charges shall be such that the revenues of sewerage facilities shall be adequate to pay the expenses of operation and maintenance of the sewerage facilities, including improvements, extensions, enlargements and replacements to sewerage facilities, reserves, insurance, principal and interest on any bonds, and to maintain reserves or sinking funds therefor as may be required under the bond covenants or any contracts, or as may be deemed necessary or desirable.

Source: R.S.40:63-60 and New.

40A:26A-12. Rates, rentals, connection fees, or other charges as lien on real property; discontinuance of service.

Rates, rentals, connection fees or other charges levied in accordance with N.J.S.40A:26A-10 and 40A:26A-11, shall be a first lien or charge against the property benefited therefrom. If any part of the amount due and payable in rates, rentals, connection fees or other charges remain unpaid for 30 days following the date for the payment thereof, interest upon the amount unpaid shall accrue at a rate of interest to be determined in accordance with N.J.S.40A:26A-17. The governing body or bodies of the local unit or units may authorize payment of delinquent assessments on an installment basis in accordance with R.S.54:5-19. Liens levied in accordance with this section shall be enforceable in the manner provided for real property tax liens in chapter 5 of Title 54 of the Revised Statutes.

Nothing in this section shall be construed to limit the right of a local unit or local units to discontinue service of any property for the failure to pay any amount owing within 30 days after the date the amount is due and payable, if written notice of the proposed discontinuance of service and of the reasons therefor has been given, within at least 10 days prior to the date of discontinuance, to the owner of record of the property. In the event that notice is provided by mail, the notice requirements shall be satisfied if the mailing is made to the last known address of the owner of record and is postmarked at least 10 days prior to the date of discontinuance.

Source: R.S.40:63-8; R.S.40:63-61 and New.

40A:26A-13. Improvements financed by means of local improvement assessments.

If the governing body of one or more local units determines that all or any part of the cost of construction of sewerage facilities acquired or constructed pursuant to this act should be financed by local improvement assessments on real properties located within the local unit or units, the local unit or units shall pass a resolution or ordinance or parallel resolutions or ordinances on the intention to undertake and finance the sewerage facilities and shall give notice thereof by advertising in one or more newspapers of general circulation in the local unit or units, and by notifying each concerned property owner by certified mail. The notice shall fix a date, time and place for a public hearing on the proposed action; except that the date of the hearing shall not be earlier than two weeks after the mailing of notices to concerned property owners. If, after the hearing, the governing body or bodies decide to carry out the proposed local improvement, an ordinance or resolution, or parallel ordinances or resolutions shall be adopted declaring that determination.

Source: R.S.40:63-61 and R.S.40:63-125.

40A:26A-14. Local improvement assessments; procedure for and manner of assessment and collection.

Upon completion of the improvements made pursuant to N.J.S.40A:26A-13, the governing body or governing bodies shall assess the costs and expenses of the sewerage facilities on the lands specially benefited therefrom in proportion to the benefits received; however, no county may levy local improvement assessments within a municipality without the approval of that municipality.

When completed, the assessments shall be filed as a report with the clerk or clerks of the governing body or bodies who shall give notice, by advertising in one or more newspapers of general circulation in the local unit or units, and by notifying each concerned property owner by certified mail, of the fact that the report has been filed and that the governing body or bodies will meet at a time and place designated in the notice to hear remonstrances against the report. The governing body or bodies shall meet at the time and place designated in the notice to hear remonstrances and may revise the report as may be deemed appropriate after which the report shall be filed with the clerk or clerks of the governing body or bodies, and the assessments shall constitute liens upon the lands so assessed for special benefits.

The clerk or clerks shall deliver a duplicate copy of the report to the appropriate officer or officers of the local unit or units who

shall immediately thereafter send out by mail or deliver to owners of lands bills for the assessments. The officer or officers shall mail or deliver bills for an assessment in the manner required in connection with local improvements and shall keep a record and books of assessments in the same manner required for local improvements under R.S.40:56-31, at the expense of the local unit or units. The governing body or bodies may make additional requirements for recording, accounting for and collecting assessments.

The governing body of a participating local unit may, by resolution, provide that the owner of any real estate located within the local unit upon which a local improvement assessment has been made may pay the assessment in installments pursuant to the procedures contained in R.S.40:56-35 for collection thereof remain in arrears on July 4 of the calendar year following the calendar year when the amount becomes in arrears, the appropriate officer of the local unit shall enforce the lien by selling the property in the manner set forth in chapter 5 of Title 54 of the Revised Statutes.

Source: R.S.40:63-61 and R.S.40:63-126.

40A:26A-15. Bonds issued by one or more units; debt service payments.

A local unit, pursuant to an agreement with one or more other local units or the State, may bear the entire cost of the acquisition or construction of sewerage facilities and issue bonds therefor, or may share all or part of these costs with the other government. If the cost of acquisition or construction is shared, bonds may be issued by each of the participating governments for part or all of each government's respective costs, or a local unit may issue bonds for the entire cost of the sewerage facilities to be acquired or constructed, with the share of the costs of each of the other participating governments to be repaid to the issuing local unit in annual installments with a period agreed to by the parties but not to exceed 40 years. The agreement shall prescribe the rate or rates of interest on the annual installments and such other terms and conditions as agreed to by the parties. Agreements made hereunder shall be authorized by resolution or ordinance of the governing bodies of the participating parties, or in the case of the State, the Commissioner of Environmental Protection. Annual installment payments may include payment of the agreed share of a participating government's operating and maintenance costs, including the costs of any improvements, extensions, enlargements or reconstruction.

Source: R.S.40:63-134; R.S.40:63-135 and R.S.40:63-136.

40A:26A-16. Sewerage facilities deemed a self-liquidating purpose under certain circumstances.

a. Principal and interest payments on bonds issued in accordance with subsection c. of N.J.S.40A:26A-9 and operating and maintenance costs for sewerage facilities, shall not be included in computing the gross or net indebtedness of the local unit issuing the bonds if the cash receipts from fees, rents and other charges in a fiscal year are sufficient to meet operating and maintenance expenses. In such cases, sewerage facilities shall be deemed a self-liquidating purpose and interest and debt redemption charges, and maintenance and operating costs payable or accruing in that fiscal year shall be treated in the manner prescribed in N.J.S.40A:2-45 through N.J.S.40A:2-47.

b. (1) Annual installment payments to a local unit made pursuant to N.J.S.40A:26A-15 shall not be included in computing the gross or net indebtedness of the other participating government or governments, except that a self-liquidating purpose facility shall be subject to the provisions of N.J.S.40A:2-48; nor

(2) shall the principal and interest on bonds issued by a local unit to finance, pursuant to an agreement made in accordance with N.J.S.40A:26A-15, the share of the cost of the construction or acquisition, or of maintenance or operation of another government, be included in any computation of gross or net indebtedness of the local unit.

Source: C.40:23-19.8 (P.L.1966, c.205, s.8) and New.

40A:26A-17. Payments by local unit to another local unit.

The chief fiscal officer of another government having entered into a contract pursuant to this act, shall cause to be paid to the local unit the amounts of money at the times stipulated in the contract and certified by the local unit. The power and obligation to make payments in accordance with the terms of the contract shall be unlimited, and the sums necessary therefor shall be included in the annual budget of the other government, which shall be irrevocably and unconditionally obligated to levy ad valorem taxes on all taxable property therein, without limits as to the rate or amount, to the extent necessary to make payments in full as due. Any part of a payment that remains unpaid for 30 days following the date payment is due, shall be assessed at interest charge at a rate of interest at least equal to the monthly index for the immediately preceding month for 20 year tax exempt bond yields as compiled by the Bond Buyer or any similar index agreed to by the parties.

Source: C.40:23-19.11 (P.L.1966, c.205, s.11); R.S.40:63-115 and New.

40A:26A-18. Contracts entered into prior to appropriations therefor.

A local unit shall have the power to authorize, by resolution, officials to enter into and execute a contract pursuant to this act for periods of time and under terms and conditions as are deemed proper and necessary, notwithstanding that no appropriation was made or provided to cover the estimated cost of the contract. The governing body of each contracting local unit shall have full power and authority to do and perform all acts and things provided under the terms and conditions of the contract.

Source: New.

40A:26A-19. Right of entry onto private property to make surveys and investigations; interference therewith.

A local unit or local units may authorize officials or other agents of the local unit or units to enter upon any land or water for the purpose of making surveys, studies, investigations or inspections. The officials or other agents are empowered to examine pipes or any equipment connected to the sewerage facilities or service pipes for compliance with established standards and other requirements.

The use of sewerage facilities to any property may be discontinued if the owner, lessee or other user of that property opposes or obstructs an authorized official or other agent in the performance of his duties. The discontinuance shall continue until the required investigations or inspection are made, and any alterations or repairs found to be necessary have been made and approved by the appropriate official or agent.

Source: New.

40A:26A-20. Bonds as legal investments.

Notwithstanding any restrictions contained in any other law, the State and all public officers, local units, political subdivisions and public bodies, or agencies thereof, banks, trust companies, savings banks, savings and loan associations, investment companies, insurance companies, insurance businesses, and executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking fund moneys or other funds belonging to them or within their control in any bonds authorized pursuant to this act, which bonds shall be authorized security for any and all public deposits. The bonds and the interest thereon shall be exempt from taxation except for transfer and inheritance taxes.

Source: C.40:23-19.10 (P.L.1966, c.205, s.10) and New.

40A:26A-21. Competitive sewerage system; consent of existing authority.

In the event a sewerage or municipal utilities authority has been established in a local unit pursuant to the provisions of the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.) or the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), the local unit shall not establish a competitive sewerage system within the local unit without the consent of the existing authority.

Source: C.40:23-19.14 (P.L.1966, c.205, s.14)

40A:26A-22. Statutes repealed.

The following acts are repealed:

P.L.1966, c.205 (C.40:23-19.1 through 40:23-19.14);

R.S.40:63-1 through 40:63-39; and

R.S.40:63-41 through 40:63-67.

2. This act shall take effect January 1, next following enactment.

Approved March 8, 1991.

CHAPTER 54

AN ACT providing for the creation of solid waste collection districts in municipalities and supplementing chapter 66 of Title 40 of the Revised Statutes.

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

C.40:66-8 Creation of solid waste collection district.

1. The governing body of any municipality which operated a solid waste collection district as of December 31, 1989, may, by ordinance and subject to the approval of the Local Finance Board of the Department of Community Affairs, set off and create within its boundaries a district, covering all or a portion of the area of the municipality, which district shall be known as a solid waste collection district. The governing body may, by ordinance and subject to the approval of the Local Finance Board of the Department of Community Affairs, alter the boundaries of any solid waste collection district so created.

C.40:66-9 Provision for collection, disposal of solid waste.

2. The governing body of any municipality which operated a solid waste collection district as of December 31, 1989, may provide by municipal contract or municipal service for the collection or disposal of solid waste within a solid waste collection district, subject to the approval of the Local Finance Board of the Department of Community Affairs and subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

C.40:66-10 Funding for support of solid waste collection district.

3. The governing body of any municipality which operated a solid waste collection district as of December 31, 1989, shall, by ordinance and subject to the approval of the Local Finance Board of the Department of Community Affairs, determine the amount of money necessary for the support of the solid waste collection district. The amount so determined shall be assessed on the value of all taxable property within the district and collected as taxes are collected and be controlled and expended by the municipality for the purposes herein specified. The ordinance shall specify that any assessment made pursuant to this section is to be used solely to provide for the support of the solid waste collection district. Any municipality which adopts an ordinance pursuant to this section shall, within 10 days following the adoption of the ordinance, forward a copy to the Division of Local Government Services in the Department of Community Affairs.

C.40:66-11 Funding for cost of solid waste collection, disposal.

4. The governing body of any municipality which operated a solid waste collection district as of December 31, 1989, may order and cause to be raised within a solid waste collection district sufficient money to provide for the payment of the cost of solid waste collection or disposal in the district. The sum ordered to be raised shall be levied and collected at the same time and in the same manner as other municipal taxes, except that any tax levied and collected to provide for the payment of the cost of solid waste collection or disposal shall appear as a separate item on the municipal tax bill. The collector shall pay the same to the municipal treasurer, to be applied only to the purposes for which it is raised.

C.40:66-12 Moneys assessed, levied, lien upon the land.

5. All moneys assessed and levied pursuant to this act shall be a lien upon the land against which they are assessed in the same manner that taxes are made a lien against land pursuant to Title 54 of the Revised Statutes, and the payment thereof shall be

enforced within the same time and in the same manner and by the same proceedings as the payment of taxes is otherwise enforced by the Division of Taxation under Title 54.

6. This act shall take effect immediately.

Approved March 8, 1991.

CHAPTER 55

AN ACT concerning the sale and transportation of fireworks, amending R.S.21:2-11, R.S.21:2-15, R.S.21:3-2, R.S.21:3-3, R.S.21:3-4, R.S.21:3-6, R.S.21:3-8, P.L.1954, c.52, supplementing chapter 2 of Title 21 of the Revised Statutes, and repealing R.S.21:2-31 to 21:2-34 inclusive.

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

C.21:2-36 Delivery of fireworks prohibited; exceptions.

1. a. A person shall not knowingly deliver fireworks to a person within this State unless the person to whom delivery is to be made is named on a valid permit obtained pursuant to R.S.21:3-1 et seq. as the person authorized to receive fireworks or unless the person is the owner, manager, or designated employee acting as the agent of the owner or manager, of a legally operated commercial enterprise registered pursuant to section 10 of P.L.1991, c.55 (C.21:2-37). At the time of delivery, the person receiving the fireworks shall make the permit or registration available to the person making delivery for review and the number of the permit or registration held by the receiver shall be recorded on each bill of lading, manifest or invoice issued to cover the sale and shipment of the fireworks. A record of the bill of lading, manifest, or invoice shall be retained by the person making delivery for a period of three years and shall be available for inspection by municipal enforcement authorities, the Department of Labor, or other law enforcement authorities.

A package to be delivered to a person who does not have a valid permit or registration shall be turned over to the local municipal law enforcement authority who in turn shall notify the Office of Safety Compliance in the Department of Labor.

b. A package containing fireworks prepared by a manufacturer, supplier or seller for shipment or transportation into or

within this State to a purchaser or receiver shall be labeled in accordance with the requirements of State and federal law, and the rules and regulations promulgated pursuant to those laws, concerning the transportation of hazardous materials.

Notwithstanding the penalty set forth in R.S.21:2-35, a violation of this section is a disorderly persons offense.

2. R.S.21:2-15 is amended to read as follows:

Marking packages.

21:2-15. The outside of each package of fireworks prepared by a manufacturer shall bear upon the outside thereof the words "Fireworks--Handle Carefully--Keep Fire Away" in letters not less than 7/16 inch in height, and in addition shall show the name of the fireworks manufacturer.

3. Section 2 of P.L.1954, c.52 (C.21:2-29.1) is amended to read as follows:

C.21:2-29.1 Permit to store or sell fireworks for use for agricultural purposes.

2. It shall be unlawful to store or sell fireworks, designed or intended to be used for agricultural purposes as pest-control bombs in connection with the raising of crops, without first obtaining from the Commissioner of Labor a permit to store or sell such fireworks.

The Commissioner of Labor is authorized to issue such permits subject to rules and regulations to be prescribed by him and upon the payment of the required fees.

The rules and regulations shall be such as will reasonably protect the safety of the public by limiting the quantities to be stored in any one place and by providing safeguards against the danger of explosion and damage thereby to persons and property.

In prescribing the rules and regulations, the commissioner shall consult and co-operate with the State Department of Agriculture.

The fee for issuing any such permit shall be fixed by the commissioner according to a scale of quantities and locations prescribed by him, but in no case shall such fee exceed \$100.00.

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

Sale, possession or use prohibited; exceptions.

21:3-2. It shall be unlawful for any person to offer for sale, expose for sale, sell, possess or use, or explode any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used; the type

of balloon which requires fire underneath to propel the same; fire-crackers; torpedoes; skyrockets, Roman candles, bombs, sparklers or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitro-glycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other than aviation and railroad signal light flares, except (a) that it shall be lawful for any person to offer for sale, expose for sale, sell, possess or use, or explode any toy pistol, toy cane, toy gun, or other device in which paper or plastic caps containing .25 grain or less of explosive compound per cap are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper or plastic caps which contain less than .20 grain of explosive mixture per cap and (b) as in this chapter further provided.

Except as otherwise may be provided in this chapter, it shall be lawful to sell fireworks to a person only if that person is named as the authorized purchaser in a valid permit issued pursuant to R.S.21:3-3 or that person is the owner, manager, or designated employee acting as the agent of the owner or manager, of a legally operated commercial enterprise registered pursuant to section 10 of P.L.1991, c.55 (C.21:2-37), and the permit is presented to the manufacturer, seller or distributor at the time of purchase. If the manufacturer, seller or distributor is located in a state other than this State, a purchase shall be by mail order form and a photocopy of the valid permit or registration shall be submitted with the form to satisfy the requirement in this paragraph.

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

Permits for public displays; application; restrictions.

21:3-3. The governing body of any municipality, other than a county, notwithstanding any of the provisions of this chapter to the contrary, may, upon application in writing, upon the posting of a suitable bond, grant a permit for the purchase, possession and public display of fireworks by municipalities, religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations or groups of individuals, approved by the governing body of such municipality to whom the application is made.

The governing body is authorized by resolution, to grant such permission when such display is to be handled by a competent operator, to be approved by the chiefs of the police and fire departments of the municipality. Such display shall be of such a character, and so located, discharged, or fired, as in the opinion of the chiefs of the police and fire departments, after proper inspection, shall not be hazardous to property or endanger any person or persons.

A permit issued pursuant to this section shall contain an identification number and the specific types or kinds of fireworks to be used. The permit shall name one person who shall be authorized to purchase, or otherwise order, and receive delivery of any fireworks. After such permit shall have been granted, sales, possession, and use of fireworks for such display shall be lawful for that purpose only.

6. R.S.21:3-4 is amended to read as follows:

Contents of applications for permits; approval of storage place; permit not transferable.

21:3-4. All such applications for permits shall set forth the name of the person authorized to purchase, or otherwise order, and receive delivery of any fireworks, the specific types or kinds of fireworks to be obtained and used, the date, the hour, place of making such display, and place of storing fireworks prior to the display and, further, the name or names of the person, persons, firm, partnership, corporation, association or group of individuals making the display; the name of the person, or persons, in charge of the igniting, firing, setting-off, exploding or causing to be exploded such fireworks. The location of the storage place shall be subject to the approval of the chief of the fire department of the municipality. No permit granted hereunder shall be transferable.

7. R.S.21:3-6 is amended to read as follows:

Copy of application and permit forwarded to Department of Labor.

21:3-6. A duplicate copy of the application and of the permit granted shall be forwarded to the Office of Safety Compliance in the Department of Labor by the governing body granting such permit and such copies shall be kept on file in the department, subject to public inspection.

8. R.S.21:3-8 is amended to read as follows:

Penalties for violations.

21:3-8. Penalties for violations

Any person who sells, offers or exposes for sale, or possesses with intent to sell any fireworks as herein mentioned is guilty of a crime of the fourth degree. Any person who purchases, 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.

9. R.S.21:2-11 is amended to read as follows:

Fire protection.

21:2-11. Fireworks plants and all buildings situated within fireworks plant inclosures, shall be equipped with suitable fire protection, commensurate with the hazard involved, to protect life and property from direct burning and exposure. Such fire protection shall be installed as directed by the Commissioner of Labor or by the agency in the municipality wherein a plant is located which is authorized to enforce the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.).

C.21:2-37 Registration of fireworks manufacturers, dealers.

10. A person who is the owner or manager of a legally operated commercial enterprise involving the manufacture, distribution, storage, or sale of fireworks shall, in addition to the certificate of registration issued pursuant to R.S.21:2-22 or a permit issued pursuant to section 2 of P.L.1954, c.52 (C.21:2-29.1), annually register with the municipality in which the main office of the enterprise is located and with any municipality in which the enterprise stores fireworks, if fireworks are stored in a municipality other than the municipality in which the main office is located. The registration shall be filed with the agency authorized to enforce the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) by submitting a letter of registration or by completing a form supplied by the agency.

An identification number for the registration shall be issued and a certified copy of the registration shall be returned to the owner or manager. The registration shall be available upon request for inspection by any person during normal business hours. A copy of each registration shall be forwarded to the Office of Safety Compliance in the Department of Labor.

The agency with which a registration is filed may deny the registration if it finds that the enterprise is not a legally operated commercial enterprise. Denial shall be in writing with the reasons for denial clearly stated. A copy of the letter of the denial shall immediately be forwarded to the Office of Safety Compliance in the Department of Labor.

Repealer.

11. R.S.21:2-31 to 21:2-34, inclusive, are repealed.

12. This act shall take effect immediately.

Approved March 13, 1991.

CHAPTER 56

AN ACT concerning county and municipal liability.

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

C.59:7A-1 Definitions.

1. a. As used in this act "community service" means services, work or similar acts ordered by a court of competent jurisdiction to be performed by an offender as part of a sentence, penalty or other disposition imposed for the violation of a statute or ordinance.

b. Notwithstanding any provisions of law to the contrary:

(1) A county or municipality shall not be liable in any civil action for damages to an offender or any other person arising out of and in the course of the performance of community service; and

(2) A county or municipality shall not be subject to any law governing the provision of labor, workers' compensation, conditions of employment or insurance with respect to an offender performing community service.

c. Nothing in this section shall be deemed to grant immunity if the damages suffered by an offender or any other person were caused by a willful, wanton, or grossly negligent act of commission or omission by a county or municipality.

d. Nothing in this section shall be deemed to grant immunity to a county or municipality for damages resulting from the negligent operation of a motor vehicle.

2. This act shall take effect immediately.

Approved March 13, 1991.

CHAPTER 57

AN ACT concerning the eligibility for certain benefits in the Police and Firemen's Retirement System of New Jersey and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

C.43:16A-7.2 Benefits provided to police officer who performs duties in another department.

1. Notwithstanding any other law, rule or regulation to the contrary, a member who is employed by a municipal police department and who is assigned by that department to duties in another municipal police department shall be eligible while performing the assigned duties for the benefits provided to the member or the survivors of the member under sections 7 and 10 of P.L.1944, c.255 (C.43:16A-7 and 10).

2. This act shall take effect immediately.

Approved March 13, 1991.

CHAPTER 58

AN ACT concerning strict liability for certain discharges of hazardous substances, requiring the owners or operators of certain vessels to provide evidence of financial responsibility, and amending and supplementing P.L.1976, c.141.

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

1. Section 8 of P.L.1976, c.141 (C.58:10-23.11g) is amended to read as follows:

C.58:10-23.11g Liability for cleanup and removal costs.

8. a. The fund shall be strictly liable, without regard to fault, for all cleanup and removal costs and for all direct and indirect damages no matter by whom sustained, including but not limited to:

(1) The cost of restoring, repairing, or replacing any real or personal property damaged or destroyed by a discharge, any

income lost from the time such property is damaged to the time such property is restored, repaired or replaced, and any reduction in value of such property caused by such discharge by comparison with its value prior thereto;

(2) The cost of restoration and replacement, where possible, of any natural resource damaged or destroyed by a discharge;

(3) Loss of income or impairment of earning capacity due to damage to real or personal property, including natural resources destroyed or damaged by a discharge; provided that such loss or impairment exceeds 10% of the amount which claimant derives, based upon income or business records, exclusive of other sources of income, from activities related to the particular real or personal property or natural resources damaged or destroyed by such discharge during the week, month or year for which the claim is filed;

(4) Loss of tax revenue by the State or local governments for a period of one year due to damage to real or personal property proximately resulting from a discharge;

(5) Interest on loans obtained or other obligations incurred by a claimant for the purpose of ameliorating the adverse effects of a discharge pending the payment of a claim in full as provided by this act.

b. The damages which may be recovered by the fund, without regard to fault, subject to the defenses enumerated in subsection d. of this section against the owner or operator of a major facility or vessel, shall not exceed \$50,000,000.00 for each major facility or \$150.00 per gross ton for each vessel, except that such maximum limitation shall not apply and the owner or operator shall be liable, jointly and severally, for the full amount of such damages if it can be shown that such discharge was the result of (1) gross negligence or willful misconduct, within the knowledge and privity of the owner, operator or person in charge, or (2) a gross or willful violation of applicable safety, construction or operating standards or regulations. Damages which may be recovered from, or by, any other person shall be limited to those authorized by common or statutory law.

c. (1) Any person who has discharged a hazardous substance or is in any way responsible for any hazardous substance which the department has removed or is removing pursuant to subsection b. of section 7 of this act shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs.

(2) In addition to the persons liable pursuant to paragraph (1) of this subsection, in the case of a discharge of a hazardous substance from a vessel into the waters of the State, the owner or operator of a refinery, storage, transfer, or pipeline facility to

which the vessel was en route to deliver the hazardous substance who, by contract, agreement, or otherwise, was scheduled to assume ownership of the discharged hazardous substance, and any other person who was so scheduled to assume ownership of the discharged hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs if the owner or operator of the vessel did not have the evidence of financial responsibility required pursuant to section 2 of P.L.1991, c.58 (C.58:10-23.11g2).

Where a person is liable for cleanup and removal costs as provided in this paragraph, any expenditures made by the administrator for that cleanup and removal shall constitute a debt of that person to the fund. The debt shall constitute a lien on all property owned by that person when a notice of lien identifying the nature of the discharge and the amount of the cleanup, removal and related costs expended from the fund is duly filed with the clerk of the Superior Court. The clerk shall promptly enter upon the civil judgment or order docket the name and address of the liable person and the amount of the lien as set forth in the notice of lien. Upon entry by the clerk, the lien, to the amount committed by the administrator for cleanup and removal, shall attach to the revenues and all real and personal property of the liable person, whether or not that person is insolvent.

For the purpose of determining priority of this lien over all other claims or liens which are or have been filed against the property of an owner or operator of a refinery, storage, transfer, or pipeline facility, the lien on the facility to which the discharged hazardous substance was en route shall have priority over all other claims or liens which are or have been filed against the property. The notice of lien filed pursuant to this paragraph which affects any property of a person liable pursuant to this paragraph other than the property of an owner or operator of a refinery, storage, transfer, or pipeline facility to which the discharged hazardous substance was en route, shall have priority from the day of the filing of the notice of the lien over all claims and liens filed against the property, but shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien pursuant to this paragraph.

To the extent that a person liable pursuant to this paragraph is not otherwise liable pursuant to paragraph (1) of this subsection, or under any other provision of law or under common law, that person may bring an action for indemnification for costs paid pur-

suant to this paragraph against any other person who is strictly liable pursuant to paragraph (1) of this subsection.

Nothing in this paragraph shall be construed to extend or negate the right of any person to bring an action for contribution that may exist under P.L.1976, c.141, or any other act or under common law.

d. An act or omission caused solely by war, sabotage, or God, or a combination thereof, shall be the only defenses which may be raised by any owner or operator of a major facility or vessel responsible for a discharge in any action arising under the provisions of this act.

C.58:10-23.11g2 Owners, operators of vessels shall assure financial resources for cleanup costs; enforcement.

2. The owners and operators of vessels shall establish and maintain evidence of financial responsibility for the purpose of assuring adequate financial resources to pay for the cost of cleanup and removal of a discharged hazardous substance as a result of the transportation of a hazardous substance by vessel or a transfer of that hazardous substance between a refinery, storage, transfer, or pipeline facility and a vessel or between two vessels. Evidence of financial responsibility shall be established by a method set forth under §108 of the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" (42 U.S.C. §9607) or §1016 of the "Oil Pollution Act of 1990", any regulation adopted pursuant thereto, or any other federal law requiring evidence of financial responsibility to operate a vessel in the waters of the United States.

The evidence of financial responsibility required by this section shall be the only evidence required by the State that a vessel has the ability to meet the liabilities incurred for a violation of P.L.1976, c.141, but nothing in this section shall be construed to limit the liability of any person for a discharge of a hazardous substance for which the person is liable pursuant to P.L.1976, c.141 or under any other law or under common law.

The State Police shall have the power to inspect any vessel and to require the display of evidence of financial responsibility in order to ensure compliance with this section. The State Police may deny entry to any vessel to any place in the State, or to the navigable waters under the jurisdiction of the State, or detain at the place, any vessel that, upon request, does not produce the evidence of financial responsibility required for that vessel pursuant to this section. Any vessel subject to the requirements of this section which is found in the navigable waters of the State without

the necessary evidence of financial responsibility for the vessel shall be subject to seizure by and forfeiture to the State.

3. Section 3 of P.L.1976, c.141 (C.58:10-23.11b) is amended to read as follows:

C.58:10-23.11b Definitions.

3. Unless the context clearly indicates otherwise, the following terms shall have the following meanings:

a. "Administrator" means the chief executive of the New Jersey Spill Compensation Fund;

b. "Barrel" means 42 United States gallons or 159.09 liters or an appropriate equivalent measure set by the director for hazardous substances which are other than fluid or which are not commonly measured by the barrel;

c. "Board" means a board of arbitration convened by the administrator to settle disputed disbursements from the fund;

d. "Cleanup and removal costs" means all costs associated with a discharge, incurred by the State or its political subdivisions or their agents or any person with written approval from the department in the: (1) removal or attempted removal of hazardous substances, or (2) taking of reasonable measures to prevent or mitigate damage to the public health, safety, or welfare, including, but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources, and shall include costs incurred by the department for the indemnification and legal defense of contractors pursuant to subsection a. of section 7 of this act, subject to the appropriation by law of moneys from the General Fund to the fund to defray these costs;

e. "Commissioner" means the Commissioner of Environmental Protection;

f. "Department" means the Department of Environmental Protection;

g. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

h. "Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into the waters or onto the lands of the State, or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State;

i. "Fair market value" means the invoice price of the hazardous substances transferred, including transportation charges; but where no price is so fixed, "fair market value" shall mean the market price as of the close of the nearest day to the transfer, paid for similar hazardous substances, as shall be determined by the taxpayer pursuant to rules of the director;

j. "Fund" means the New Jersey Spill Compensation Fund;

k. "Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such 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 federal Environmental Protection Agency pursuant to section 311 of the federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500, as amended by the Clean Water Act of 1977, Pub.L. 95-217 (33 U.S.C. §1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L. 96-510 (42 U.S.C. §9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of this act;

l. "Major facility" includes, but is not limited to, any refinery, storage or transfer terminal, pipeline, deep-water port, drilling platform or any appurtenance related to any of the preceding that is used or is capable of being used to refine, produce, store, handle, transfer, process or transport hazardous substances. A vessel shall be considered a major facility only when hazardous substances are transferred between vessels.

A facility shall not be considered a major facility for the purpose of this act unless it has total combined aboveground or buried storage capacity of:

(1) 20,000 gallons or more for hazardous substances which are other than petroleum or petroleum products, or

(2) 200,000 gallons or more for hazardous substances of all kinds.

For the purposes of this definition, "storage capacity" shall mean only that total combined capacity which is dedicated to, used for or intended to be used for storage of hazardous sub-

stances of all kinds. Where appropriate to the nature of the facility, storage capacity may be determined by the intended or actual use of open land or unenclosed space as well as by the capacities of tanks or other enclosed storage spaces;

m. "Natural resources" means all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust or otherwise controlled by the State;

n. "Owner" or "operator" means, with respect to a vessel, any person owning, operating or chartering by demise such vessel; with respect to any major facility, any person owning such facility, or operating it by lease, contract or other form of agreement; with respect to abandoned or derelict major facilities, the person who owned or operated such facility immediately prior to such abandonment, or the owner at the time of discharge;

o. "Person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, the United States, the State of New Jersey and any of its political subdivisions or agents;

p. "Petroleum" or "petroleum products" means oil or petroleum of any kind and in any form, including, but not limited to, oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, and substances or additives to be utilized in the refining or blending of crude petroleum or petroleum stock in this State; however, any compound designated by specific chemical name on the list of hazardous substances adopted by the department pursuant to subsection 3k. shall not be considered petroleum or a petroleum product for the purposes of this act, unless such compound is to be utilized in the refining or blending of crude petroleum or petroleum stock in this State;

q. "Taxpayer" means the owner or operator of a major facility subject to the tax provisions of this act;

r. "Tax period" means every calendar month on the basis of which the taxpayer is required to report under this act;

s. "Transfer" means onloading or offloading between major facilities and vessels, or vessels and major facilities, and from vessel to vessel or major facility to major facility, except for fueling or refueling operations and except that with regard to the movement of hazardous substances other than petroleum, it shall also include any onloading of or offloading from a major facility;

t. "Vessel" means every description of watercraft or other contrivance that is practically capable of being used as a means of

commercial transportation of hazardous substances upon the water, whether or not self-propelled;

u. "Waters" means the ocean and its estuaries to the seaward limit of the State's jurisdiction, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of this State;

v. "Act of God" means an act exclusively occasioned by an unanticipated, grave natural disaster without the interference of any human agency.

4. Section 7 of P.L.1976, c.141 (C.58:10-23.11f) is amended to read as follows:

C.58:10-23.11f Removal of hazardous substances.

7. a. Whenever any hazardous substance is discharged, the department may, in its discretion, act to remove or arrange for the removal of such discharge or may direct the discharger to remove, or arrange for the removal of, such discharge. If the discharge occurs at any hazardous or solid waste disposal facility, the department may order the facility closed for the duration of the removal operations. The department may monitor the discharger's compliance with any such directive. Any discharger who fails to comply with such a directive shall be liable to the department in an amount equal to three times the cost of such removal, and shall be subject to the revocation or suspension of any license or permit he holds authorizing him to operate a hazardous or solid waste disposal facility.

Removal of hazardous substances and actions to minimize damage from discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the federal Water Pollution Control Act Amendments of 1972 (Pub.L.92-500, 33 U.S.C. §1251 et seq.).

Whenever the department acts to remove a discharge or contracts to secure prospective removal services, it is authorized to draw upon the money available in the fund. Such money shall be used to pay promptly for all cleanup costs incurred by the department in removing or in minimizing damage caused by such discharge.

The department may agree to defend and indemnify a contractor against claims, causes of action, demands, costs, or judgments made against a contractor arising as a direct result of the contractor's provision of hazardous substance cleanup or mitigation services pursuant to a contract with the department. This legal

defense and indemnification shall not apply to claims, causes of action, demands, costs, or judgments which are proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct, or to claims for punitive or exemplary damage. The department shall agree to provide legal defense and indemnification to a contractor only if it determines that adequate environmental liability insurance is not available or not available at a reasonable cost to the contractor. The department shall agree to provide legal defense and indemnification to a contractor pursuant to terms and limitations which it deems appropriate. Any agreement by the department to defend or indemnify a contractor shall not bar the department from the exercise of any available legal remedies for the enforcement of the contract between the department and the contractor, the recovery of damages to which the department may be entitled resulting from a contractor's failure to perform the contract, or for the recovery of funds expended for the defense of a contractor if the defense was undertaken in response to a claim or cause of action brought against the contractor which is proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct. No person other than a contractor shall have the right to enforce any agreement for defense and indemnification between a contractor and the department. The department shall not enter into an agreement to provide legal defense and indemnification to a contractor after January 1, 1990. For the purposes of this subsection, "contractor" means a person providing services to mitigate or clean up a discharge or release or threatened discharge or release of a hazardous substance in this State pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.) or the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub. L.96-510 (42 U.S.C. §9601 et seq.).

Nothing in this section is intended to preclude removal and cleanup operations by any person threatened by such discharges, provided such persons coordinate and obtain approval for such actions with ongoing State or federal operations. No action taken by any person to contain or remove a discharge shall be construed as an admission of liability for said discharge. No person who renders assistance in containing or removing a discharge shall be liable for any civil damages to third parties resulting solely from acts or omissions of such person in rendering such assistance, except for acts or omissions of gross negligence or willful misconduct. In the course of cleanup operations, no person shall discharge any detergent into the waters of this State without prior authorization of the commissioner.

b. Notwithstanding any other provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), the department, subject to the approval of the administrator with regard to the availability of funds therefor, may remove or arrange for the removal of any hazardous substance which:

(1) Has not been discharged from a grounded or disabled vessel, if the department determines that such removal is necessary to prevent an imminent discharge of such hazardous substance; or

(2) Has not been discharged, if the department determines that such substance is not satisfactorily stored or contained and said substance possesses any one or more of the following characteristics:

(a) Explosiveness;

(b) High flammability;

(c) Radioactivity;

(d) Chemical properties which in combination with any discharged hazardous substance at the same storage facility would create a substantial risk of imminent damage to public health or safety or an imminent and severe damage to the environment;

(e) Is stored in a container from which its discharge is imminent as a result of contact with a hazardous substance which has already been discharged and such additional discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(f) High toxicity and is stored or being transported in a container or motor vehicle, truck, railcar or other mechanized conveyance from which its discharge is imminent as a result of the significant deterioration or the precarious location of the container, motor vehicle, truck, railcar or other mechanized conveyance, and such discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(3) Has been discharged prior to the effective date of P.L.1976, c.141.

c. If and to the extent that he determines that funds are available, the administrator shall approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance other than petroleum as authorized by subsection b. of this section; provided that in determining the availability of funds, the administrator shall not include as available funds revenues realized or to be realized from the tax on the transfer of petroleum, to the extent that such revenues result from a tax levied at a rate in excess of \$0.01 per barrel, pursuant to subsection b. of section 9 of P.L.1976, c.141 (C.58:10-23.11h), unless the administrator

determines that the sum of claims paid by the fund on behalf of petroleum discharges or removals plus pending reasonable claims against the fund on behalf of petroleum discharges or removals is greater than 30% of the sum of all claims paid by the fund plus all pending reasonable claims against the fund.

d. The administrator may only approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance discharged prior to the effective date of P.L.1976, c.141, pursuant to subsection b. of this section, if, and to the extent that, he determines that adequate funds from another source are not or will not be available; and provided further, with regard to the cleanup and removal costs incurred for discharges which occurred prior to the effective date of P.L.1976, c.141, the administrator may not during any one-year period pay more than \$18,000,000.00 in total or more than \$3,000,000.00 for any discharge or related set or series of discharges.

e. Notwithstanding any other provisions of P.L.1976, c.141, the administrator, after considering, among any other relevant factors, the department's priorities for spending funds pursuant to P.L.1976, c.141, and within the limits of available funds, shall make payments for the restoration or replacement of, or connection to an alternative water supply for, any private residential well destroyed, contaminated, or impaired as a result of a discharge prior to the effective date of P.L.1976, c.141; provided, however, total payments for said purpose shall not exceed \$500,000.00 for the period between the effective date of this subsection e. and January 1, 1983, and in any calendar year thereafter.

f. Any expenditures made by the administrator pursuant to this act shall constitute, in each instance, a debt of the discharger to the fund. The debt shall constitute a lien on all property owned by the discharger when a notice of lien, incorporating a description of the property of the discharger subject to the cleanup and removal and an identification of the amount of cleanup, removal and related costs expended from the fund, is duly filed with the clerk of the Superior Court. The clerk shall promptly enter upon the civil judgment or order docket the name and address of the discharger and the amount of the lien as set forth in the notice of lien. Upon entry by the clerk, the lien, to the amount committed by the administrator for cleanup and removal, shall attach to the revenues and all real and personal property of the discharger, whether or not the discharger is insolvent.

The notice of lien filed pursuant to this subsection which affects the property of a discharger subject to the cleanup and removal of a discharge shall create a lien with priority over all other claims or liens which are or have been filed against the property, except if the property comprises six dwelling units or less and is used exclusively for residential purposes, this notice of lien shall not affect any valid lien, right or interest in the property filed in accordance with established procedure prior to the filing of this notice of lien. The notice of lien filed pursuant to this subsection which affects any property of a discharger, other than the property subject to the cleanup and removal, shall have priority from the day of the filing of the notice of the lien over all other claims and liens filed against the property, but shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien pursuant to this subsection.

g. In the event a vessel discharges a hazardous substance into the waters of the State, the cleanup and removal and related costs resulting from that discharge that constitute a maritime lien on the discharging vessel pursuant to 33 U.S.C. §1321 or any other law, may be recovered by the Department of Environmental Protection in an action in rem brought in the district court of the United States. An impoundment of a vessel resulting from this action shall continue until:

- (1) the claim against the owner or operator of the vessel for the cleanup and removal and related costs of the discharge is satisfied;
- (2) the owner or operator of the vessel, or a representative of the owner or operator, provides evidence of financial responsibility as provided in section 2 of P.L.1991, c.58 (C.58:10-23.11g2) and satisfactorily guarantees that these costs will be paid; or
- (3) the impoundment is otherwise vacated by a court order.

The remedy provided in this subsection is in addition to any other remedy or enforcement power that the department may have under any other law.

Any action brought by the State pursuant to this subsection and any impoundment of a vessel resulting therefrom shall not subject the State to any liability to any person harmed thereby or cause the State to be in any way liable for a subsequent or continued discharge of a hazardous substance from that vessel.

5. This act shall take effect immediately.

Approved March 13, 1991.

CHAPTER 59

AN ACT concerning weights, measures and containers, amending P.L.1941, c.278 and repealing R.S.51:1-30 to 51:1-32 inclusive, 51:1-36 to 51:1-39 inclusive and sections 2 to 3 and 5 to 9 of P.L.1941, c.278 (C.51:1-31.2 to 51:1-31.3 inclusive, 51:1-31.5 to 51:1-31.9 inclusive).

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

1. Section 1 of P.L.1941, c.278 (C. 51:1-31.1) is amended to read as follows:

C.51:1-31.1 Terms defined.

1. As used herein, the term "frozen desserts" shall be deemed to mean and include "ice cream," "custard ice cream," "French ice cream," "French custard," "frozen custard," "sherbet," "ice," and "fruit ice."

Repealer.

2. The following are repealed:
 R.S.51:1-30 to R.S.51:1-32 inclusive;
 R.S.51:1-36 to R.S.51:1-39 inclusive;
 P.L.1941, c.278, ss.2 to 3 and 5 to 9 (C.51:1-31.2 to C.51:1-31.3 inclusive, C.51:1-31.5 to C.51:1-31.9 inclusive).

3. This act shall take effect immediately.

Approved March 13, 1991.

 CHAPTER 60

AN ACT concerning county fire marshalls and amending N.J.S.40A:14-1.

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

1. N.J.S.40A:14-1 is amended to read as follows:

County fire marshal; appointment; salary.

40A:14-1. County fire marshal; appointment; salary

The board of chosen freeholders of any county, by resolution, may create the office of county fire marshal and such assistant

fire marshals as deemed necessary and appoint a person or persons to hold such office for a term of three years commencing January 15, except that the first appointee's term of office shall terminate on January 15 following his appointment. The board of chosen freeholders shall fix the amount of the annual salary of the county fire marshal and the assistant fire marshals, if any.

2. This act shall take effect immediately and shall be applicable only to appointments made after its effective date.

Approved March 13, 1991.

CHAPTER 61

AN ACT concerning nonpartisan elections in municipalities that are under the commission form of government and supplementing Title 40 of the Revised Statutes.

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

C.40:45-10.1 Designation of committee on vacancies.

1. When several candidates for the office of commissioner petition that their names be grouped together and that one designation named by them shall be printed opposite their names pursuant to section 6 of P.L.1981, c.379 (C.40:45-10), the candidates whose names are to be grouped in a bracket pursuant to that section may file with the clerk of the municipality a designation, in writing, of the names of three persons as a committee on vacancies.

A committee on vacancies established pursuant to this act shall have the power if a vacancy arises by death, resignation or otherwise, of any of the candidates included in said group, to fill the vacancy by filing with the clerk of the municipality the name of the candidate in the place of the person whose death, resignation or other occurrence caused the vacancy.

Any such designation to fill a vacancy shall have the same force and effect as an original petition of nomination.

To be effective, any designation by the committee on vacancies must be filed with the clerk of the municipality not less than 10 days before the election is to be held. In the event a vacancy

occurs within 10 days of the election, any filing with the clerk of the municipality of a designated substitute candidate shall be made forthwith, and said designee shall be placed on the ballot if it is feasible to do so. The procedure and the manner and method of placing the name of any substituted candidate on the ballot and of the election of the candidates for the office, as nearly as practicable, shall be in accordance with the provisions of Title 19 of the Revised Statutes applicable in the case of vacancies in other offices to be filled at elections.

Nothing in this section shall prevent the filling of vacancies in any other manner authorized by Title 19 of the Revised Statutes, except that a candidate in a group bracket, who joins in the designation of a committee on vacancies under the provisions of this act, may not participate in any other method for filling a vacancy in his candidacy for commissioner.

2. This act shall take effect immediately.

Approved March 13, 1991.

CHAPTER 62

AN ACT concerning State aid for public schools and revising parts of the statutory law.

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

1. Section 3 of P.L.1990, c.52 (C.18A:7D-3) is amended to read as follows:

C.18A:7D-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

“Adjusted resident enrollment” means the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and are enrolled in: (1) the public schools of the district, except as a post-graduate or evening school pupil; or (2) another school district to which the district of residence pays tuition other than a county vocational school district in

the same county or county special services school district; provided that a district shall count pupils in a shared-time vocational program who are regularly attending both the schools of the district and of a county vocational school district on an equated full-time basis in accordance with procedures to be established by the commissioner. For purposes of this section, resident enrollment shall include, beginning in the 1992-93 school year and thereafter, regardless of nonresidence, the enrolled children of teaching staff members of the school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district without payment of tuition.

“Bilingual education pupil” means a pupil enrolled in a program of bilingual education approved by the State board.

“County vocational school, special education services pupil” means a pupil who is attending a county vocational school and who is receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes in special class programs when the pupil is enrolled in a special class register.

“CPI” means the average annual increase, expressed as a decimal, in the consumer price index for all urban consumers in the New York City and Philadelphia areas during the three fiscal years preceding the prebudget year as reported by the United States Department of Labor.

“Current expense” means all expenses of the school district, as enumerated in N.J.S.18A:22-8, other than those required for interest and debt redemption charges and any budgeted capital outlay.

“Debt service” means and includes payments of principal and interest upon school bonds and other obligations issued to finance the acquisition of school sites and the acquisition, construction or reconstruction of school buildings, including furnishings, equipment and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded.

“District income” means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Bureau of the Census in the United States Department of Commerce for the most recent year prior to the budget year.

With respect to regional districts and their constituent districts, however, the district income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils in each of them. For the 1991-92 school year, regional and constituent pupils shall include pupils attending the schools of a county vocational school or a county special services school district. Part-time post-secondary vocational pupils are to be excluded from this calculation.

“Equalized valuation” means the equalized valuation of the taxing district or taxing districts as certified by the Director of the Division of Taxation on October 1 of the prebudget year.

With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils in each of them. For the 1991-92 school year, regional and constituent pupils shall include pupils attending the schools of a county vocational school or a county special services school district. Part-time post-secondary vocational pupils are to be excluded from this calculation. With respect to certain operating school districts, other than school districts that received funds through a municipal budget in 1989 as determined pursuant to column 1 (c) of Section C of the Abstract of Ratables, that are composed of one or more taxing districts, where 20% or more of the land area of the taxing district is situated within the development district subject to an intermunicipal tax sharing agreement pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the equalized valuation shall equal the product of .70 and the amount of equalized valuation certified by the director.

“Evening school pupils” means the equated full-time resident enrollment of pupils enrolled in a public evening school established pursuant to N.J.S.18A:48-1.

“Local levy budget” means the sum of the foundation aid and transition aid received by a school district and the district’s local levies for current expense and capital outlay.

“Maximum Statewide foundation aid” shall be determined annually by subtracting the total State aid payable pursuant to sections 14, 16, 80 and 81 of P.L.1990, c.52 (C.18A:7D-16, 18A:7D-18, 18A:7D-20 and 18A:7D-21) and sections 26, 29, 30 and 31 of P.L.1991, c.62 (C.18A:7D-21.1 et al.) from the maximum State school aid, by subtracting the funds appropriated pursuant to section 38 of P.L.1991, c.62 (C.18A:7D-28.2), and by

adding any additional State aid which results from the provisions of section 27 of P.L.1991, c.62.

“Maximum State school aid” shall be determined for the 1992-93 school year and annually thereafter by adding 80% of the increase in the State school aid inflator and the maximum State school aid for the prebudget year. However, beginning in the 1993-94 school year, the Governor may increase the maximum State school aid to an amount not to exceed the value of the State school aid inflator.

The State school aid inflator shall be determined for the 1992-93 school year and annually thereafter by multiplying the value of the school aid inflator for the prebudget year by the sum of 1.01 and the PCI. For the 1991-92 school year, the value of the school aid inflator is \$4,250,000,000.

“Net budget” means the sum of the foundation aid received by a school district and the State aid received pursuant to sections 14, 16, 25, 80, and 81 of P.L.1990, c.52 (C18A:7D-16, 18A:7D-18, 18A:7D-33, 18A:7D-20, and 18A:7D-21) and sections 26 and 31 of P.L.1991, c.62 (C.18A:7D-21.1 et al.) and the district’s local levies for current expense and capital outlay. For a county special services school district, the net budget shall also include tuition received by the district to provide services pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

“Net debt service” means the balance after deducting all revenues from the school debt service budget of the school district and the school debt service amount included in the municipal budget, except the amounts to be raised by local taxation and State aid.

“Postgraduate pupils” means pupils who have graduated from high school and are enrolled in a secondary school for additional high school level courses.

“Prebudget year” means the school year preceding the year in which the school budget will be implemented.

“Pupils eligible for free meals or free milk” means those children who have been determined to be eligible to receive a free meal or free milk under the National School Lunch Act, 42 U.S.C. §1751 et seq., and the Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq., as of October 15 of the prebudget year.

“PCI” means the average annual percentage increase, expressed as a decimal, in State per capita personal income over the four fiscal years ending on June 30 prior to the prebudget year. The per capita personal income for each of the four years shall be the average of the per capita personal income for the four quarters in each fiscal year

utilizing the quarterly data for State personal income and State population as published by the United States Department of Commerce.

“Resident enrollment” means the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and are enrolled in: (1) the public schools of the district, including evening schools; (2) another school district, other than a county vocational school district in the same county or county special services school district on a full-time basis, State college demonstration school or private school to which the district of residence pays tuition; (3) a State facility; (4) are receiving home instruction; or (5) are in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. For purposes of this section, resident enrollment shall include, beginning in the 1992-93 school year and thereafter, regardless of nonresidence, the enrolled children of teaching staff members of the school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district without payment of tuition.

Handicapped children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district.

“School district” means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes and any county special services or county vocational school districts established pursuant to chapter 46 or chapter 54 of Title 18A of the New Jersey Statutes.

“Special education services pupil” means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes in special class programs when the pupil is enrolled in a special class register.

“Special needs district” means any school district, other than a school district in which the equalized valuation per pupil is more than twice the average Statewide equalized valuation per pupil, which, as of June 5, 1990: a. was classified by the Department of Education as an urban school district and was included in the department’s district factor group A or B; or b. in which the quotient produced by dividing the number of pupils eligible for AFDC by the resident enrollment, less the number of preschool, evening school and post-graduate pupils, is greater than or equal

to 0.15 and the number of pupils eligible for AFDC is greater than 1,000. For this calculation, pupils eligible for AFDC means those children aged 5-17 and resident in the district who are members of families which are eligible for "Aid to Families with Dependent Children" pursuant to P.L.1959, c.86 (C.44:10-1 et seq.), as of September 30 of the prebudget year.

"State facility" means a State residential facility for the retarded; a day training center which is operated by or under contract with the State and in which all the children have been placed by the State, including a private school approved by the Department of Education which is operated under contract with the Bureau of Special Residential Services in the Division of Developmental Disabilities in the Department of Human Services; a State residential youth center; a State training school or correctional facility; a State child treatment center or psychiatric hospital.

"Statewide average equalized school tax rate" means the amount calculated by dividing the sum of the current expense and capital outlay tax levies for all school districts, other than county vocational school and county special services school districts, in the State for the prebudget year by the equalized valuations of all taxing districts in the State except taxing districts for which there are no school tax levies.

"Statewide equalized valuation" means the equalized valuation of all taxing districts in the State as certified by the Director of the Division of Taxation on October 1 of the prebudget year. In the event that the equalized table certified by the Director of the Division of Taxation shall be revised by the tax court after December 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall have no effect upon the calculation of the property value multiplier.

"Total Statewide income" means the sum of the district incomes of all taxing districts in the State.

2. Section 4 of P.L.1990, c.52 (C.18A:7D-4) is amended to read as follows:

C.18A:7D-4 Foundation aid.

4. a. Each district's foundation aid for current expense and capital outlay purposes shall be determined as follows:

$$A = MB - FS - S$$

where

A is the foundation aid;

MB is the maximum foundation budget determined pursuant to section 6 of P.L.1990, c.52 (C.18A:7D-6);

FS is the district's local fair share determined pursuant to section 7 of P.L.1990, c.52 (C.18A:7D-7);

S is the excess surplus, equal to any beginning general fund free balance for the prebudget year which exceeds 7.5% of the district's net budget for the prebudget year, after deducting from the balance any federal funds provided to a district pursuant to Pub.L.81-874, 20 U.S.C. §236 et seq. However, for any district that has an approved surplus reduction plan in accordance with the provisions of subsection d. of section 23 of P.L.1990, c.52 (C.18A:7D-29), excess surplus shall be any amount that exceeds the amount specified in the plan.

b. Each district's foundation aid for current expense and capital outlay shall be expended to provide a thorough and efficient system of education and may be used for preschool programs, full day kindergarten, school libraries, school security and other educational purposes and functions.

3. Section 6 of P.L.1990, c.52 (C.18A:7D-6) is amended to read as follows:

C.18A:7D-6 Maximum foundation budget.

6. Beginning with the 1993-94 school year, the district's maximum foundation budget shall be calculated in accordance with the following formula:

$MB = (F \times U) + C$ where

MB is the maximum foundation budget;

F is the State foundation amount as defined pursuant to subsection b. of this section;

U is the number of foundation aid units for pupils in the district's resident enrollment as calculated pursuant to subsection a. of this section; and

C is the facilities component, which shall be determined by multiplying the district's adjusted resident enrollment by the facilities aid amount, as defined in subsection b. of this section.

a. For pupils in the district's resident enrollment, the number of foundation aid units shall be determined by adding the products obtained by multiplying the pupils in each grade category or program category by the appropriate foundation weight. For pupils in the resident enrollment of special needs districts and for pupils in the resident enrollment of other districts for whom the district of residence pays tuition to a special needs district, the appropriate

foundation weight for each grade category shall be multiplied by the special needs weight, which shall equal 1.05. Pupils counted in a program category shall not also be counted in a grade category.

<u>Grade Category</u>	<u>Foundation Weight</u>
Full Day Kindergarten or preschool	1.00
Half Day Kindergarten or preschool	0.50
Grades 1-5	1.00
Grades 6-8	1.10
Grades 9-12	1.33

<u>Program Category</u>	
Special education services pupil	1.00
Evening school	0.50
Post-graduate	0.50
County vocational school	1.33
Post-secondary vocational education	1.33

b. As used in this section:

The State foundation amount for the 1991-92 school year shall equal \$6,640.00, and thereafter shall equal the product of the State foundation amount for the prebudget year and the sum of 1.0 and the PCI.

The facilities aid amount for the 1991-1992 school year shall equal \$107.00, and thereafter shall equal the product of the facilities aid amount for the prebudget year and the sum of 1.0 and the PCI.

c. For the purposes of calculating foundation aid units pursuant to this section, pupils in ungraded classes shall be assigned to the most appropriate grade category in accordance with procedures to be established by the commissioner.

d. The county vocational school program categories shall be applicable to full-time post-secondary pupils attending approved post-secondary vocational education programs operated by county vocational schools. Post-secondary vocational education programs shall be operated by county vocational schools in accordance with rules prescribed by the commissioner and approved by the State board.

e. For the 1991-92 and 1992-93 school years, each district's maximum foundation budget shall be reduced by the amount of the anticipated pension and social security aid payable to the school district for the budget year pursuant to sections 29 and 30 of P.L.1991, c.62. For this purpose the aid payable to receiving districts on behalf

of sending districts shall be reallocated to the sending districts of residence on a per pupil basis. For this purpose aid payable pursuant to section 30 of P.L.1991, c.62 shall be estimated for each district.

4. Section 7 of P.L.1990, c.52 (C.18A:7D-7) is amended to read as follows:

C.18A:7D-7 Local fair share.

7. For districts other than county vocational school districts or county special services school districts, each school district's local fair share shall be calculated as follows:

$$FS = ((V \times VM) + (I \times IM))/2 \text{ where}$$

FS is the local fair share; however, for special needs school districts, if FS is greater than the product of V and SV, then FS shall equal the product of V and SV;

V is the district's total equalized valuation;

VM is the property value multiplier, as determined pursuant to section 8 of P.L.1990, c.52 (C.18A:7D-8);

I is the district's adjusted income, as determined pursuant to section 9 of P.L.1990, c.52 (C.18A:7D-9);

IM is the income multiplier, as determined pursuant to section 8 of P.L.1990, c.52 (C.18A:7D-8); and

SV is the product of the Statewide average equalized school tax rate for the prebudget year and 1.1765 for the 1992-93 school year, 1.1234 for the 1993-94 school year, 1.0883 for the 1994-95 school year, 1.0441 for the 1995-96 school year and 1 thereafter.

The local fair share for each county vocational or county special services school district shall be calculated by dividing the sum of the local fair shares of all other districts in the county by the sum of the maximum foundation budgets of all the districts in the county. The quotient shall be then multiplied by the county vocational or county special services school district's maximum foundation budget as determined pursuant to section 6 of P.L.1990, c.52 (C.18A:7D-6) to obtain its local fair share.

5. Section 8 of P.L.1990, c.52 (C.18A:7D-8) is amended to read as follows:

C.18A:7D-8 Property value multiplier, income multiplier.

8. The values for the property value multiplier and the income multiplier shall be annually determined by the commissioner as follows:

The property value multiplier shall be determined such that foundation aid equals the maximum Statewide foundation aid had

foundation aid for all districts been determined according to sections 4, 6, 7 and 23 of P.L.1990, c.52 (C.18A:7D-4, 18A:7D-6, 18A:7D-7 and 18A:7D-29), had each school district's local fair share equalled the product of the property value multiplier and the district's equalized valuation; and had each district's current expense and capital outlay levies equalled its local fair share.

The income multiplier shall be determined such that foundation aid equals the maximum Statewide foundation aid had foundation aid for all districts been determined according to sections 4, 6, 7 and 23 of P.L.1990, c.52 (C.18A:7D-4, 18A:7D-6, 18A:7D-7, and 18A:7D-29), had each school district's local fair share equalled the product of the income multiplier and the district's adjusted income, as determined pursuant to section 9 of P.L.1990, c.52 (C.18A:7D-9), and had each district's current expense and capital outlay levies equalled its local fair share.

In the event that these multipliers, when used in accordance with the provisions of sections 4, 6, 7 and 23 of P.L.1990, c.52 (C.18A:7D-4, 18A:7D-6, 18A:7D-7 and 18A:7D-29) and assuming that each district's current expense and capital outlay levies are equal to its local fair share, do not result in foundation aid for all districts equal to the maximum Statewide foundation aid, the commissioner shall adjust the above multipliers appropriately giving equal weight to each.

6. Section 9 of P.L.1990, c.52 (C.18A:7D-9) is amended to read as follows:

C.18A:7D-9 Adjusted income.

9. Each district's adjusted income shall equal the district income, unless the district meets the conditions in subsection a.

a. If for any school district:

$RV < 0.5$ and $RI/RV > 1.5$; then the district's adjusted income shall equal the greater of:

(1) $P - (\$15,000 \times E)$; or

(2) $1.5 \times RV \times SI \times E$ where

P is the district income;

SI is the State average income per pupil, calculated by dividing total Statewide income by the Statewide resident enrollment;

RV is the ratio of district equalized valuation per pupil to the State average equalized valuation per pupil, calculated by dividing the district's equalized valuation per pupil by the Statewide equalized valuation per pupil;

RI is the ratio of district income per pupil to the Statewide average income per pupil, calculated by dividing the district's income per pupil by the State average income per pupil; and

E is resident enrollment.

b. As used in this section:

"District income per pupil" equals the district income divided by the resident enrollment;

"Equalized valuation per pupil" equals the district's equalized valuation divided by the resident enrollment;

"State average equalized valuation per pupil" equals the Statewide equalized valuation divided by the resident enrollment of all school districts in the State.

7. Section 11 of P.L.1990, c.52 (C.18A:7D-13) is amended to read as follows:

C.18A:7D-13 Revision in schedule of foundation weights.

11. On or before April 1, 1992, and on or before April 1 of each subsequent even numbered year, the Governor, after consultation with the Commissioner of Education, shall recommend to the Legislature any revision in the schedule of foundation weights, including the special needs weight and the weights for county vocational school programs, in section 6 of P.L.1990, c.52 (C.18A:7D-6) and any revisions in the at-risk weights in section 80 of P.L.1990, c.52 (C.18A:7D-20) and the bilingual weight in section 81 of P.L.1990, c.52 (C.18A:7D-21) which is deemed proper, together with appropriate supporting information. The revised weights shall be deemed approved for the fiscal year beginning one year from the subsequent July 1 at the end of 60 calendar days after the date on which they are transmitted to the Senate and General Assembly, or if the Legislature is not in session on the 60th day, then on the next succeeding day on which it shall be meeting in the course of a regular or special session, unless between the date of transmittal and the end of the above period, the Legislature passes a concurrent resolution stating that the Legislature does not favor the revised schedule of weights, in which case the weights then in effect shall continue in effect.

8. Section 12 of P.L.1990, c.52 (C.18A:7D-14) is amended to read as follows:

C.18A:7D-14 Weights, classifications for county vocational school programs.

12. a. The commissioner shall undertake a study of the cost of providing county vocational school programs and shall, based

upon the results of that study, propose classifications and weights for these programs for the purposes of section 26 of P.L.1991, c.62 (C.18A:7D-21.1) based upon the average cost of providing each class of program. The classification system shall include not more than six classes of vocational programs.

b. On or before April 1, 1992 the Governor, after consultation with the Commissioner of Education, shall recommend to the Legislature the weights and classifications for county vocational school programs which are deemed proper, together with appropriate supporting information. The weights and classifications shall be deemed approved for the 1993-94 school year at the end of 60 calendar days after the date on which they are transmitted to the Senate and General Assembly, or if the Legislature is not in session on the 60th day, then on the next succeeding day on which it shall be meeting in the course of a regular or special session, unless, between the date of transmittal and the end of the above period, the Legislature passes a concurrent resolution stating that the Legislature does not favor the weights and classifications, in which case the weight for all vocational programs shall continue in effect.

c. On or before April 1, 1994, and on or before April 1 of each subsequent even numbered year, the Governor, after consultation with the commissioner, shall recommend to the Legislature any revision in the weights or classifications of county vocational school programs for the purposes of section 26 of P.L.1991, c.62 (C.18A:7D-21.1) which is deemed proper, together with appropriate supporting information. The revised weights or classifications shall be deemed approved for the fiscal year beginning one year from the subsequent July 1 at the end of 60 calendar days after the date on which they are transmitted to the Senate and General Assembly, or if the Legislature is not in session on the 60th day, then on the next succeeding day on which it shall be meeting in the course of a regular or special session, unless between the date of transmittal and the end of the above period, the Legislature passes a concurrent resolution stating that the Legislature does not favor the revised weights and classifications, in which case the weights and classifications then in effect shall continue in effect.

9. Section 13 of P.L.1990, c.52 (C.18A:7D-15) is amended to read as follows:

C.18A:7D-15 Excess surplus, maximum State school aid; foundation amount.

13. a. For the purpose of calculating foundation aid for the 1991-92 school year pursuant to section 4 of P.L.1990, c.52 (C.18A:7D-4), excess surplus for all districts shall be \$0.00.

b. For the purpose of computing the maximum Statewide foundation aid for the 1991-92 school year pursuant to section 3 of P.L.1990, c.52 (C.18A:7D-3), maximum State school aid shall equal \$4,100,000,000.

c. For purposes other than for the computation of foundation aid pursuant to section 4 of P.L.1990, c.52 (C.18A:7D-4), the State foundation amount for the 1991-92 school year shall equal \$6,835.00 and for the 1992-93 school year shall equal the product of \$6,835.00 and the sum of 1.0 and the PCI.

10. Section 14 of P.L.1990, c.52 (C.18A:7D-16) is amended to read as follows:

C.18A:7D-16 Special education aid.

14. Each district's special education aid shall be determined in accordance with the following calculations:

a. The number of special education aid units shall be determined by adding the products obtained by multiplying the pupils in each category by the appropriate additional cost factors. The additional cost factors shall be the following:

<u>Special Education Categories</u>	<u>Additional Cost Factors</u>
Educable.....	0.60
Trainable	0.99
Orthopedically handicapped	1.70
Neurologically impaired.....	0.42
Perceptually impaired	0.12
Visually handicapped.....	2.79
Auditorily handicapped	1.63
Communication handicapped.....	0.84
Emotionally disturbed	1.09
Socially maladjusted	0.67
Chronically ill.....	2.23
Multiply handicapped.....	1.05
Resource room	0.45
Autistic.....	1.84
Preschool Handicapped, half day	0.30
Preschool Handicapped, full day	0.60
County special services school district	1.38
Regional Day schools.....	1.38

<u>Special Education Categories</u>	<u>Additional Cost Factors</u>
County Vocational School, Special Education Services	0.59
Residential facility for the retarded	1.72
Day training center.....	2.37
Residential youth center	1.39
Training school or correctional facility	0.56
Child treatment center or psychiatric hospital ..	1.03
Supplementary and speech instruction	0.18 based on the number of pupils actually receiving such instruction in the prior school year

b. The number of special education aid units for home instruction shall be determined by multiplying the number of hours of instruction actually provided in the prior school year by 0.0025.

c. For the purposes of this section, special education aid shall be paid to the districts in which the pupils reside except in the case of home, supplementary or speech instruction where aid shall be paid to the district providing the service. No tuition may be charged for such home, supplementary or speech instruction. For the 1991-92 school year special education aid for pupils enrolled in resource room programs in county vocational schools or county special services schools and for home, supplementary or speech instruction shall be paid to the districts in which the pupils reside.

d. Special education aid shall equal the number of special education aid units multiplied by the State foundation amount, as defined pursuant to section 6 of P.L.1990, c.52 (C.18A:7D-6).

e. For the 1991-92 school year, aid for all pupils in preschool handicapped classes shall be calculated using the additional cost factor for half day programs. Beginning with the 1992-93 school year, both half day and full day cost factors shall be utilized.

11. Section 16 of P.L.1990, c.52 (C.18A:7D-18) is amended to read as follows:

C.18A:7D-18 State aid for transportation.

16. Each district's State aid for transportation shall equal the sum of A1, A2 and A3 determined as follows:

$$A1 = R \times C + (R \times D \times W)$$

$$A2 = RS \times CS + (RS \times DS \times WS)$$

$$A3 = (R + RS) \times ((P \times PM) + (E \times EM))$$

where

R is the number of pupils eligible for transportation pursuant to N.J.S.18A:39-1 as of the last school day prior to October 16 of the prebudget year;

C is the per pupil constant, which shall equal 502.27 for school districts located in very high cost counties, shall equal 365.10 for school districts located in high cost counties and shall equal 254.41 for school districts located in any other county;

D is the average distance between the home and school of the pupils eligible for transportation pursuant to N.J.S.18A:39-1;

W is the regular transportation mileage weight, which shall equal 21.57 for school districts located in the very high cost counties and high cost counties and shall equal 14.19 for school districts located in any other county;

RS is the number of pupils eligible for transportation pursuant to N.J.S.18A:46-23 as of the last school day prior to October 16 of the prebudget year;

CS is the per pupil constant for N.J.S.18A:46-23 transportation, which shall equal 1051.72 for school districts located in very high cost counties, shall equal 914.55 for school districts located in high cost counties and shall equal 803.86 for school districts located in any other county;

PM means the population density multiplier, which equals .00541;

P means population density, calculated as the district's population according to the most recent data available from the Bureau of the Census divided by the number of square miles in the school district;

DS is the average distance between the home and school of the pupils eligible for transportation pursuant to N.J.S.18A:46-23;

WS is the mileage weight for N.J.S.18A:46-23 transportation, which shall equal 64.05 for school districts located in very high cost counties and high cost counties and shall equal 56.68 for school districts located in any other county;

EM means the district size multiplier, which equals .00762; and

E means the resident enrollment of the district.

As used in this section a high cost county is a county in which for the 1988-89 school year the average cost per pupil mile for approved transportation, other than for handicapped pupils or pupils whose parent or guardian receives a payment in lieu of transportation pursuant to N.J.S.18A:39-1, exceeded the State-wide average by more than 15%.

As used in this section a very high cost county is a county in which for the 1988-89 school year the average cost per pupil mile

for approved transportation, other than for handicapped pupils or pupils whose parent or guardian receives a payment in lieu of transportation pursuant to N.J.S.18A:39-1, exceeded the State-wide average by more than 85%.

Whenever a pupil receives transportation to and from a remote nonpublic school pursuant to N.J.S.18A:39-1 or whenever the parent or guardian of a pupil receives a payment in lieu of transportation pursuant to N.J.S.18A:39-1, the State aid for transportation received by the district for that pupil shall not exceed \$675 or the amount determined pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), whichever is the greater amount.

County vocational school districts shall be eligible to receive State aid for purposes of this section beginning with the 1992-93 school year.

County special services school districts shall be ineligible to receive State aid for purposes of this section.

For any school year in which the numerical values in this section have not been altered pursuant to section 17 of P.L.1990, c.52 (C.18A:7D-19), the State aid amount calculated for a district pursuant to this section shall be increased by the product of the amount calculated and the CPI.

12. Section 19 of P.L.1990, c.52 (C.18A:7D-24) is amended to read as follows:

C.18A:7D-24 Payment to school districts.

19. The amounts payable to each school district pursuant to P.L.1990, c.52 (C.18A:7D-1 et al.) shall be paid by the State Treasurer upon the certification of the commissioner and warrant of the Director of the Division of Budget and Accounting. Five percent of the appropriation for foundation, special education, transportation, at-risk, bilingual, county vocational education program and pension aid shall be paid on the first and fifteenth of each month from September through June. If a local board of education requires funds prior to the first payment, the board shall file a written request with the Commissioner of Education stating the need for the funds. The commissioner shall review each request and forward those for which need has been demonstrated to the appropriate officials for payment.

Debt service funds shall be paid as required to meet due dates for payment of principal and interest.

Each school district shall file an annual written request for debt service payments to the commissioner 30 days prior to the begin-

ning of the fiscal year for which the appropriation is made. Such request shall include the amount of interest bearing school debt, if any, of the municipality or district then remaining unpaid, together with the rate of interest payable thereon, the date or dates on which the bonds or other evidences of indebtedness were issued, and the date or dates upon which they fall due. In the case of Type I school districts, the board secretary shall secure the schedule of outstanding obligations from the clerk of the municipality.

13. Section 22 of P.L.1990, c.52 (C.18A:7D-27) is amended to read as follows:

C.18A:7D-27 Proposed budgets to commissioner.

22. Annually, on or before February 1, local boards of education shall submit to the commissioner a copy of their proposed budgets for the next school year. The commissioner shall review each item of appropriation within the current expense and capital outlay budgets and shall determine the adequacy of the budgets with regard to the annual reports submitted pursuant to section 11 of P.L.1975, c.212 (C.18A:7A-11) and such other criteria as may be established by the State board.

14. Section 23 of P.L.1990, c.52 (C.18A:7D-29) is amended to read as follows:

C.18A:7D-29 Foundation aid growth limitation.

23. a. Except as provided pursuant to subsection b. of this section, for purposes of calculating foundation aid, the maximum foundation budget, as calculated pursuant to section 6 of P.L.1990, c.52 (C.18A:7D-6), and local fair share, as calculated pursuant to section 7 of P.L.1990, c.52 (C.18A:7D-7), shall be subject to a foundation aid growth limitation as follows:

If for any school district:

NB > MNB then reduce MB and FS
proportionately so that NB = MNB

where

MB is the maximum foundation budget as defined in section 6 of P.L.1990, c.52 (C.18A:7D-6);

FS is the fair share as determined pursuant to section 7 of P.L.1990, c.52 (C.18A:7D-7);

NB is the net budget for the budget year had the sum of the district's budget year current expense and capital outlay levies equaled FS; and

MNB is 120% of the net budget for the prebudget year.

b. For the 1991-92 and 1992-93 school years MNB means the maximum permissible net budget for the budget year as determined pursuant to section 85 of P.L.1990, c.52 (C.18A:7D-28). Beginning with the 1993-94 school year, MNB for special needs school districts shall be adjusted if the special needs district's equity spending cap pursuant to the provisions of subsections c. and d. of section 85 of P.L.1990, c.52 (C.18A:7D-28), provides for budget growth greater than 20%.

c. For the 1991-92 school year, general fund free balance of less than 10% and greater than 5% of the district's 1990-91 net budget shall be appropriated for the 1991-92 budget year. Beginning March 1, 1991 and for the remainder of the 1990-91 school year, general fund free balance may be appropriated; however, such appropriation shall be approved by the commissioner.

d. If a district's general fund free balance equals 10% or more of the district's 1990-91 net budget, the district shall file a plan with the commissioner to ensure that the district's general fund free balance shall be no greater than 7.5% in the 1993-94 school year.

15. Section 24 of P.L.1990, c.52 (C.18A:7D-30) is amended to read as follows:

C.18A:7D-30 Net and maximum permissible budgets.

24. a. For the purpose of calculating the foundation aid growth limitation in section 23 of P.L.1990, c.52 (C.18A:7D-29) and the maximum permissible net budget pursuant to the provisions of section 85 of P.L.1990, c.52 (C.18A:7D-28) for the 1991-92 school year, each district's net budget for the 1990-91 school year shall equal the balance in the current expense and capital outlay budgets after deducting all other revenue in the current expense and capital outlay budgets except the amount to be provided by local taxation, equalization support, budgeted capital outlay support, and State support for bilingual education, compensatory education, local vocational education, State aid for handicapped pupils pursuant to section 20 of P.L.1975, c.212 (C.18A:7A-20) and State aid for approved transportation. Each county special services school district's net budget for the 1990-91 school year shall be established by the commissioner.

b. For the purpose of calculating the foundation aid growth limitation in section 23 of P.L.1990, c.52 (C.18A:7D-29) and the maximum permissible net budget and local levy budget pursuant to the provisions of section 85 of P.L.1990, c.52 (C.18A:7D-28) for the 1993-

94 school year, the maximum permissible net budget shall be increased to include State support paid on the district's behalf in the 1992-93 school year pursuant to sections 29 and 30 of P.L.1991, c.62. Aid paid to receiving districts pursuant to sections 29 and 30 of P.L.1991, c.62 on behalf of sending districts shall be reallocated to the sending districts of residence on a per pupil basis. Aid payments pursuant to section 30 of P.L.1991, c.62 shall be estimated for each district.

16. Section 25 of P.L.1990, c.52 (C.18A:7D-33) is amended to read as follows:

C.18A:7D-33 Transition aid.

25. a. State transition aid for the 1991-92 and 1992-93 school years shall be calculated in accordance with the following formula:

$$T = F \times (B - A)$$

where

T is transition aid;

F is transition aid factor, which shall equal 1.0 for the 1991-92 school year and 0.75 for the 1992-93 school year;

A is the district State aid amount, which shall equal the sum of the foundation aid received by a school district and the State aid received by or paid on behalf of a school district during the 1991-92 school year pursuant to sections 14, 16, and 81 of P.L.1990, c.52 (C.18A:7D-16, 18A:7D-18 and 18A:7D-21) and sections 26 and 31 of P.L.1991, c.62 (C.18A:7D-21.1 et al.); and

B is the base aid amount, which shall equal the product of 1.065 and the sum of State aid received by or paid on behalf of a school district during the 1990-1991 school year pursuant to sections 18, 19, 20 and 24 of P.L.1975, c.212 (C.18A:7A-18, 18A:7A-19, 18A:7A-20, 18A:7A-24), N.J.S.18A:46-23, section 16 of P.L.1971, c.271 (C.18A:46-44), N.J.S.18A:58-6 and N.J.S.18A:58-7, less any debt service aid received by or on behalf of the district and less any categorical program support the district received for State compensatory education pupils pursuant to section 20 of P.L.1975, c.212 (C.18A:7A-20).

b. State transition aid for the 1993-94 and 1994-95 school years shall be calculated in accordance with the following formula:

$$T = F \times (B - A)$$

where

T is transition aid;

F is transition aid factor, which shall equal 0.50 for the 1993-94 school year and 0.25 for the 1994-95 school year;

A is the district State aid amount, which shall equal the sum of the foundation aid received by a school district and the State aid received by or paid on behalf of a school district during the 1991-92 school year pursuant to sections 14, 16, and 81 of P.L.1990, c.52 (C.18A:7D-16, 18A:7D-18 and 18A:7D-21) and sections 26 and 31 of P.L.1991, c.62 (C.18A:7D-21.1 et al.); and

B is the base aid amount, which shall equal the product of 1.065 and the sum of State aid received by or paid on behalf of a school district during the 1990-1991 school year pursuant to sections 18, 19, 20 and 24 of P.L.1975, c.212 (C.18A:7A-18, 18A:7A-19, 18A:7A-20, 18A:7A-24), N.J.S.18A:46-23, section 16 of P.L.1971, c. 271 (C.18A:46-44), N.J.S.18A:58-6, N.J.S.18A:58-7, N.J.S.18A:66-33 and N.J.S.18A:66-66, less any debt service aid received by or on behalf of the district and less any categorical program support the district received for State compensatory education pupils pursuant to section 20 of P.L.1975, c.212 (C.18A:7A-20). Aid paid to receiving districts pursuant to N.J.S.18A:66-33 and N.J.S.18A:66-66 on behalf of sending districts shall be reallocated to the sending districts of residence on a per pupil basis.

c. If, in any year, the transition aid calculated pursuant to this section for any district is less than zero, the district shall not receive transition aid in that year. Five percent of the appropriation for State transition aid shall be paid on the first and fifteenth of each month from September to June.

17. Section 28 of P.L.1990, c.52 (C.18A:7D-36) is amended to read as follows:

C.18A:7D-36 Adjustment of State aid calculations among districts.

28. When State aid is calculated for any year and a part of any district becomes a new school district or a part of another school district, including a county vocational school district or county special services school district established after January 1, 1991, or comes partly under the authority of a regional board of education, the commissioner shall adjust the State aid calculations among the districts affected, or between the district and the county vocational school district, county special services school district or the regional board, as the case may be, on an equitable basis in accordance with the intent of P.L.1990, c.52 (C.18A:7D-1 et al.).

Whenever an all-purpose regional district is approved by the voters during any calendar year, the regional district shall become effective on the succeeding July 1 for the purpose of calculating

State aid, and the commissioner shall request supplemental appropriations for such additional State aid as may be required.

After a regional school district becomes entitled to State aid, it shall continue to be entitled to such aid as calculated for a regional district notwithstanding the subsequent consolidation of the constituent municipalities of the regional school district.

18. Section 80 of P.L.1990, c.52 (C.18A:7D-20) is amended to read as follows:

C.18A:7D-20 Formula for calculation of State aid for at-risk pupils.

80. Each district's State aid for programs for at-risk pupils shall be calculated as follows:

$A = F \times R$ where

A is the district's aid for at-risk pupils;

F is the State foundation amount as defined pursuant to section 6 of this amendatory and supplementary act; and

R is the number of pupil units for at-risk pupils as determined as follows:

The number of pupil units shall be determined by multiplying the number of pupils eligible for free meals or free milk in each grade category by the appropriate weight.

<u>Grade</u>	<u>Weight</u>
Grades preschool - 5	0.151
Grades 6-8	0.168
Grades 9-12	0.202

For the purpose of determining State aid for programs for at-risk pupils, pupils in ungraded classes shall be assigned to the most appropriate grade category in accordance with procedures to be established by the commissioner and aid for pupils attending half-day programs shall be determined by reducing the appropriate weight by one-half.

19. Section 85 of P.L.1990, c.52 (C.18A:7D-28) is amended to read as follows:

C.18A:7D-28 "Maximum permissible net budget," formula for calculation.

85. a. "Maximum permissible net budget" means the amount calculated as follows:

$$PNB = PCI \times PR \times PBY$$

where

PNB is the maximum permissible increase in the net budget for the budget year;

PCI is the average annual percentage increase in per capita income as defined in section 3 of P.L.1990, c.52 (C.18A:7D-3);

PR is $1.7442 - (.6460 \times BR)$, however PR shall not be greater than 1.1628 or less than .9690;

BR is the ratio of the district's local levy budget of the prebudget year to the district's maximum foundation budget for the budget year as determined pursuant to section 6 of P.L.1990, c.52 (C.18A:7D-6); and

PBY is the net budget for the prebudget year.

b. In determining a district's maximum permissible net budget for the 1991-92 school year, the district's net budget for the 1990-91 school year shall be increased by the amount of any current expense or capital outlay surplus which was appropriated in the district's 1990-91 annual school budget.

c. Annually through the 1995-96 school year for each special needs district, the commissioner shall calculate an equity spending cap which shall provide for a percentage increase in the district's budget that, if sustained for each year through the 1995-96 school year, would result in the per pupil budget of the special needs district equalling the average per pupil budget of the districts included in the Department of Education's district factor groups I and J. The equity spending cap shall also allow for those budget items included in the net budget, but excluded from the local levy budget, to grow annually at the PCI or CPI, as appropriate. To ensure equity, the commissioner shall also adjust the calculation of the equity cap, when necessary, to account for the payment of teacher pension and social security aid.

As used in this subsection:

CPI is the consumer price index as defined in section 3 of P.L.1990, c.52 (C.18A:7D-3);

PCI is the average annual percentage increase in per capita income as defined in section 3 of P.L.1990, c.52 (C.18A:7D-3); and

Per pupil budget is the budget divided by the resident enrollment.

d. If, for any year, a special needs district's equity spending cap determined by the commissioner pursuant to subsection c. of this section exceeds the maximum permissible increase in the net budget as determined pursuant to subsection a. of this section, the district may increase its net budget in accordance with the equity spending cap.

e. A board of education of a school district which: (1) for the two years prior to the prebudget year, has had an annual average increase

in the district's resident enrollment which is greater than two percent; or (2) between the prebudget year and the year prior to the prebudget year, has had an increase in the district's local cost for special education pupils which is greater than five percent; or (3) during the 1990-91 school year but prior to April 1, 1991, has entered into a lease purchase agreement, may apply to the Commissioner of Education for a waiver of the expenditure limitation established pursuant to this section. A board of education of a school district that sends pupils and pays tuition to a special needs district may apply to the Commissioner of Education for a waiver of the expenditure limitation established pursuant to this section. Any waiver granted by the commissioner pursuant to this subsection shall not be included in the question on excess expenditures which is to be submitted to the voters of the district pursuant to subsection f. of this section.

f. Any school district may submit a proposal to raise the amount of tax levy necessary to exceed the maximum permissible net budget permitted by this section to the legal voters of the district for type II school districts without a Board of School Estimate and to the Board of School Estimate for those school districts with a Board of School Estimate as required during the school budget approval process pursuant to chapters 22 and 54 of Title 18A of the New Jersey Statutes and section 13 of P.L.1971, c.271 (C.18A:46-41). The proposal to raise additional tax levy to exceed the maximum permissible net budget shall be in addition to the amounts required to be approved for each school district in accordance with chapters 22 and 54 of Title 18A of the New Jersey Statutes and section 13 of P.L.1971, c.271 (C.18A:46-41). In the event that a school district's proposal to raise the tax levy to exceed the maximum permissible net budget is not approved in accordance with the budget approval process set forth in chapter 22 of Title 18A of the New Jersey Statutes for type II districts and for type I districts, chapter 54 of Title 18A of the New Jersey Statutes for county vocational school districts and section 13 of P.L.1971, c.271 (C.18A:46-41) for county special services school districts, that disapproval shall be deemed final and shall not be subject to further review or appeal.

20. Section 86 of P.L.1990, c.52 is amended to read as follows:

86. For the purpose of calculating each district's maximum permissible net budget pursuant to section 85 of P.L.1990, c.52 (C.18A:7D-28) for the 1991-92 school year, each district's local levy budget for the 1990-91 school year shall equal the balance in the cur-

rent expense and capital outlay budgets after deducting (1) State aid for handicapped pupils pursuant to section 20 of P.L.1975, c.212 (C.18A:7A-20), (2) State aid for approved transportation, (3) all other revenue in the current expense and capital outlay budgets except the amount to be provided by local taxation, equalization support, budgeted capital outlay support, and State support for local vocational education. Each county special services school district's net budget for the purposes of calculating the budget growth limitation in section 85 of P.L.1990, c.52 (C.18A:7D-28) for the 1991-92 school year shall be established by the commissioner.

21. Section 87 of P.L.1990, c.52 (C.18A:7D-31) is amended to read as follows:

C.18A:7D-31 Calculation of minimum tax levy in special needs districts.

87. For the 1991-92 through the 1994-95 school years, the minimum tax levy for current expense and capital outlay in special needs school districts shall equal the lesser of the district's local fair share as determined pursuant to section 7 of P.L.1990, c.52 (C.18A:7D-7) or the sum of the district's 1990-91 levies for current expense and capital outlay. Beginning with the 1995-96 school year, the minimum tax levy for current expense and capital outlay shall equal the district's local fair share.

22. Section 3 of P.L.1979, c.294 (C.18A:22-8.2) is amended to read as follows:

C.18A:22-8.2 Certain transfers not allowed.

3. No transfer may be made under this section from appropriations or surplus accounts for:

- a. Interest and debt redemption charges;
- b. Capital reserve account;
- c. Items classified as current expenses except to other items so classified or to capital outlay;
- d. Items classified as capital outlay except to other items so classified or to current expense.

23. Section 3 of P.L.1971, c.271 (C.18A:46-31) is amended to read as follows:

C.18A:46-31 Powers and duties of special services school district board of education.

3. a. Any school established pursuant to P.L.1971, c.271 (C.18A:46-29 et seq.) shall accept all eligible pupils within the

county, so far as facilities permit. Pupils residing outside the county may be accepted should facilities be available only after provision has been made for all eligible pupils within the county. Any child accepted shall be classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

b. The board of education of any county special services school district may receive such funds as may be appropriated by the county pursuant to section 13 of P.L.1971, c.271 (C.18A:46-41) and shall be entitled to collect and receive from the sending districts in which the pupils attending the county special services school reside, for the tuition of such pupils, a sum not to exceed the actual cost per pupil as determined for each special education category, according to rules prescribed by the commissioner and approved by the State board. Whenever funds have been appropriated by the county, the county special services school district may charge a fee in addition to tuition for any pupils who are not residents of the county. The fee shall not exceed the amount of the county's per pupil appropriation to the county special services school district. For each special education category, the tuition shall be at the same rate per pupil for each sending district whether within or without the county. Ten percent of the tuition amount and the nonresident fee amount, if any, shall be paid on the first of each month from September to June to the receiving district by each sending district. The annual aggregate amount of all tuition may be anticipated by the board of education of the county special services school district with respect to the annual budget of the county special services school district. The amounts of all annual payments or tuition to be paid by any such other school district shall be raised in each year in the annual budget of such other school district and paid to the county special services school district.

c. The board of education of any county special services school district, with the approval of the board of chosen freeholders of the county, may provide for the establishment, maintenance and operation of dormitory and other boarding care facilities for pupils in conjunction with any one or more of its schools for special services, and the board shall provide for the establishment, maintenance and operation of such health care services and facilities for the pupils as the board shall deem necessary.

d. (Deleted by amendment, P.L.1991, c.62).

24. Section 71 of P.L.1990, c.52 (C.18A:54-20.1) is amended to read as follows:

C.18A:54-20.1 Enrollment of pupils in county vocational schools, funding.

71. a. The board of education of each school district or regional school district in any county in which there is a county vocational school district shall send to any of the schools of the county vocational school district each pupil who resides in the school district or regional school district and who has applied for admission to and has been accepted for attendance at any of the schools of the county vocational school district. The board of education shall pay tuition for each of these pupils to the county vocational school district pursuant to subsection c. of this section. The provisions of this section shall not apply to the board of education of a school district or regional school district maintaining a vocational school or schools pursuant to article 2 of chapter 54 of Title 18A of the New Jersey Statutes.

b. The board of education of a county vocational school district shall receive pupils from districts without the county so far as their facilities may permit.

c. The board of education of a county vocational school district shall receive such funds as may be appropriated by the county pursuant to N.J.S.18A:54-29.2 and shall be entitled to collect and receive from the sending districts in which each pupil attending the vocational school resides, for the tuition of that pupil, except for a post-secondary vocational education pupil, a sum not to exceed the actual cost per pupil as determined for each vocational program classification, according to rules prescribed by the commissioner and approved by the State board. Whenever funds have been appropriated by the county, the county vocational school district may charge a fee in addition to tuition for any pupils who are not residents of the county. The fee shall not exceed the amount of the county's per pupil appropriation to the county vocational school district.

d. The tuition and nonresident fee, if any, shall be established not later than January 15 in advance of the school year by the board of education. The tuition for each program category shall be at the same rate per pupil for each sending district whether within or without the county, and 10% of the tuition amount and nonresident fee, if any, shall be paid on the first of each month from September to June by or on behalf of the board of education of each sending district.

e. (Deleted by amendment, P.L.1991, c.62).

25. Section 73 of P.L.1990, c.52 (C.18A:54-20.2) is amended to read as follows:

C.18A:54-20.2 County vocational, county special services school district, eligibility for State aid for debt service; calculation.

73. A county vocational school district and a county special services school district shall be eligible to receive State aid for debt service pursuant to section 18 of P.L.1990, c.52 (C.18A:7D-22). For the purpose of calculating this aid, the district's maximum foundation budget shall be the sum of the maximum foundation budgets of all other districts in the county and the district's local fair share shall be the sum of the local fair shares of all the districts in the county.

C.18A:7D-21.1 State aid for county vocational school programs.

26. In addition to the funds payable to each county vocational school district pursuant to sections 4, 14, 25, 73, 80 and 81 of P.L.1990, c.52 and sections 29 and 30 of P.L.1991, c.62, each county vocational school district shall be paid State aid for county vocational school programs as follows:

$$A = F \times V$$

where

A is the county vocational school district's aid for its vocational programs;

F is the State foundation amount as defined pursuant to section 6 of P.L.1990, c.52 (C.18A:7D-6); and

V is the number of pupil units for county vocational school pupils other than county vocational school special education services pupils, except that pupils receiving supplementary, speech and home instruction services shall be eligible for this aid. The number of pupil units shall be based on the following:

<u>Program</u>	<u>Weight</u>
Secondary	.26
Post-Secondary	.13

Aid for pupils attending shared-time secondary programs shall be determined by reducing the weight by one-half.

For the 1991-92 school year, the weight for post-secondary pupils shall be the same as the secondary weight set forth above.

27. For the 1991-92 school year, in the event the total State aid determined for a county vocational school district pursuant to sections

4, 14, 80 and 81 of P.L.1990, c.52 (C.18A:7D-4, 18A:7D-16, 18A:7D-20 and 18A:7D-21) and section 26 of P.L.1991, c.62 (C.18A:7D-21.1), exceeds 150% of the base aid amount for the district as defined in section 25 of P.L.1990, c.52 (C.18A:7D-33), the total State aid for the district shall be reduced to 150% of the base aid amount.

28. N.J.S.18A:66-33 is amended to read as follows:

Employer and state contributions.

18A:66-33. Regular interest charges payable, the creation and maintenance of reserves in the contingent reserve fund and the maintenance of retirement allowances and other benefits granted by the board of trustees under the provisions of this article are hereby made obligations of each employer. Except as provided in N.J.S.18A:66-27, all income, interest, and dividends derived from deposits and investments authorized by this article shall be used for payment of these obligations.

Upon the basis of each actuarial determination and appraisal provided for in this article, the board of trustees shall annually certify, on or before December 1st of each year, to the Commissioner of Education, the State Treasurer, and to each employer, including the State, the contributions due on behalf of its employees for the ensuing fiscal year and payable by the employer to the contingent reserve fund. The amounts payable into the contingent reserve fund for each employer, including the State, shall be paid by the State Treasurer, upon the certification of the commissioner and the warrant of the Director of the Division of Budget and Accounting, to the contingent reserve fund not later than July 1 of the ensuing fiscal year. The commissioner shall deduct the amount so certified from any State aid payable to the employer. In the event that no State aid is payable to the employer or in the event that the amount deducted is less than the amount certified as due, the commissioner shall certify the net amount due on behalf of the members to the chief fiscal officer of the employer. Each employer shall pay the net amount due, if any, to the State pursuant to a payment schedule established by the commissioner. The payment schedule shall provide for interest penalties for late payments.

29. For the 1991-92 and 1992-93 school years each employer, as defined in N.J.S.18A:66-2, shall receive State aid in an amount equal to the contribution due on behalf of its employees for the

ensuing fiscal year and payable by the employer to the contingent reserve fund in accordance with N.J.S.18A:66-33.

30. For the 1991-92 and 1992-93 school years, each employer as defined in N.J.S.18A:66-2 shall be reimbursed by the State for the social security contributions for members of the Teachers' Pension and Annuity Fund. Such reimbursement shall be limited to contributions upon compensation upon which members' contributions to the retirement system are based.

31. For the 1991-92 school year, in counties of the third class which do not have a county vocational school district, in addition to the funds payable pursuant to sections 4, 14, 16, 25, 73, 80 and 81 of P.L.1990, c.52 (C.18A:7D-4, 18A:7D-16, 18A:7D-18, 18A:7D-33, 18A:54-20.2, 18A:7D-20 and 18A:7D-21) and sections 29 and 30 of P.L.1991, c.62, to a district which was designated as a local area vocational school district pursuant to section 3 of P.L.1975, c.212 (C.18A:7A-3) prior to the 1990-91 school year, each district shall also be paid State aid in an amount equal to the support the district received during the 1990-91 school year for local vocational pupils pursuant to section 20 of P.L.1975, c.212 (C.18A:7A-20).

32. For the 1991-92 and 1992-1993 school years, no district's State aid for programs for at-risk pupils shall be less than the amount of categorical program support the district received in the 1990-91 school year pursuant to section 20 of P.L.1975, c.212 (C.18A:7A-20) for state compensatory education pupils.

C.18A:7D-28.1 Escrow account for special needs school district.

33. a. For the 1991-92 and 1992-93 school years, if the Commissioner of Education or the board of education of a special needs school district determines that the special needs school district cannot utilize the full amount of the difference between its State aid entitlement under P.L.1990, c.52 (C.18A:7D-1 et al.) for the budget year and its State aid entitlement for the 1990-91 school year under P.L.1975, c.212 (C.18A:7A-1 et seq.), the commissioner, or the board of education of the special needs district, with the approval of the commissioner, may place up to 20 percent of that difference in State aid in a special escrow account to be established by the State Treasurer.

b. There is established within the General Fund a dedicated account to be known as the "Special Needs Districts Educational Fund." Any interest earned by the account shall accrue to the

State and shall be credited to the General Fund. The Treasurer shall deposit into the account any funds which are put into escrow for a special needs school district pursuant to subsection a. of this section. Beginning on October 1, 1991 and annually thereafter, the Treasurer shall advise the commissioner and each special needs school district of the amount of funds being held in escrow for each school district. A special needs school district may, with the approval of the commissioner, withdraw and expend funds from its escrow account at any time upon presentation to the commissioner of a plan for the use of the funds for operating expenses or for the renovation and repair of educational facilities.

c. Any funds placed in escrow by a special needs school district and any withdrawal or expenditure of those funds shall not be utilized for the calculation of the district's State aid entitlements in any subsequent year and shall not be used to reduce or offset those entitlements.

C.18A:7D-28.3 Programs, services for special needs districts.

34. Notwithstanding any statute, rule or regulation promulgated by the State Board of Education, special needs districts may contract with New Jersey colleges and universities to provide in school, after school and special academic programs and services to assist the districts in providing a thorough and efficient education. The Chancellor of Higher Education shall prepare on or before July 1 of each year a report of programs and services available from New Jersey colleges and universities to assist special needs districts. The report shall be distributed to the commissioner and to the special needs districts.

35. In a county of the third class which did not have a county vocational school district as of September 1, 1990, the board of education of a county vocational school district in such a county is authorized and empowered to undertake and to enter into agreements of any nature whatsoever necessary, desirable, useful or convenient for and with respect to the assumption, operation, or administration by the county vocational school district of any system of vocational education then being maintained in the county, including, but not limited to, the transfer of principals, teachers, employees, pupils or classes, the purchase, grant, transfer or lease to the county vocational school district of any lands, school buildings, furnishings, equipment, apparatus or supplies constituting part of or used in connection with that system, and the making

of or provision for payments, costs or expenses in connection with any of the aforesaid. A copy of any such agreement shall be filed in the office of the commissioner.

C.18A:7D-28.4 State aid to State colleges operating demonstration school, classes for handicapped children.

36. Each State college operating a college demonstration school or classes for handicapped children shall be paid State aid for one-half of the costs of operating the educational program less the special education aid payable, pursuant to section 14 of P.L.1990, c.52 (C.18A:7D-16), to the district in which the State college demonstration school is located.

37. Section 21 of P.L.1990, c.52 (C.18A:7D-26) is amended to read as follows:

C.18A:7D-26 Notification of maximum amount of aid payable.

21. Annually, on or before December 15 the commissioner shall notify each district of the maximum amount of aid payable to the district under the provisions of P.L.1990, c.52 (C.18A:7D-1 et al.) in the succeeding year and shall notify each district that is subject to the provisions of section 85 of P.L.1990, c.52 (C.18A:7D-28) of the district's maximum permissible net budget for the succeeding year. The actual aid payment to each district shall be determined after the district's budget is adopted.

C.18A:7D-28.2 Annual appropriation.

38. Annually, there shall be appropriated to the Department of Education an amount equal to .00224 multiplied by the amount of maximum State school aid as defined pursuant to section 3 of P.L.1990, c.52 (C.18A:7D-3) in order to enable the commissioner to meet the State mandate for the monitoring, evaluation, budget review and analysis and the collection of expenditure data for school districts as required pursuant to P.L.1975, c.212 (C.18A:7A-1 et seq.) and sections 1, 5 and 6 of P.L.1991, c.3 (C.18A:7A-14.1, 18A:7A-6.1 and 18A:7A-14.2) in order to ensure that school districts are providing a thorough and efficient education to their students.

39. There is established within the Department of Education a special account into which the State Treasurer shall deposit \$25,000,000. The Commissioner of Education shall utilize the monies in the fund for supplemental State aid to school districts in order to ensure the continuation of educational quality during the period of transition to the new State aid program established

pursuant to P.L.1990, c.52 (C.18A:7D-1 et al.). Any supplemental State aid provided to a school district from this account shall not be included in the calculation of the spending limitations established pursuant to section 85 of P.L.1990, c.52 (C.18A:7D-28).

Repealer.

40. The following sections are repealed:

P.L.1990, c.52, s.5 (C.18A:7D-5)
P.L.1990, c.52, s.83 (C.18A:7D-11)
P.L.1990, c.52, s.88 (C.18A:7D-12)

41. This act shall take effect immediately.

Approved March 14, 1991.

CHAPTER 63

AN ACT concerning State aid to certain counties and municipalities, amending and supplementing various sections of the statutory law and making appropriations therefor.

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

C.52:27D-118.32 Short title.

1. Sections 1 through 12 of this act shall be known and may be cited as the "Supplemental Municipal Property Tax Relief Act."

C.52:27D-118.33 Definitions.

2. As used in this act:

"Board" means the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Equalized tax rate" means the total tax levy on which the tax rate is computed for a municipality as shown in the table of aggregates for the pretax year prepared pursuant to R.S.54:4-52, divided by the equalized valuation of property exclusive of Class II railroad property as shown in the table of equalized valuations for the pretax year prepared pursuant to P.L.1954, c.86 (C.54:1-35.1 et seq.).

"Municipal per capita income" means the money income of a municipality for the most recent year prior to the budget year as

reported by the Bureau of the Census divided by the population of the municipality according to the most recent federal decennial census.

“State per capita income” means the money income of the State for the most recent year prior to the budget year as reported by the Bureau of the Census divided by the State population according to the most recent federal decennial census.

“Statewide aggregate equalized tax rate” means the sum of the total tax levies on which the tax rates are computed for all municipalities in the State as shown in the table of aggregates for the pretax year prepared pursuant to R.S.54:4-52, divided by the sum of equalized valuations of property of all municipalities in the State exclusive of Class II railroad property as shown in the table of equalized valuations for the pretax year prepared pursuant to P.L.1954, c.86 (C.54:1-35.1 et seq.).

C.52:27D-118.34 Distributions of aid.

3. The director shall on or before December 31, 1991 and annually thereafter make distributions of “Supplemental Municipal Property Tax Relief Act” aid, in amounts determined as follows:

a. (1) To municipalities having an equalized tax rate at least twice the Statewide aggregate equalized tax rate, an amount equal to \$72.76 per capita.

(2) To municipalities having an equalized tax rate greater than the Statewide aggregate equalized tax rate and less than twice the Statewide aggregate equalized tax rate, an amount equal to \$42.75 per capita.

(3) To municipalities having an equalized tax rate equal to or greater than 75% of the Statewide aggregate equalized tax rate but not greater than the Statewide aggregate equalized tax rate, an amount equal to \$31.83 per capita.

(4) To municipalities having an equalized tax rate less than 75% of the Statewide aggregate equalized tax rate, an amount equal to \$22.73 per capita.

b. In addition to the amount determined pursuant to subsection a. of this section, any municipality with a municipal per capita income less than 50% of the Statewide per capita income shall receive \$45.48 per capita.

c. The most recent federal decennial census shall be used to determine municipal population for the distribution of per capita aid pursuant to this section.

C.52:27D-118.35 Distributions of discretionary aid.

4. The director shall on or before December 31, 1991 and annually thereafter make distributions of “Supplemental Municipal Property Tax Relief Act” discretionary aid. The director shall

annually notify the chief financial officer of each municipality, other than a municipality that received \$500,000 or more in regular grant financial assistance in the prior year pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), that, in addition to State aid provided pursuant to section 3 of this act, the municipality is eligible to apply for "Supplemental Municipal Property Tax Relief Act" discretionary aid. The municipality may apply to the board for financial assistance pursuant to this section on forms promulgated by the director.

C.52:27D-118.36 Selection of recipients of discretionary aid.

5. The director shall select among the municipalities that have applied for discretionary aid pursuant to section 4 of this act and shall forward to the board the list of selected municipalities along with the amount of financial assistance to be paid to each municipality. The director in selecting among those eligible municipalities for payment of discretionary aid shall use criteria which shall include whether a municipality is experiencing fiscal distress, whether the cost of providing municipal services is extraordinarily high, and whether the tax base is inadequate to meet property tax demands.

C.52:27D-118.37 Change in municipal budget, required documentation.

6. For each municipality receiving discretionary aid pursuant to this act, the director:

- a. Shall have the authority to increase, decrease, add or delete revenues and expenditures from the budget of the municipality based on the municipality's experience and prudent fiscal management; and
- b. May require documentation, schedules and estimates related to the municipal budget.

C.52:27D-118.38 Remedial orders issued to recipient of discretionary aid.

7. a. The board may issue remedial orders to a municipality receiving discretionary aid pursuant to this act directing it to:

- (1) Maximize revenues;
- (2) Maximize surplus to a prudent level;
- (3) File schedules along with the budget showing municipal revenues not anticipated;
- (4) Add municipal revenues to the budget not anticipated;
- (5) Maximize its tax collection rate in order to minimize its reserve for uncollected taxes, using prudent fiscal practices;
- (6) Reduce appropriations deemed by the board to be excessive; and
- (7) Undertake other appropriate activities consistent with this section to reduce property taxes.

b. The board shall require, as a condition for the release of discretionary aid funds to a municipality, that the director certify that a municipality has complied with remedial orders issued by the board.

C.52:27D-118.39 General fiscal oversight over recipient of discretionary aid.

8. The board shall exercise general fiscal oversight over a municipality that receives discretionary aid pursuant to this act and may:

- a. Require the director to return a budget if it is determined that the local tax burden is unreasonably high;
- b. Require the inclusion of line items supporting budget detail; and
- c. Permit the cancellation of appropriation reserves on the same schedule as transfers, with a revised annual financial statement forwarded to the director upon the cancellation.

C.52:27D-118.40 Use of State aid to reduce tax levy.

9. State aid provided pursuant to sections 3 and 4 of this act shall be used solely and exclusively by each municipality for the purposes of reducing the amount the municipality is required to raise by local property tax levy for municipal purposes. In the event that the amount of State aid provided pursuant to sections 3 and 4 of this act exceeds the amount required to be raised by local property tax levy for municipal purposes, the balance of the State aid shall be used to reduce the amount the municipality is required to raise by local property tax levy for county purposes, notwithstanding the provisions of any law to the contrary. The director shall certify that each municipality has complied with this section. If the director finds that State aid provided pursuant to this act is not used by a municipality solely and exclusively to reduce the amount required to be raised by local property tax levy, the director shall direct that the municipal governing body make corrections to its budget.

C.52:27D-118.41 Fund recipients may anticipate State aid.

10. Notwithstanding any provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq., any municipality that receives funds pursuant to this act may anticipate the receipt of the amount of State aid as shall be certified to it by the director and may file any amendment or corrections in its local budget as may be required to properly reflect that State aid.

C.52:27D-118.42 Rules, regulations.

11. The director shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of sections 2 through 10 of this act.

12. R.S.54:4-65 is amended to read as follows:

Brief tabulation on tax bills to indicate expenditures.

54:4-65. Each tax bill shall have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the rate per \$100.00 of assessed valuation or the number of cents in each dollar paid by the taxpayer which is to be used for the payment of State school taxes, other State taxes, county taxes, local school expenditures and other local expenditures. The last named item may be further subdivided so as to show the amount for each of the several departments of the municipal government. In lieu of printing such information on the tax bill, any municipality may furnish the tabulation required hereunder and any other pertinent information in a statement accompanying the mailing or delivery of the tax bill.

There shall be included with the annual tax bill on a form prescribed by the Director of the Division of Local Government Services in the Department of Community Affairs, a statement which shall be prepared by the tax collector, in consultation with the chief financial officer of the municipality, reporting the amount of tax rate and tax levy savings resulting from State aid provided pursuant to the "Supplemental Municipal Property Tax Relief Act," P.L.1991, c.63 (C.52:27D-118.32 et seq.), which was enacted by the Legislature.

13. Any municipality that levies school taxes on a school year basis either pursuant to N.J.S.18A:22-15 and 18A:22-17 or N.J.S.18A:22-34 shall defer from the 1991 municipal purposes property tax levy at least 25% of an amount allowable to be deferred as shall be determined by the Director of the Division of Local Government Services in the Department of Community Affairs and shall defer from such levy in each of the next three years the remainder of such amount in a manner as shall be determined by the director. The amounts so deferred shall be regarded as surplus and shall be used to offset the local property tax levy for local purposes.

The Director of the Division of Local Government Services in the Department of Community Affairs shall have the authority to adjust deadlines and other procedures to effectuate the purposes of this section.

14. Section 5 of P.L.1959, c.86 (C.44:10-5) is amended to read as follows:

C.44:10-5 State payments to county welfare agencies.

5. The State shall pay to each county welfare agency the full amount of any funds received by the State from the federal gov-

ernment as federal participation with respect to expenditures made by such county welfare agency for aid to families with dependent children (AFDC).

Payment of the State share of expenditures by county welfare agencies for aid to families with dependent children - regular segment (AFDC-C) shall be at the rate of 52.5% during the period July 1 through December 31 of each year and at the rate of 37.5% during the period January 1 through June 30 of each year; provided that the total payment of the State share of expenditures during the period January 1 through December 31 of each year shall not exceed 45%.

Payment of the State share of expenditures by county welfare agencies for aid to families with dependent children - unemployment of father (AFDC-F) shall be at the rate of 52.5% during the period July 1 through December 31 of each year and at the rate of 37.5% during the period January 1 through June 30 of each year; provided that the total payment of the State share of expenditures during the period January 1 through December 31 of each year shall not exceed 45%.

Payment of the State share of expenditures by county welfare agencies for aid to families with dependent children - insufficient employment of parents (AFDC-N) shall be at the rate of 115% during the period July 1 through December 31 of each year and at the rate of 75% during the period January 1 through June 30 of each year; provided that the total payment of the State share of expenditures during the period January 1 through December 31 of each year shall not exceed 95%.

The State shall pay to each county welfare agency for aid provided to families with dependent children as defined in subparagraphs (ii) and (iii) of paragraph (1) of subsection (c) of section 1 of P.L.1959, c.86 (C.44:10-1), the entire amount of such expenditures that exceed the level of expenditures in 1976 for aid to families of the working poor pursuant to P.L.1971, c.209 (C.44:13-1 et seq.), after deduction for federal participation.

The State shall also pay to each county welfare agency the full amount of any funds received by the State from the federal government as federal participation with respect to the costs of administration of the program of aid to families with dependent children by such county welfare agency.

15. R.S.30:4-78 is amended to read as follows:

Rates for maintenance of state patients and convict and criminal mentally ill and payment thereof.

30:4-78. The State House Commission shall fix the rate or rates of per capita payment for the reasonable cost of maintenance and clothing of patients in State psychiatric facilities chargeable to the counties.

The State House Commission shall fix the per capita cost rate or rates to be paid by the State to the several counties on behalf of the reasonable cost of maintenance of State patients in any county psychiatric facility, including outpatient psychiatric services, which payments shall be made by the State Treasurer on the warrant of the Comptroller to the board of chosen freeholders, upon a statement furnished by such board to the department, giving the name and number of such county or State patients who may have been thus supported in such psychiatric facilities. This statement shall set forth the amount, if any, received by the county from any person or persons for or on behalf of the maintenance of any such patients in such county psychiatric facilities. To the extent that such amount exceeds the county's share for the reasonable cost of maintenance and clothing for a patient, that excess amount shall be credited to the amount to be paid to the county by the State.

The State House Commission shall likewise fix the per capita rate or rates which each county shall pay to the treasurer for the reasonable cost of maintenance and clothing of each patient residing in a State psychiatric facility or a State facility for the developmentally disabled or receiving residential functional services for the developmentally disabled having a legal settlement in such county. If the State shall directly receive funds, other than Medicare or Medicaid funds, in support of the patient, including but not limited to federal social security benefits, the State shall credit the funds to the county of settlement, but no credit shall exceed the county's share of the reasonable cost of maintenance and clothing costs for the patient.

If the State shall receive private insurance payments for the patient, the State shall credit the county of settlement for its full cost for the days for which payment was received, but the credit shall not exceed the county's share of the reasonable cost of maintenance and clothing cost for the patient.

The State House Commission shall likewise fix the rate or rates to be paid for the reasonable cost of maintenance and clothing of the convict and criminal mentally ill in any State psychiatric facility, which rate or rates shall be paid by the State in the case of State patients, and in the case of county patients, the same rate or rates shall be paid, to

be divided between the State and county in the proportion of nine on the part of the State and one on the part of the county.

Notice of any change in rate or rates to be paid by the counties shall be given in writing by the State House Commission to the commissioner and by him transmitted to the clerk of the respective boards of chosen freeholders.

The State share of payments to the several county psychiatric facilities on behalf of the reasonable cost of maintenance of patients shall be at the rate of 130% during the period July 1 through December 31 of each year and at the rate of 50% during the period January 1 through June 30 of each year; provided that the total amount to be paid by the State in each year shall not exceed 90% of the total reasonable per capita cost for the period January 1 through December 31 of each year.

The rate to be paid by the counties to the State on behalf of the maintenance of county patients in State psychiatric facilities and State facilities and receiving other residential functional services for the developmentally disabled shall be 50% of the actual reasonable per capita cost of maintenance of such patients.

During the period of July 1 through December 31 of each year, the State shall pay to each county an amount equal to 40% of the total per capita costs for the reasonable cost of maintenance and clothing of county patients in State psychiatric facilities for the period January 1 through December 31 of that year.

During the period of July 1 through December 31 of each year, the State shall pay to each county an amount equal to 50% of the total per capita costs for the reasonable cost of maintenance and clothing of county patients residing in State facilities for the developmentally disabled and receiving other residential functional services for the developmentally disabled for the period January 1 through December 31 of that year.

The per capita cost of maintenance of patients in county and State psychiatric facilities and State facilities for the developmentally disabled and receiving other residential functional services for the developmentally disabled, as aforesaid, shall be reported to the State Comptroller upon forms to be prescribed from time to time by the State Comptroller.

16. Section 30 of P.L.1951, c.138 (C.30:4C-30) is amended to read as follows:

C.30:4C-30 Sharing of cost of maintenance by State and county.

30. The cost of maintenance provided under this act for or on behalf of any child shall be borne by the State at the rate of 75% of

the per capita cost of maintenance and by the county at the rate of 25% of the per capita cost for the entire year. During the period from July 1 through December 31 of each year the State shall pay to each county an amount equal to the county share of the per capita cost from January 1 through December 31 of that year, but not to exceed 25% of the total State and county cost of maintenance.

The Governor shall fix and determine and state in his annual budget message a sum sufficient to pay the estimated amount required to carry into effect the provisions of this act, together with the deficiencies, if any, incurred in the previous year. The Legislature shall include the amount so determined and stated, in the annual appropriations bill.

The division may fix the rate of per capita payment for the maintenance of children in each State program and subprogram, including the allowance for clothing.

17. R.S.44:7-25 is amended to read as follows:

State's share; additional payment.

44:7-25. The State shall pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to expenditures made by such county welfare board for old age assistance, including burial and funeral expenses and terminal medical and nursing costs, plus an additional amount of 75% of the balance of such expenditures after deducting the amount of such federal participation. During the period July 1 through December 31 of each year the State shall pay to each county an amount equal to the county share of the total expenditures for the period January 1 through December 31 of that year. The State shall also pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to the costs of administration of the program of old age assistance by such county welfare board.

18. Section 3 of P.L.1951, c.139 (C.44:7-40) is amended to read as follows:

C.44:7-40 Payments by State to each county welfare board.

3. The State shall pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to expenditures made by such county welfare board for assistance for the perma-

nently and totally disabled, plus an additional amount of 75% of the balance of such expenditures after deducting the amount of such federal participation. During the period July 1 through December 31 of each year the State shall pay to each county an amount equal to the county share of the total expenditures for the period January 1 through December 31 of that year.

The State shall also pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to the costs of administration of the program of assistance for the permanently and totally disabled by such county welfare board.

19. Section 44 of P.L.1962, c.197 (C.44:7-46) is amended to read as follows:

C.44:7-46 Payments by state to each county welfare board.

44. The State shall pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to expenditures made by such county welfare board for assistance for the blind, plus an additional amount of 75% of the balance of such expenditures after deducting the amount of such federal participation. During the period July 1 through December 31 of each year the State shall pay to each county an amount equal to the county share of the total expenditures for the period January 1 through December 31 of that year.

The State shall also pay to each county welfare board the full amount of any funds received by the State from the federal government as federal participation with respect to the costs of administration of the program of assistance for the blind by such county welfare board.

20. There is appropriated from the Property Tax Relief Fund to the Department of Community Affairs the sum of \$305,000,000 to effectuate the purposes of section 3 of this act, the sum of \$30,000,000 to effectuate the purposes of section 4 of this act and the sum of \$25,000,000 to be allocated pursuant to P.L. 1978, c. 14 (C. 52:27D-178 et seq.).

21. This act shall take effect July 1, 1991.

Approved March 14, 1991.

CHAPTER 64

AN ACT concerning prompt payments on State contracts and amending and supplementing P.L.1987, c.184.

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

1. Section 2 of P.L.1987, c.184 (C.52:32-33) is amended to read as follows:

C.52:32-33 Definitions.

2. As used in this act:

a. "Business concern" means any person engaged in a trade or business, including private nonprofit entities operating as independent contractors, providing goods or services directly to a using agency or to a designated third party and operating pursuant to a State contract which requires either a single payment or multiple payments, but shall not include any "public utility" as that term is defined under section 1 of P.L.1946, c.219 (C.48:2-13);

b. "Using agency" means the appropriate agency of the State, including the Office of Legislative Services and the legislative branch of State government, which receives or uses the goods or services provided under the contract between the State and a business concern or which contracts on behalf of the State with a business concern for goods or services to be provided to designated third parties;

c. "Director" means the Director of the Division of Budget and Accounting in the Department of the Treasury;

d. "Division" means the Division of Budget and Accounting in the Department of the Treasury;

e. "Properly executed State invoice" means a State invoice which contains all the information which the director may require by regulation;

f. "State" means the State of New Jersey and any office, department, division, bureau, board, commission, or agency of the State, the Office of Legislative Services, and the legislative branch of State government, but shall not include any entity which is statutorily authorized to sue and be sued.

2. Section 3 of P.L.1987, c.184 (C.52:32-34) is amended to read as follows:

C.52:32-34 Interest payments due.

3. a. Interest shall be paid on the amount due to a business concern pursuant to a properly executed State invoice, when required, if the required payment is not made on or before the required payment date.

b. The required payment date shall be 60 calendar days from the date specified in the contract or if no required payment date is specified in the contract, then the required payment date shall be 60 calendar days from the receipt of a properly executed State invoice, or 60 calendar days from the receipt of goods or services, whichever is later. Interest shall not be paid unless goods and services are rendered.

c. Unless otherwise provided for in the contract, the using agency shall have 35 calendar days from the receipt of a properly executed State invoice or 35 calendar days from the receipt and acceptance of delivery of goods or services, whichever is later, to submit the request for payment to the division. The division shall have 25 calendar days from the date the request for payment is submitted by the using agency to make the required payment to a business concern.

3. Section 4 of P.L.1987, c.184 (C.52:32-35) is amended to read as follows:

C.52:32-35 Payment of interest, period, rate.

4. a. Interest on amounts due shall be paid to the business concern for the period beginning on the day after the required payment date and ending on the date on which the check for payment is drawn. The interest shall be paid at a rate which the State Treasurer shall specify as applicable on the 30th day after the enactment of this act and by the 30th day after the end of each fiscal year thereafter.

In determining the rate, the Treasurer shall take into consideration current private commercial rates of interest for new loans maturing in approximately five years. The Treasurer shall publish the rate.

b. No interest charge as required by this act shall become a debt of the State until it exceeds \$5.00.

c. Interest may be paid by separate payment to a business concern, but shall be paid within 30 days of the late payment.

d. No appropriation of funds shall be made for the payment of interest required by this section. The division or using agency, whichever is responsible for the late payment, shall pay any interest charges required by this act out of the funds available for the administration of division or agency programs.

4. Section 5 of P.L.1987, c.184 (C.52:32-36) is amended to read as follows:

C.52:32-36 Rules, regulations.

5. a. The director shall adopt rules and regulations to effectuate the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that any rules and regulations affecting payments under the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.) shall have the approval and consent of the Commissioner of Human Services.

b. The director shall by regulation provide that:

(1) Separate required payment dates shall exist for property or services provided in a series of partial executions or deliveries to the extent the contract provides for separate payment for each partial execution or delivery;

(2) The using agency shall notify the business concern within 30 calendar days of any defect or impropriety in any invoice submitted or of any defect or impropriety in goods or services provided which would prevent the running of the time period specified in section 3 of this act.

c. The director may by regulation provide that the required payment date shall be within a specified number of days after the date of delivery in the case of contracts for the provision of perishable goods.

C.52:32-36.1 Nonapplicability to certain programs.

5. The provisions of P.L.1987, c.184 (C.52:32-32 et seq.) shall not: a. apply to any program administered by the Division of Medical Assistance and Health Services in the Department of Human Services under contract with a fiscal agent until such time as the State Treasurer determines that the fiscal agent is fully operational and the Commissioner of Human Services receives notification from the federal Health Care Financing Administration that the Medicaid Management Information System is in compliance with all applicable federal certification requirements; or b. affect the authority of the Commissioner of Human Services to issue regulations necessary to secure for the State of New Jersey maximum federal financial participation or the commissioner's authority to promulgate regulations to administer programs pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

6. This act shall take effect on the 90th day after enactment.

Approved March 14, 1991.

CHAPTER 65

AN ACT concerning property tax rebates to tenants and amending
P.L.1976, c.63.

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

1. Section 2 of P.L.1976, c.63 (C.54:4-6.3) is amended to read as follows:

C.54:4-6.3 Definitions.

2. As used in this act unless the context clearly indicates a different meaning:

a. "Qualified real rental property" means any building or structure or complex of buildings or structures in which housing units are rented or leased or offered for rental or lease for residential purposes except hotels, motels or other guesthouses serving transient or seasonal guests, residents of a residential cooperative, mutual housing corporation or continuing care retirement community who are entitled to a homestead rebate pursuant to section 1 of P.L.1976, c.72 (C.54:4-3.80), and owner-occupied structures of three units or less.

b. "Property tax reduction" means the difference between the amount of property tax paid or payable in any year on any qualified real rental property, exclusive of improvements not included in the assessment on the real property for the base year, and the amount of property tax paid in the base year, but such calculations for the property tax reduction shall exclude reductions resulting from judgments entered by county boards of taxation, the tax court, or by courts of competent jurisdiction. "Property tax reduction" shall also include any rebate or refund of school property taxes which may be provided pursuant to P.L.1976, c.113. "Property tax reduction" shall not include any amount in excess of that which is identified herein. Any such amount shall be retained by the property owner.

c. "Base year" means, for qualified real rental property rented or leased or offered for rent or lease on or after the effective date of this act, the tax year prior to any year in which the property tax on that property is decreased from the 1990 tax year or decreased from any tax year since the 1990 tax year, whichever tax year results in the largest property tax decrease.

2. This act shall take effect immediately.

Approved March 15, 1991.

CHAPTER 66

AN ACT authorizing the borough of Somerdale in the county of Camden to make permanent the appointment of John Gibson to the police department of the borough of Somerdale as its chief of police.

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 governing body of the borough of Somerdale, in the county of Camden, is authorized to make permanent the appointment of John Gibson as its chief of police, notwithstanding that his age is greater than the maximum age for appointment thereto set forth in N.J.S.40A:14-127. This appointment shall be subject to a qualifying examination but shall not be subject to a competitive examination.

2. This act shall take effect upon due adoption of an ordinance of the borough of Somerdale for the purpose of adopting same.

Approved March 19, 1991.

CHAPTER 67

AN ACT to authorize the township of Blairstown in the county of Warren to make permanent the appointment of Andrew P. Castellanos to the police department of the township of Blairstown.

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 Blairstown in the county of Warren is authorized to make permanent the appointment of Andrew P. Castellanos as a full-time police officer, notwithstanding his age is greater than the maximum age for appointment thereto set forth in N.J.S.40A:14-127.

2. This act shall take effect upon due adoption of an ordinance of the township of Blairstown for the purpose of adopting same.

Approved March 19, 1991.

CHAPTER 68

AN ACT concerning certain real estate appraisers, amending P.L.1971, c.60, P.L.1974, c.46, and P.L.1978, c.73, supplementing Title 45 of the Revised Statutes and making an appropriation.

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

C.45:14F-1 Short title.

1. This act shall be known and may be cited as the "Real Estate Appraisers Act."

C.45:14F-2 Definitions.

2. As used in this act:

"Another state or other state" means any other state, the District of Columbia, the Commonwealth of Puerto Rico and any other possession or territory of the United States.

"Appraisal" or "real estate appraisal" means an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" means an estimate of the value of real estate or real property and an "analysis" means a study of real estate or real property other than a valuation.

"Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.

"Appraisal Foundation" means the Appraisal Foundation incorporated in the State of Illinois as a nonprofit corporation on November 30, 1987, as denominated in Title XI of Pub. L. 101-73 (12 U.S.C. § 3331 et seq.).

"Appraisal report" means any written communication of an appraisal.

"Approved education provider" means a provider of real estate appraisal education courses who is approved by the board.

"Board" means the State Real Estate Appraiser Board established pursuant to section 3 of this act.

"Certified appraisal" or "certified appraisal report" means an appraisal or appraisal report given or signed by a State certified real estate appraiser.

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

“Federally related transaction” shall have the meaning ascribed to that term in section 1121 of Title XI of Pub. L. 101-73 (12 U.S.C. §3350).

“Licensed appraisal” or licensed appraisal report” means an appraisal or appraisal report given or signed by a State licensed real estate appraiser.

“Real estate” means an identified parcel or tract of land, including improvements thereon, if any.

“Real property” means one or more defined interests, benefits or rights inherent in real estate.

“State certified real estate appraiser” means an individual who holds a current, valid certificate for real estate appraisal pursuant to the provisions of this act and is recognized as being more knowledgeable of and experienced in real estate appraisals than a State licensed real estate appraiser.

“State licensed real estate appraiser” means an individual who holds a current, valid license for real estate appraisal pursuant to the provisions of this act and who meets or exceeds minimum standards established by the Appraisal Foundation.

C.45:14F-3 State Real Estate Appraiser Board created.

3. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety a State Real Estate Appraiser Board. The board shall consist of nine 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 section 2 of P.L.1971, c.60 (C.45:1-2.2). Of the remaining six members, three shall be, except for those first appointed, State licensed real estate appraisers and three shall be, except for those first appointed, State certified real estate appraisers. The initial real estate appraiser members of the board may hold a real estate appraisal designation from an organization recognized by the Appraisal Foundation, but these appointments shall not be granted or denied on the basis of organizational membership alone.

The Governor shall appoint the public members and the real estate appraiser 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 with regard to the real estate appraiser members first appointed, two shall serve for terms of three years, two shall serve for terms of two years, and two shall serve for terms of one year. Each member shall serve 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 by the original appointment.

No member of the board shall serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove a member of the board for cause.

C.45:14F-4 Election of officers, compensation.

4. a. The board shall annually elect from among its members a President and Vice-President. The board shall meet at least twice each year and may hold additional meetings, as necessary to discharge its duties. In addition to such meetings, the board shall meet at the call of the President, the director or the Attorney General.

b. 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.45:14F-5 Certification required as State certified real estate appraiser.

5. No person shall assume or use the title or designation "State certified real estate appraiser" or the abbreviation "SCREA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that such person is a State certified real estate appraiser, unless such person holds a current certificate as a State certified real estate appraiser pursuant to the provisions of this act.

C.45:14F-6 License required for State licensed real estate appraiser.

6. No person shall assume or use the title or designation "State licensed real estate appraiser" or the abbreviation "SLREA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that such person is a State licensed real estate appraiser, unless such person holds a current license as a State licensed real estate appraiser pursuant to the provisions of this act.

C.45:14F-7 Provisions not applicable to out-of-State license, certificate holders.

7. The provisions of this act shall not apply to any person who is a real estate appraiser licensed or certified in another state in compliance with federal requirements while on temporary assignment appraising real property located in this State as part of a federally related transaction, however, such appraiser shall be subject to registration requirements promulgated by the board.

C.45:14F-8 Powers, duties of board.

8. The board shall, in addition to such other powers and duties as it may possess by law:

- a. Administer and enforce the provisions of this act;
- b. Examine and pass on the qualifications of all applicants for licensure or certification under this act;
- c. Issue and renew licenses and certificates of real estate appraisers;

d. Prescribe examinations for licensure and certification under this act, which examinations shall meet the standards for licensing and certification examinations for real estate appraisers established by the Appraisal Foundation;

e. Suspend, revoke or refuse to issue or renew a license or certificate and exercise investigative powers pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

f. Establish fees for applications for licensure and certification, examinations, initial licensure and certification, renewals, late renewals, temporary licenses, temporary certifications and for duplication of lost licenses or certificates, pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2);

g. Establish a code of professional ethics for persons licensed or certified under this act which meets the standards established by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation;

h. Establish standards for the licensing and certification of real estate appraisers which meet the standards established by the Appraisal Foundation;

i. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). In any hearing or investigative inquiry, the board shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers or records;

j. Take such action as is necessary before any board, agency or court of competent jurisdiction for the enforcement of the provisions of this act;

k. Maintain a registry of the names and business addresses of licensees and the names and business addresses of certified individuals and shall forward such materials to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

l. Approve providers of real estate appraiser education courses and establish and revise experience and education requirements for the licensure and certification of real estate appraisers in this State;

m. Approve providers of real estate appraiser continuing education courses and establish and revise continuing education requirements for the renewal of licenses and certificates;

n. Adopt and promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act, except that the initial rules and regulations shall be promulgated by the director; and

o. Perform any other functions and duties which may be necessary to carry out the provisions of this act.

C.45:14F-9 Appointment of Executive Director.

9. The Executive Director of the board shall be appointed by the director and shall serve at the director's pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants as are necessary to administer this act.

C.45:14F-10 Eligibility for licensure as real estate appraiser.

10. To be eligible for licensure as a real estate appraiser, an applicant shall fulfill the following requirements:

- a. Be at least 18 years of age;
- b. Be of good moral character;
- c. Have a high school diploma or its equivalent;
- d. Have real estate appraisal experience which experience shall meet the standards for experience prescribed by the Appraisal Foundation;
- e. Have successfully completed a course of study in real estate appraising prescribed by the board and conducted by an approved education provider, which course of study shall meet the standards for the course of study issued by the Appraisal Foundation for the residential appraiser classification; and
- f. Successfully complete a real estate appraiser licensing examination administered by the board.

C.45:14F-11 Eligibility for certification as real estate appraiser.

11. To be eligible for certification as a real estate appraiser, an applicant shall fulfill the following requirements:

- a. Be at least 18 years of age;
- b. Be of good moral character;
- c. Have a high school diploma or its equivalent;
- d. Have real estate appraisal experience which experience shall meet the standards for experience prescribed by the Appraisal Foundation;
- e. Have successfully completed a course of study in real estate appraising prescribed by the board and conducted by an approved education provider, which course of study shall meet the standards for the course of study issued by the Appraisal Foundation for the general appraiser classification; and
- f. Successfully complete a real estate appraiser certification examination administered by the board.

C.45:14F-12 Application, fee, issuance of temporary license.

12. Upon payment to the board of the prescribed fee and the submission of a written application on forms prescribed by the board, the board shall issue a temporary real estate appraiser license to any person who meets the requirements of subsections a., b., c., d. and f. of section 10 of this act and who makes application to the board within 180 days of the effective date of this act.

If during the temporary license term, the temporary licensee completes the requirements of subsection e. of section 10 of this act, the board may issue a license as a State licensed real estate appraiser to the temporary licensee. A temporary license shall not be effective for more than 420 days and shall not be renewed.

C.45:14F-13 Application, fee, issuance of temporary certification.

13. Upon payment to the board of the prescribed fee and the submission of a written application on forms prescribed by the board, the board shall issue a temporary real estate appraiser certification to any person who meets the requirements of subsections a., b., c., d. and f. of section 11 of this act and who makes application to the board within 180 days of the effective date of this act.

If during the temporary certification term, the person holding the temporary certification completes the requirements of subsection e. of section 11 of this act, the board may issue a certification as a State certified real estate appraiser. A temporary certification shall not be effective for more than 420 days and shall not be renewed.

C.45:14F-14 Waiving of requirement for certification, licensure.

14. In the event that the Appraisal Subcommittee of the Federal Financial Institution Examination Council grants a waiver pursuant to subsection (b) of section 1119 of Title XI of Pub. L. 101-73 (12 U.S.C. §3348(b)), the board may waive any requirement for certification or licensure to the extent of the waiver granted by the Appraisal Subcommittee.

C.45:14F-15 Issuance of license, certificate to out-of-State license, certificate holder.

15. Upon payment to the board of the prescribed fee and the submission of a written application on forms prescribed by it, the board may issue a license or certificate to any person who holds a valid license or certificate as a real estate appraiser issued by

another state which has educational, experience and examination requirements substantially similar to this State.

C.45:14F-16 Payment of application fee.

16. All applicants for licensure or certification as a real estate appraiser shall, at the time of making application, pay a non-refundable application fee the amount of which shall be prescribed by the board by rule.

C.45:14F-17 License, certificate, effective period, renewal.

17. Licenses and certificates shall be effective for a period not to exceed two years and may be renewed biennially.

C.45:14F-18 Requirements for renewal of license, certificate.

18. No license or certificate shall be renewed unless the renewal applicant submits satisfactory evidence to the board that the renewal applicant has successfully completed the continuing education requirements prescribed pursuant to this act which shall not require less than the number of hours of continuing education prescribed by the Appraisal Foundation as a national standard for the continuing education of licensed or certified real estate appraisers, as the case may be. Continuing education shall include classroom instruction in courses, seminars or other activities as approved by the board.

C.45:14F-19 Examinations for licensure, certification.

19. The examinations for licensure or certification under the provisions of this act shall demonstrate that the applicant possesses the following:

- a. An appropriate knowledge of technical terms commonly used in or related to real estate appraisal, appraisal report writing, and economic concepts applicable to real estate law;
- b. A basic understanding of real estate law;
- c. An understanding of the principles of land economics, the real estate appraisal process and problems likely to be encountered in the gathering and processing of data in carrying out appraisal disciplines;
- d. An understanding of the standards for the development and communication of real estate appraisal reports established by the board pursuant to this act;
- e. An understanding of the grounds for which the board may initiate disciplinary proceedings against a State licensed or certified real estate appraiser, as the case may be;

f. Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal which relate to the classification for which the applicant is applying; and

g. Knowledge of other real estate appraisal principles and procedures which may relate to the classification for which the applicant is applying.

C.45:14F-20 Renewal of license, certificate after expiration.

20. If a State licensed or certified real estate appraiser fails to renew his license or certificate prior to its expiration, the appraiser may obtain a license or certificate by satisfying all of the renewal requirements and paying the renewal and late renewal fees, provided that application for the issuance of a new license or certificate is made within one year of the expiration date of the last license or certificate held by the appraiser.

C.45:14F-21 Only license, certificate holders may perform licensed, certified appraisal.

21. a. A person who is not certified pursuant to the provisions of this act shall not describe or refer to any appraisal or other evaluation which he performs on real estate located in this State as “a certified appraisal.”

b. A person who is not licensed pursuant to the provisions of this act shall not describe or refer to any appraisal or other evaluation which he performs on real estate located in this State as “a licensed appraisal.”

c. No person other than a State licensed real estate appraiser or a State certified real estate appraiser shall perform or offer to perform an appraisal assignment in regard to a federally related transaction.

d. Nothing in this act shall be construed to preclude a person not certified or licensed pursuant to this act from assisting in the preparation of an appraisal to the extent permitted under subsection (d) of section 1122 of Title XI of Pub. L.101-73 (12 U.S.C. §3351(d)).

C.45:14F-22 Licensed, certified appraiser to provide business address to board.

22. a. Each State licensed or certified real estate appraiser shall provide a designated business address to the board and shall notify the board in writing of any change in that address.

b. A State licensed or certified real estate appraiser shall conspicuously display his license or certificate at his place of business.

C.45:14F-23 License, certificate returned to State; consent to service.

23. a. Any license or certificate issued by the board shall remain the property of the State and shall be immediately returned to the board upon its suspension or revocation pursuant to this act.

b. The issuance of a license or certificate to an applicant who is a nonresident of this State shall be deemed to be his irrevocable consent that service of process in any action or proceeding may be made upon him by service upon the board.

C.45:14F-24 Criteria for approval of courses, schools, instructors, fees.

24. The board may, by regulation, establish criteria for the approval of real estate appraisal education courses, schools and instructors and may collect reasonable fees as prescribed by the board from applicants for approval.

C.45:14F-25 Collection of federal fees.

25. In the event that the government of the United States enacts legislation or rules requiring states to collect fees from appraisers licensed or certified by those states and to remit the monies to a federal agency, the board is authorized to impose and collect these fees and may adopt rules requiring the payment of the fees by all appraisers licensed or certified pursuant to the provisions of this act.

C.45:14F-26 Board subject to law on expenses and accounts.

26. The board created by this act shall be subject to the provisions of R.S.45:1-3.

27. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining

Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, and the State Real Estate Appraiser Board.

28. Section 2 of P.L.1971, c.60 (C.45:1-2.2) is amended to read as follows:

C.45:1-2.2 Membership of certain boards and commissions; appointment, removal, quorum.

2. a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage Counselor Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member

thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process, provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

29. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State

Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, and the State Real Estate Appraiser Board.

30. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by or through such boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, and the State Real Estate Appraiser Board.

31. There are appropriated to the State Real Estate Appraiser Board amounts collected by the board for license and certification fees and other charges and fees pursuant to the provisions of this act.

32. This act shall take effect immediately except that sections 5, 6 and 21 of this act shall take effect on July 1, 1991.

Approved March 21, 1991.

CHAPTER 69

AN ACT concerning the board of trustees of the New Jersey Synod of the Evangelical Lutheran Church and amending P.L.1950, c.84.

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

1. Section 2 of P.L.1950, c.84 (C.16:5-5) is amended to read as follows:

C.16:5-5 Board of trustees.

2. The said ordained ministers and delegates or representatives of the said congregations at such convention, conference or meeting shall elect a board of trustees to consist of not less than ten nor more than twenty-nine trustees.

2. This act shall take effect immediately.

Approved March 21, 1991.

CHAPTER 70

AN ACT authorizing the New Jersey Highway Authority to maintain the Vietnam Veterans' Memorial in accordance with an agreement with the Vietnam Veterans' Memorial Committee, and supplementing chapter 12B of Title 27 of the Revised Statutes.

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

C.27:12B-5.3 New Jersey Highway Authority to maintain Vietnam Veterans' Memorial.

1. The Vietnam Veterans' Memorial Committee established pursuant to P.L.1985, c.494 is authorized, after consultation with the Department of Military and Veterans' Affairs created pursuant to P.L.1987, c.444 (C.38A:3-1.1 et al.), to enter into and execute agreements necessary to provide for the perpetual maintenance by the New Jersey Highway Authority, established under P.L.1952, c.16 (C.27:12B-1 et seq.), of the Vietnam Veterans' Memorial honoring New Jersey veterans of the Vietnam conflict. Upon the termination of the committee, the Department of Military and Veterans' Affairs shall succeed the committee as a party to those agreements and is authorized to negotiate,

enter into, and execute any revisions of those agreements that are necessary to provide for the maintenance of the memorial by the New Jersey Highway Authority. Any agreements entered into and executed by the committee or the department shall contain provisions for the reimbursement to the authority for any expenses generated by the authority's responsibility for the maintenance of the memorial.

C.27:12B-5.4 Agreement to provide maintenance, appropriation of funds.

2. a. The New Jersey Highway Authority shall provide for the perpetual maintenance of the Vietnam Veterans' Memorial in accordance with any agreement executed between the authority and the Vietnam Veterans' Memorial Committee or the Department of Military and Veterans' Affairs.

b. Upon the execution of the agreement under section 1 of this act between the authority and the Vietnam Veterans' Memorial Committee, the Legislature shall appropriate to the Department of Military and Veterans' Affairs for payment to the authority such funds from the Vietnam Veterans' Memorial Fund, created under section 4 of P.L.1985, c.494 (C.52:18A-208), and any other source of available revenue, as may be necessary for the authority to carry out its responsibilities under this act.

3. If the New Jersey Highway Authority is abolished, any reference in this act to the authority shall refer to the board, body, commission, or department succeeding to the principal functions of the authority.

4. This act shall take effect immediately.

Approved March 21, 1991.

CHAPTER 71

AN ACT concerning the term of office of a county manager and amending P.L.1972, c.154.

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

1. Section 47 of P.L.1972, c.154 (C.40:41A-47) is amended to read as follows:

C.40:41A-47 Qualifications, appointment, term.

47. The county manager shall be qualified by either administrative or executive experience and ability to serve as the chief administra-

tor of the county. The county manager shall be appointed by a majority vote of the entire membership of the board of freeholders and shall serve either for a definite contractual term of not less than one year or more than three years, or at the pleasure of the board of freeholders, as determined by resolution at the time of appointment. A contract for a definite term of employment of not less than one year or more than three years may be offered by the board of freeholders to a county manager appointed to serve at the pleasure of the board of freeholders at any time subsequent to that appointment. A contract with a county manager appointed for a definite term of not less than one year or more than three years shall set forth the terms and conditions of employment. The county manager may be removed by a majority vote of the board for cause, or breach of contract, subject to due notice and a public hearing. Such notice shall be in writing and shall be accompanied by a written bill of particular charges and complaints and public hearing on these charges shall be no less than 15 nor more than 30 days after personal service of notice and charges. A county manager serving at the pleasure of the board of freeholders may also be removed by resolution approved by a majority vote of the entire membership of the board.

At the time of appointment the county manager need not be a resident of the county but after appointment the county manager may reside outside the county by contractual consent, if there is a contract, or by waiver of a majority of the entire membership of the board of freeholders if the county manager serves at the pleasure of the board of freeholders. A waiver shall not be required if the county manager has already received a waiver from the board of freeholders while employed by the county in another capacity.

2. This act shall take effect immediately.

Approved March 21, 1991.

CHAPTER 72

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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

1. In addition to the amounts appropriated under P.L.1990, c.43, there are appropriated out of the General Fund the following sums for the purposes specified:

DIRECT STATE SERVICES	
67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS	
80 Special Government Services	
83 Services to Veterans	
3640 Paramus Veterans' Memorial Home	
20-3640 Domiciliary and Treatment Services	\$367,000
Total Appropriation, Paramus	
Veterans' Memorial Home	\$367,000
Personal Services:	
Salaries and Wages	(\$291,000)
Materials and Supplies	(62,000)
Services Other than Personal	(11,000)
Maintenance and Fixed Charges	(3,000)

2. This act shall take effect immediately.

Approved March 24, 1991.

CHAPTER 73

AN ACT, concerning the appointment and duties of a municipal clerk, amending N.J.S.40A:9-133 and supplementing chapter 9 of Title 40A of the New Jersey Statutes.

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

1. N.J.S.40A:9-133 is amended to read as follows:

Municipal clerk, appointment, duties.

a. In every municipality there shall be a municipal clerk appointed for a three-year term by the governing body of the municipality.

b. For the purposes of tenure, the term of a municipal clerk shall be deemed to have begun as of the actual date upon which a person serving as municipal clerk is appointed. In the event of a vacancy in

the office of municipal clerk, an appointment shall be made for a new term and not for the unexpired term. A reappointment of an incumbent municipal clerk made within 60 days following the expiration of the prior term shall not be considered to be a new appointment and the effective date of the reappointment shall date back to the date of expiration of the initial term of appointment.

c. The governing body of a municipality shall appoint a person to a three-year term as municipal clerk within six months after the previous municipal clerk has resigned or the office has otherwise become vacant.

d. Should the office of municipal clerk become vacant, the governing body of a municipality may appoint a person to serve as acting municipal clerk for a period of not more than six months.

e. The municipal clerk shall:

(1) act as secretary of the municipal corporation and custodian of the municipal seal and of all minutes, books, deeds, bonds, contracts, and archival records of the municipal corporation. The governing body may, however, provide by ordinance that any other specific officer shall have custody of any specific other class of record;

(2) act as secretary to the governing body, prepare meeting agendas at the discretion of the governing body, be present at all meetings of the governing body, keep a journal of the proceedings of every meeting, retain the original copies of all ordinances and resolutions, and record the minutes of every meeting;

(3) serve as the chief administrative officer in all elections held in the municipality, subject to the requirements of Title 19 of the Revised Statutes;

(4) serve as chief registrar of voters in the municipality, subject to the requirements of Title 19 of the Revised Statutes;

(5) serve as the administrative officer responsible for the acceptance of applications for licenses and permits and the issuance of licenses and permits, except where statute or municipal ordinance has delegated that responsibility to some other municipal officer;

(6) serve as coordinator and records manager responsible for implementing local archives and records retention programs as mandated pursuant to Title 47 of the Revised Statutes;

(7) perform such other duties as are now or hereafter imposed by statute, regulation or by municipal ordinance or regulation.

C.40A:9-134.1 Municipality to provide clerk with means of defense in certain actions, legal proceedings.

2. The governing body of a municipality shall provide its municipal clerk with necessary means for the defense of any

action or legal proceeding arising out of and directly related to the clerk's lawful exercise of authority in the furtherance of official duties, except for:

- a. a disciplinary proceeding instituted against the municipal clerk by the municipality; or
- b. a criminal proceeding instituted as a result of a complaint on behalf of the municipality.

If any such disciplinary or criminal proceeding shall be dismissed or finally determined in favor of the municipal clerk, the municipality shall reimburse the municipal clerk for the reasonable costs of the defense. Where the costs of defense are based on the same hourly rate authorized by the municipality for services rendered to it by the municipal attorney, there shall be a presumption that the hourly rate is reasonable.

3. This act shall take effect immediately.

Approved March 25, 1991.

CHAPTER 74

AN ACT to regulate the back office operations of foreign banks and associations in this State and amending P.L.1948, c.67 and P.L.1963, c.144.

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

1. Section 316 of P.L.1948, c.67 (C.17:9A-316) is amended to read as follows:

C.17:9A-316 Limitations on transaction of business by foreign banks in this State.

316. Limitations on transaction of business by foreign banks in this State.

A. No foreign bank organized under the laws of a foreign government shall transact any business in this State.

B. A foreign bank, other than one excluded by subsection A of this section, may transact business in this State only as executor or as testamentary trustee or guardian, and then only when named in a decedent's will or codicil thereto. Before transacting such business in this State, a foreign bank shall secure from the commissioner a certificate of authority to transact such business. The commissioner shall not issue a

certificate of authority to a foreign bank unless a qualified bank is permitted to transact business as executor, or as testamentary trustee or guardian, when named in a will or codicil thereto, in the jurisdiction in which the foreign bank has its principal office.

C. No foreign bank shall maintain an office in this State, except that a foreign bank may maintain one or more service facilities in this State, provided that the foreign bank performs only back office operations at the service facility and does not transact business with its customers or the public at the service facility. Prior to opening a service facility in this State, a foreign bank shall register the service facility with the commissioner, which registration shall include the address of the proposed service facility and the name and address of the foreign bank's agent in this State for service of process. Each service facility shall comply with the requirements and pay the fees that the commissioner establishes by regulation. Each service facility shall be subject to examination by the department to determine whether the foreign bank has operated the service facility in accordance with the provisions of this subsection, the costs of which examination shall be paid by the foreign bank at the department's per diem rate for examinations of depository institutions. The commissioner may, upon notice and a hearing, order a foreign bank to close any service facility operated in violation of the provisions of this subsection or of other any law. An entity which is affiliated, either directly or indirectly, with a foreign bank and intends to engage in back office operations in this State shall register and be regulated pursuant to this subsection as if it were a foreign bank.

D. For the purposes of this section, the term "transact business" shall not include back office operations and the term "back office operations" shall include only the following activities: data processing, record-keeping, accounting, check and deposit sorting and posting, computation and posting of interest, other similar clerical and statistical functions, and producing and mailing correspondence or documents provided that the correspondence or documents do not include the address of the service facility.

2. Section 213 of P.L.1963, c.144 (C.17:12B-213) is amended to read as follows:

C.17:12B-213 "Foreign association" defined.

213. For the purposes of this article the words "foreign association" shall not be deemed to include an association, as defined in section 5 of P.L.1963, c.144 (C.17:12B-5).

3. Section 214 of P.L.1963, c.144 (C.17:12B-214) is amended to read as follows:

C.17:12B-214 Business prohibited within State; exceptions.

214. a. Foreign associations shall not transact the business of a savings and loan association within this State, or maintain an office within this State, except as authorized pursuant to subsection b. of this section, for the purpose of transacting such business. It shall be unlawful for any person to transact business within this State on behalf of such associations; provided, however, the purchase, acquisition, holding, sale, assignment, transfer, servicing, collecting and enforcement of obligations or any interest therein secured by real estate mortgages or other instruments in the nature of a mortgage, covering real property located in this State, or the foreclosure of such instruments, or the acquisition of title to such property by foreclosure, or otherwise, as a result of default under such instruments, or the holding, protection, rental, maintenance and operation of said property so acquired, or the disposition thereof by a foreign association, or back office operations shall not be considered as transacting business within the meaning of this article.

b. A foreign association may maintain one or more service facilities in this State, provided that the foreign association performs only back office operations at the service facility and does not transact business with its customers or the public at the service facility. Prior to opening a service facility in this State, a foreign association shall register the service facility with the commissioner, which registration shall include the address of the proposed service facility and the name and address of the foreign association's agent in this State for service of process. Each service facility shall comply with the requirements and pay the fees that the commissioner establishes by regulation. Each service facility shall be subject to examination by the department to determine whether the foreign association has operated the service facility in accordance with the provisions of this subsection, the costs of which examination shall be paid by the foreign association at the department's per diem rate for examinations of depository institutions. The commissioner may, upon notice and a hearing, order a foreign association to close any service facility operated in violation of the provisions of this subsection or of any other law. An entity which is affiliated, either directly or indi-

rectly, with a foreign association and intends to engage in back office operations in this State shall register and be regulated pursuant to this subsection as if it were a foreign association.

c. For the purposes of this section, the term "transact business" shall not include back office operations and the term "back office operations" shall include only the following activities: data processing, record-keeping, accounting, check and deposit sorting and posting, computation and posting of interest, other similar clerical and statistical functions, and producing and mailing correspondence or documents provided that the correspondence or documents do not include the address of the service facility.

4. This act shall take effect immediately but shall remain inoperative until the Commissioner of Banking promulgates regulations implementing the provisions of this act.

Approved March 25, 1991.

CHAPTER 75

AN ACT concerning local fiscal years, amending and supplementing various parts of statutory law.

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

1. N.J.S.40A:1-1 is amended to read as follows:

Definitions.

40A:1-1. The following words, as used in this title, shall have the following meanings unless the context clearly indicates a different meaning:

"budget" means the budget of a local unit;

"cash basis budget" means a budget prepared in accordance with the "Local Budget Law";

"clerk" means the clerk of a municipality or of a board of chosen freeholders;

"director" means the Director of the Division of Local Government Services in the Department of Community Affairs;

"fiscal year" means the period for which a local unit adopts a budget, as required pursuant to the "Local Budget Law," N.J.S.40A:4-1 et seq., and shall be the calendar year beginning on

January 1 and ending on December 31, unless the local unit is a municipality in which the fiscal year has been changed to the State fiscal year, pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2), in which case, "fiscal year" shall mean the State fiscal year or the transition year, as appropriate;

"full membership of a governing body" means the number of members of the body when all the seats are filled;

"local finance board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs;

"local unit" means a county or municipality;

"municipal public utility" means any water, sewer, electric power or gas system, or any combination thereof, or any public parking system, or any other utility, enterprise or purpose authorized to be undertaken by a local unit from which it may receive fees, rents or other charges;

"State fiscal year" means the period commencing on July 1 and ending on June 30 in any municipality in which the fiscal year has been changed pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2);

"transition year" means the period beginning on January 1 and ending on June 30 in the calendar year during which the change in a municipality's fiscal year takes effect, as authorized under the provisions of section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2).

C.40A:4-3.1 Certain municipalities required to operate on State fiscal year.

2. Except as provided hereunder, any municipality which has a population of over 35,000 according to the most recent federal decennial census or the latest available State population estimates, Population Estimates for New Jersey, issued by Occupational and Demographic Research in the Division of Labor Market and Demographic Research of the New Jersey Department of Labor, whichever is more recent, or any municipality which received in State fiscal year 1990 or 1991 State funds under the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) now referred to as the Municipal Revitalization Program, shall be required hereafter to operate on the State fiscal year. Any municipality whose fiscal year is changed pursuant to this section shall prepare a transition year budget to cover the January 1 to June 30 period prior to the beginning of its first State fiscal year.

Any municipality which fulfills the abovementioned criteria may apply to the director to maintain its fiscal year on a calendar

year basis. An application for an exception shall include a copy of a resolution to maintain the existing budget year, adopted by a majority vote of the governing body prior to or concurrent with the introduction of the municipal budget.

If the director determines that it is beneficial for the municipality or its taxpayers to change to the State fiscal year, the director may deny the application for an exception.

C.40A:4-3.2 Adoption of State fiscal year by ordinance.

3. Any municipality for which the fiscal year is not changed pursuant to section 2 of P.L.1991, c.75 (C.40A:4-3.1) may, by ordinance, adopt a State fiscal year. The ordinance shall be introduced prior to or concurrently with the introduction of the municipal budget to take effect in the current calendar year, except that in the first year following the effective date of P.L.1991, c.75 (C.40A:4-3.1 et al.), the director shall establish the last date for introduction of the ordinance. The ordinance may be introduced and adopted according to the same time schedule as the annual budget of the municipality, which shall be a transition year budget, and shall be filed with the director upon final adoption. The ordinance shall not be subject to referendum or repeal.

C.40A:4-3.3 Assistance provided to municipalities in which fiscal year has been changed.

4. The director and the Local Finance Board shall provide such assistance to municipalities in which the fiscal year has been changed to the State fiscal year as may be necessary to assure a smooth transition by the municipality to the State fiscal year and to establish and assure the sound financial condition of the municipality during the transition year and the first fiscal year following the transition year. To this end, the director or the Local Finance Board is authorized, by rule or directive, as appropriate, for the transition year and the first fiscal year following the transition year, to:

- a. Establish or adjust dates and statutory provisions relating to the budget and fiscal affairs of the municipality, including provisions relating to the collection and enforcement of liens for property taxes;
- b. In conjunction with the Director of the Division of Taxation in the Department of the Treasury, establish or adjust dates and statutory provisions relating to property tax assessment and appeal;
- c. Establish the amount of temporary appropriations to be permitted under N.J.S.40A:4-19, the amount of the appropriation required for "reserve for uncollected taxes" pursuant to N.J.S.40A:4-41, the amount of final appropriations on which the expenditure limitation is

to be calculated pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3) and the calculation of exemptions from those limitations, the amount of tax anticipation notes which may be issued or outstanding at any time pursuant to N.J.S.40A:4-66, and the amount to be raised by taxation for the municipal budget if the municipality fails to strike the tax rate in a timely manner;

d. Establish guidelines to govern the calculation of the amount required for the operation of the local unit for the fiscal year pursuant to N.J.S.40A:4-17 in the event that the county board has not received a copy of the budget resolution in a timely fashion; the calculation of surplus anticipated pursuant to N.J.S.40A:4-24; the calculation of miscellaneous revenues pursuant to N.J.S.40A:4-26; the calculation of the maximum amount which may be anticipated as "receipts from delinquent taxes" pursuant to N.J.S.40A:4-29; the amount of dedicated revenues derived from publicly owned or operated utilities or enterprises which may be stated in the budget pursuant to N.J.S.40A:4-33; and the calculation of the "cash deficit of preceding year" pursuant to N.J.S.40A:4-42;

e. Establish, adjust or make any other changes in municipal budgeting procedures in order to retire notes which may be issued after or outstanding on the effective date of this act, including, but not limited to, emergency notes authorized pursuant to N.J.S.40A:4-51, special emergency notes authorized pursuant to N.J.S.40A:4-55, notes issued to finance appropriations by distressed municipalities pursuant to section 2 of P.L.1982, c.66 (C.40A:4-55.19), and tax anticipation notes issued pursuant to N.J.S.40A:4-64; and

f. Establish, alter or adjust, as necessary, the index rate pursuant to section 4 of P.L.1983, c.49 (C.40A:4-45.1a), the calculation of exceptions allowable pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3), the calculation of the final appropriations in a municipality which has adopted the index rate, as set forth in section 7 of P.L.1983, c.49 (C.40A:4-45.14) and the filing dates for the verified statement of the financial condition of the local unit as of the close of the fiscal year, as required under N.J.S.40A:5-12.

C.40A:2-51.2 Local unit authorized to issue bonds.

5. If a local unit shall require moneys for the purpose of assuring against adopting a budget which sets forth a deficit, the director may recommend that the Local Finance Board authorize the local unit to issue bonds, entitled "fiscal year adjustment bonds," authorized in accordance with the provisions governing refunding bonds for emergency appropriations set forth in

N.J.S.40A:2-51 through 40A:2-60, except that the vote of the local governing body required for adoption of the bond ordinance or other action authorizing the sale of the bonds or bond anticipation notes shall be the same as required for adoption of the local budget. The proceeds of any fiscal year adjustment bonds shall be considered as anticipated revenues applicable to the expenditures for which appropriations are made in the transition year budget. In anticipation of the issuance of the bonds, bond anticipation notes may be issued in an amount not to exceed the estimate of the deficit in the transition year budget as determined by the director. Bond anticipation notes shall mature no later than one year from the date of issuance and may be renewed from time to time only with the permission of the Local Finance Board.

6. Section 3-16 of P.L.1950, c.210 (C.40:69A-46) is amended to read as follows:

C.40:69A-46 Budget submitted to council.

3-16. Except in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2), on or before the fifteenth day of the fiscal year the mayor shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of two-thirds of the members of council.

7. Section 9-17 of P.L.1950, c.210 (C.40:69A-97) is amended to read as follows:

C.40:69A-97 Submission of budget to council.

9-17. Except in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2), on or before the fifteenth day of the fiscal year the municipal manager shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto detailed analysis of the various items of expenditure and revenue.

The council shall, where practicable, provide by ordinance for the operation of a system of work programs and quarterly allotments for operation of the budget, and for development and reporting of appropriate unit costs of budgeted expenditures.

8. N.J.S.40A:2-59 is amended to read as follows:

Sale of refunding bonds.

40A:2-59. Refunding bonds may be sold at public or private sale, or may be exchanged for any outstanding bonds or notes to be funded or refunded, pursuant to resolution adopted by not less than 2/3 of the full membership of the governing body, at such price or prices, computed according to standard tables of bond values, as will yield to the purchasers or to the holders of the bonds or notes surrendered in exchange, an income at a rate not to exceed the prevailing market rate to the maturity dates of the bonds sold or exchanged, on the money paid or the principal amount of the bonds or notes surrendered therefor to the local unit. Refunding bonds of any authorized issue or of any authorized maturity may be sold or exchanged as hereinabove provided from time to time and in such blocks as may be deemed advisable. The officer of the local unit delivering any refunding bonds in exchange for outstanding bonds or notes shall report in writing to the governing body at the next meeting thereof as to the principal amounts, maturities and numbers of the refunding bonds so delivered and as to the outstanding bonds or notes received in exchange, which report shall be entered in the minutes of the governing body, and a copy of such report shall be filed within five days thereafter with the director.

9. N.J.S.40A:4-5 is amended to read as follows:

Introduction and approval.

40A:4-5. The governing body shall introduce and approve the annual budget:

- a. In the case of a county, not later than January 26 of the fiscal year.
- b. In the case of a municipality, not later than February 10 of the fiscal year; and, in the case of a municipality which operates on the State fiscal year, not later than 21 days from the beginning of the fiscal year.

The budget shall be introduced in writing at a meeting of the governing body. Approval thereof shall constitute a first reading which may be by title. Three certified copies of the approved budget shall be transmitted to the director within three days after approval.

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Upon the approval of the budget by the governing body, it shall fix the time and place for the holding of a public hearing upon the budget.

10. Section 1 of P.L.1989, c.31 (C.40A:4-5.1) is amended to read as follows:

C.40A:4-5.1 Local budget date extension.

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, the Director of the Division of Local Government Services, in the Department of Community Affairs, hereinafter the "director," may, with the approval of the Local Finance Board, in the Department of Community Affairs, extend the dates for the introduction and approval, and for the adoption, of county and municipal budgets, for any local fiscal year, beyond the dates required under the "Local Budget Law" (N.J.S.40A:4-1 et seq.).

Notwithstanding any provision of this section to the contrary, the governing body of a local unit may adopt the budget for that unit at any time within 10 days after the director has certified his approval thereof and returned the same, if the certification is later than the date of the advertised hearing.

11. N.J.S.40A:4-10 is amended to read as follows:

Adoption of budget.

40A:4-10. No budget or amendment thereof shall be adopted unless the director shall have previously certified his approval thereof. Final adoption shall be by resolution adopted by a majority of the full membership of the governing body, and may be by title where the procedures required by sections 40A:4-8 and 40A:4-9 have been followed.

The budget shall be adopted in the case of a county not later than February 25, and in the case of a municipality not later than March 20 of the fiscal year or September 1 of the State fiscal year, except that the governing body may adopt the budget at any time within 10 days after the director shall have certified his approval thereof and returned the same, if such certification shall be later than the date of the advertised hearing.

If, in the case of a municipality which operates on the State fiscal year, the governing body fails to adopt the budget within the permitted time, the chief financial officer of the local unit shall so notify the director the next working day after the expiration of the permitted time.

Three certified copies of the budget, as adopted, shall be transmitted to the director within three days after adoption.

Upon adoption, the budget shall constitute an appropriation for the purposes stated therein and an authorization of the amount to be raised by taxation for the purposes of the local unit.

12. N.J.S.40A:4-11 is amended to read as follows:

Budget to be transmitted to county board.

40A:4-11. The clerk of the local unit shall transmit a certified copy of the budget, as adopted, to the county board not later than 15 days following the adoption of the budget or within five days of adoption in those municipalities which operate on the State fiscal year.

13. N.J.S.40A:4-16 is amended to read as follows:

County board to advise director of failure to receive budget.

40A:4-16. Where the county board has not received a copy of the budget resolution or other evidence showing the amount to be raised by taxation for the purposes of a taxing district not later than March 31 of the fiscal year, in the case of a taxing district or a municipality for which the fiscal year is January 1 through December 31 or not later than September 6 in those municipalities which operate on the State fiscal year, the board shall immediately notify the director of such failure.

14. N.J.S.40A:4-17 is amended to read as follows:

Director's certificate to the county board.

40A:4-17. a. The director shall forthwith, after receipt of notice that the county board has not received a copy of the budget resolution or other evidence showing the amount to be raised by taxation for the purposes of a taxing district, transmit to the county board a certificate setting forth the amount required for the operation of the local unit for the fiscal year. The operating budget of the preceding year shall constitute and limit the appropriations of the current year with suitable adjustments for debt service, other mandatory charges and changes in revenues, but excluding the amount to be raised for taxes for school purposes where required to be included in the municipal budget.

The certificate shall be prepared by using the revenues and appropriations appearing in the adopted budget of the preceding year with suitable adjustments to include, without limitation:

Any amounts required for principal and interest of indebtedness falling due in the fiscal year;

Any deferred charges or statutory expenditures required to be raised in the fiscal year; and

In addition, the director shall adjust the revenues, local tax requirements and surplus revenues appearing in the adopted budget of the preceding year in such manner that the cash basis provisions of this chapter shall apply.

b. In any municipality which operates on the State fiscal year, upon receipt of notification by the director pursuant to N.J.S.40A:4-16, the director shall establish the amount to be raised by taxation and notify the county tax board. The municipality shall have 60 days thereafter to finally adopt its budget pursuant to law.

15. N.J.S.40A:4-18 is amended to read as follows:

Table of aggregates for late budgets.

40A:4-18. Immediately upon receipt of the director's certificate and, in any event, on or before April 10 of the fiscal year, and September 10, in those municipalities which operate on the State fiscal year the county board shall fill out the table of aggregates required by R.S.54:4-52 and shall determine the amount of "other local taxes" for the year based upon the certificate of the director. Upon completion, the county board shall transmit a copy of each municipality's table of aggregates to the director.

If the local unit shall have adopted a budget for the fiscal year and shall have transmitted a certified copy thereof to the county board on or before April 10 or September 10, as the case may be, the board may substitute the adopted budget in the place of the amount certified by the director, but no such substitutions shall be made after May 1 or September 15, as the case may be.

16. N.J.S.40A:4-19 is amended to read as follows:

Temporary appropriations.

40A:4-19. The governing body may and, if any contracts, commitments or payments are to be made prior to the adoption of the budget, shall, by resolution adopted within the first 30 days of the beginning of the fiscal year, make appropriations to provide for the period between the beginning of the fiscal year and the adoption of the budget.

The total of the appropriations so made shall not exceed 25% of the total of the appropriations made for all purposes in the budget for the preceding fiscal year excluding, in both instances, appropriations made for interest and debt redemption charges, capital improvement fund and public assistance.

Nothing herein contained shall prevent or relieve the governing body from making appropriations during the last 10 days of the year preceding the beginning of the fiscal year for all interest and debt redemption charges maturing during the fiscal year.

17. Section 5 of P.L.1989, c.31 (C.40A:4-19.1) is amended to read as follows:

C.40A:4-19.1 Appropriation to provide for extended time period where budget dates have been extended.

5. In any local fiscal year for which budget dates have been extended pursuant to section 1 of this act, the Director of the Division of Local Government Services may permit temporary budget appropriations to provide for the period between the date upon which the budget was scheduled for adoption pursuant to N.J.S.40A:4-5 and the actual date upon which the budget was adopted.

18. N.J.S.40A:4-27 is amended to read as follows:

Miscellaneous revenues; sale of property.

40A:4-27. A local unit may anticipate as a miscellaneous revenue the total amount of all payments due and payable to the local unit during the fiscal year, directly or indirectly as a result of the sale of property by the local unit, when the obligation to make such payment is entered into prior to February 10 of the fiscal year, or within 21 days of the beginning of the State fiscal year.

19. N.J.S.40A:4-41 is amended to read as follows:

Anticipated cash receipts for purpose of computing reserve for uncollected taxes.

40A:4-41. For the purpose of determining the amount of the appropriation for "reserve for uncollected taxes" required to be included in each annual budget where less than 100% of current tax collections may be and are anticipated, anticipated cash receipts shall be as set forth in the budget of the current year, and in accordance with the limitations of statute for anticipated revenue from, surplus appropriated, miscellaneous revenues and receipts from delinquent taxes.

Receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by the last day of the preceding fiscal year.

20. Section 4 of P.L.1983, c.49 (C.40A:4-45.1a) is amended to read as follows:

C.40A:4-45.1a "Index rate" defined.

4. As used in this amendatory and supplementary act, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second and fourth quarter which occurred in the next preceding local fiscal year. The Director of the Division of Local Government Services shall promulgate bi-annually the index rate to apply in the next following local fiscal year.

21. Section 1 of P.L.1979, c.268 (C.40A:4-45.3a) is amended to read as follows:

C.40A:4-45.3a Referendum; when held, applicability.

1. The provisions of any other law to the contrary notwithstanding, any referendum conducted by a municipality pursuant to subsection i. of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the purpose of requesting approval for increasing the municipal budget by more than 5% over the previous year's final appropriations, shall be held on the last Tuesday in the month of February of the year in which the proposed increase is to take effect. The municipal budget proposing such increase shall be introduced and approved in the manner otherwise provided in N.J.S.40A:4-5 at least 20 days prior to the date on which such referendum is to be held, and shall be published in the manner otherwise provided in N.J.S.40A:4-6 at least 12 days prior to said referendum date. Notice shall be published pursuant to section 7 of P.L.1953, c.211 (C.19:57-7) on the next day following the introduction of the budget. This section shall apply only to municipalities that operate on the January 1 to December 31 fiscal year.

22. 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. a. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 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 fiscal 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.

b. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the contrary, in any year in which the index rate is less than 5% a municipality may, by ordinance approved by a majority vote of the full membership of the governing body, or a county may, by ordinance or resolution, as appropriate, approved by a majority vote of the full membership of the governing body, provide that in the local fiscal 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 the index rate, but not to exceed 5% over the previous year's final appropriations, or county tax levy, as the case may be.

c. The ordinance or resolution, as appropriate, shall be introduced after the beginning of the local fiscal 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 or index rate, as appropriate represents. 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); provided that a municipality may hold a special election if required by law pursuant to that subsection.

23. N.J.S.40A:4-67 is amended to read as follows:

Limitation of maturity and renewals.

40A:4-67. Tax anticipation notes may be renewed from time to time, but all such notes and any renewals thereof shall mature, in the case of municipalities within 120 days after the beginning of the succeeding fiscal year, and in the case of counties not later than June 30 of the succeeding fiscal year.

24. N.J.S.40A:4-74 is amended to read as follows:

Utility anticipation notes.

40A:4-74. Any local unit which operates or owns a municipal public utility may, pursuant to resolution of the governing body passed by a majority of the full membership thereof, borrow money and issue its negotiable notes to provide funds necessary to operate the utility or enterprise and meet the necessary payments for debt service. Such notes shall be designated as "Utility Revenue Notes of 19.... (stating the year)". The amount of notes which may be issued in any fiscal year shall not exceed 50% of the revenue from Utility Rents and Miscellaneous Utility Revenues Anticipated in the annual utility budget.

Notes may be renewed from time to time but shall mature not later than 90 days after the close of the fiscal year in which the notes were originally issued.

Borrowing power provided in this section shall be exclusive of and in addition to the borrowing power provided for tax anticipation notes permitted by this chapter.

25. N.J.S.40A:5-3 is amended to read as follows:

Fiscal year.

40A:5-3. The fiscal year of every local unit shall be the period for which a local unit adopts a budget, as required pursuant to the "Local Budget Law," N.J.S.40A:4-1 et seq.

26. N.J.S.40A:5-12 is amended to read as follows:

Annual financial statement and reports of local unit.

40A:5-12. The chief financial officer of each local unit shall file annually with the director a verified statement of the financial condition of the local unit as of the close of the fiscal year. Such statement shall be filed, upon forms furnished and prescribed by the director, not later than January 26 in the case of a county and not later than February 10 in the case of a municipality after the close of the fiscal year, or not later than 21 days after the close of the State fiscal year in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2).

If the official charged with the responsibility of filing shall fail to file such statement within 10 days after the time fixed for filing the same, he shall be subject to a penalty of \$5.00 for each day of neglect to file the same, to be recovered in a summary proceeding against such official instituted and prosecuted under the penalty enforcement law (N.J.S.2A:58-1 et seq.).

27. N.J.S.40A:5-13 is amended to read as follows:

Annual financial statements by boards, committees and commissions of a local unit.

40A:5-13. Every board, committee or commission of a local unit which by law is vested with power to expend public moneys, other than by warrant upon its financial officer, shall, not later than 10 days after the close of the fiscal year, file with the said financial officer a statement showing in detail the items of moneys received and disbursed by it during the preceding fiscal year, and also the balance of unexpended funds at the end of the fiscal year.

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

Appeal by taxpayer or taxing district; petition; complaint.

54:3-21. A taxpayer feeling aggrieved by the assessed valuation of his property, or feeling that he is discriminated against by the assessed valuation of other property in the county, or a taxing district which may feel discriminated against by the assessed valuation of property in the taxing district, or by the assessed valuation of property in another taxing district in the county, may on or before April 1 appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer or taxing district may on or before April 1 file a complaint directly with the tax court, if the assessed valuation of the property subject to the appeal exceeds

\$750,000.00. A taxpayer shall have 45 days to file an appeal upon the issuance of a notification of a change in assessment. All appeals to the tax court hereunder shall be in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.

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

29. Section 1 of P.L.1973, c.69 (C.54:3-21.4) is amended to read as follows:

C.54:3-21.4 Extension of time for appeal; failure to deliver assessment.

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, a county board of taxation may, upon the written application of the taxpayer and the approval of the Director of the Division of Taxation, whenever a local assessor fails, for any reason, to mail or otherwise deliver a notification of assessment or change in assessment, extend the time for appeal provided in R.S.54:3-21 for any taxpayer feeling aggrieved by the assessed valuation of his property, or feeling that he is discriminated against by the assessed valuation of other property in the county.

30. R.S.54:3-27 is amended to read as follows:

Payment of tax pending appeal.

54:3-27. A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the total of all taxes and municipal charges due, up to and including the first quarter of the taxes and municipal charges assessed against him for the current tax year in the manner prescribed in R.S.54:4-66. The collector shall accept such amount, when tendered, give a receipt therefor and credit the taxpayer therewith, and the taxpayer shall have the benefit of the same rate of discount on the amount paid as he would have on the whole amount.

The payment of part or all of the taxes upon any property, due for the year for which an appeal from an assessment upon such property has been or shall hereafter be taken, or of taxes for subsequent years, shall in nowise prejudice the status of the appeal or the rights of the appellant to prosecute such appeal, before the county board of taxation, the tax court, or in any court to which

the judgment arising out of such appeal shall be taken, except as may be provided for in R.S.54:2-39.

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

Public inspection of assessment list; notice; advertisement.

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

C.54:4-38.1 Notice of current assessment, preceding year's taxes, and changed assessments.

32. Every assessor, prior to February 1, shall notify by mail each taxpayer of the current assessment and preceding year's taxes. Thereafter, the assessor or county board of taxation shall notify each taxpayer by mail within 30 days of any change to the assessment. This notification of change of assessment shall contain the prior assessment and the current assessment. The director shall establish the form of notice of assessment and change of assessment. Any notice issued by the assessor or county board of taxation shall contain information instructing taxpayers on how to appeal their assessment.

33. R.S.54:4-42 is amended to read as follows:

Municipal requirements certified to county tax board.

54:4-42. The municipal clerk or other proper officer of each taxing district shall, not later than 15 days after the adoption of the budget or within five days of the adoption of the budget in those municipalities which operate on the State fiscal year pursuant to section 2 or 3 of P.L.1991, c.75 (C.40A:4-3.1 or C.40A:4-3.2), transmit to the county board of taxation a copy of the annual taxing

ordinance or resolution, or other evidence showing the amount to be raised by taxation for the purposes of the taxing district.

34. R.S.54:4-52 is amended to read as follows:

Table of aggregates for county; prepared by county board.

54:4-52. The county board of taxation shall, on or before May 1, fill out a table of aggregates copied from the duplicates of the several assessors and the certifications of the Director of the Division of Taxation relating to second-class railroad property, and enumerating the following items:

- (1) The total number of acres and lots assessed;
- (2) The value of the land assessed;
- (3) The value of the improvements thereon assessed;
- (4) The total value of the land and improvements assessed, including:
 - a. Second-class railroad property;
 - b. All other real property.
- (5) The value of the personal property assessed, stating in separate columns:
 - a. Value of household goods and chattels assessed;
 - b. Value of farm stock and machinery assessed;
 - c. Value of stocks in trade, materials used in manufacture and other personal property assessed under section 54:4-11;
 - d. Value of all other tangible personal property used in business assessed.
- (6) Deductions allowed, stated in separate columns:
 - a. Household goods and other exemptions under the provisions of section 54:4-3.16 of this Title;
 - b. Property exempted under section 54:4-3.12 of this Title.
- (7) The net valuation taxable;
- (8) Amounts deducted under the provisions of sections 54:4-49 and 54:4-53 of this Title or any other similar law (adjustments resulting from prior appeals);
- (9) Amounts added under any of the laws mentioned in subdivision 8 of this section (like adjustments);
- (10) Amounts added for equalization under the provisions of sections 54:3-17 to 54:3-19 of this Title;
- (11) Amounts deducted for equalization under the provisions of sections 54:3-17 to 54:3-19 of this Title;
- (12) Net valuation on which county, State and State school taxes are apportioned;
- (13) The number of polls assessed;

- (14) The amount of dog taxes assessed;
- (15) The property exempt from taxation under the following special classifications:
 - a. Public school property;
 - b. Other school property;
 - c. Public property;
 - d. Church and charitable property;
 - e. Cemeteries and graveyards;
 - f. Other exemptions not included in foregoing classifications subdivided showing exemptions of real property and exemptions of personal property;
 - g. The total amount of exempt property.
- (16) State road tax;
- (17) State school tax;
- (18) County taxes apportioned, exclusive of bank stock taxes;
- (19) Local taxes to be raised, exclusive of bank stock taxes, subdivided as follows:
 - a. District school tax;
 - b. Other local taxes.
- (20) Total amount of miscellaneous revenues, including surplus revenue appropriated, for the support of the taxing district budget;
- (21) District court taxes;
- (22) Library tax;
- (23) Bank stock taxes due taxing district;
- (24) Tax rate for local taxing purposes to be known as general tax rate to apply per \$100.00 of valuation.

The county board of taxation shall revise the table of aggregates on or before September 10 to include the tax rate for local taxing purposes for municipalities having adopted the State fiscal year.

In addition to the above such other matters may be added, or such changes in the foregoing items may be made, as may from time to time be directed by the Director of the Division of Taxation. The forms for filling out tables of aggregates shall be prescribed by the director and sent by him to the county treasurers of the several counties to be by them transmitted to the county board of taxation. Such table of aggregates shall be correctly added by columns and shall be signed by the members of the county board of taxation and shall within three days thereafter be transmitted to the county treasurer who shall file the same and forthwith cause it to be printed in its entirety and shall transmit certified copy of same to the Director of the Division of Taxation, the State Auditor, the Director of the Division of Local Government

Services in the Department of Community Affairs, the clerk of the board of freeholders, and the clerk of each municipality in the county.

35. R.S.54:4-55 is amended to read as follows:

Corrected duplicates returned to taxing districts; lists remain of record.

54:4-55. The county board of taxation shall, on or before May 13 in each year, and, in municipalities operating on the State fiscal year, again on or before November 1, cause the corrected, revised and completed duplicates, certified by it to be a true record of the taxes assessed, to be delivered to the collectors of the various taxing districts in the county, and the tax lists shall remain in the office of the board as a public record. Thereafter neither the assessor nor the collector shall make or cause to be made any change or alteration in the tax duplicate except as may be provided by law.

36. R.S.54:4-64 is amended to read as follows:

Delivery of tax bills.

54:4-64. a. As soon as the tax duplicate is delivered to the collector of the taxing district, as provided in R.S.54:4-55, he shall at once begin the work of preparing, completing, mailing or otherwise delivering tax bills to the individuals assessed, and shall complete that work on or before June 14. He shall also, at least two months before the first installment of taxes for the year falls due, or in municipalities operating on the State fiscal year, on or before October 1 of the pre-tax year, prepare and mail, or otherwise deliver to the individuals assessed, a tax bill for such following first and second installments, computed as provided in R.S.54:4-66. When any individual assessed has authorized the collector to mail or otherwise deliver his tax bill to a mortgagee or any other agent, the collector shall, at the same time, mail or otherwise deliver a duplicate tax bill to the individual assessed and shall print across the face of such duplicate tax bill the following inscription: "This is not a bill -- for advice only." The validity of any tax or assessment, or the time at which it shall be payable, shall not be affected by the failure of a taxpayer to receive a tax bill, but every taxpayer is put on notice to ascertain from the proper official of the taxing district the amount which may be due for taxes or assessments against him or his property.

b. As provided in subsection a. of this section, a mortgagor as the individual assessed for property taxes or other municipal charges with respect to the property securing a mortgage loan,

may authorize the tax collector to mail or otherwise deliver his tax bill to a mortgagee or servicing organization. This tax authorization form shall be assignable in the event the mortgagee or servicing organization sells, assigns or transfers the servicing of the mortgage loan to another mortgagee or servicing organization.

c. The tax collector of the taxing district shall, upon receipt of a written request from a mortgagee or servicing organization on a form approved by the commissioner, mail or otherwise deliver a mortgagor's tax bill to a property tax processing organization. The commissioner shall provide by regulation for a procedure by which the tax collector of a taxing district may request the Director of the Division of Local Government Services in the Department of Community Affairs to review the appropriateness of the request to mail or otherwise deliver a mortgagor's tax bill to a property tax processing organization.

d. If a mortgagee, servicing organization, or property tax processing organization requests a duplicate copy of a tax bill, the tax collector of a taxing district shall issue a duplicate copy and may charge a maximum of \$5 for the first duplicate copy and a maximum of \$25 for each subsequent duplicate copy of the same tax bill in the same tax year, the actual charge being set by municipal ordinance. The commissioner shall promulgate regulations to effectuate the provisions of this subsection d. which regulations shall include a procedure by which a mortgagee, servicing organization, or property tax processing organization may appeal and be reimbursed for the amount it has paid for a duplicate copy of a tax bill, or any part thereof.

e. As used in subsections b., c., and d. of this section, "mortgagee," "mortgagor," "mortgage loan," "servicing organization" and "property tax processing organization" shall have the same meaning as the terms have pursuant to section 1 of P.L.1990, c.69 (C.17:16F-15).

37. R.S.54:4-65 is amended to read as follows:

Brief tabulation on tax bills to indicate expenditures.

54:4-65. In addition to the requirements set forth hereunder, the Director of the Division of Local Government Services in the Department of Community Affairs shall approve the form and content of property tax bills.

Each tax bill shall have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the rate per \$100.00 of

assessed valuation or the number of cents in each dollar paid by the taxpayer which is to be used for the payment of State school taxes, other State taxes, county taxes, local school expenditures and other local expenditures. The last named item may be further subdivided so as to show the amount for each of the several departments of the municipal government. In lieu of printing such information on the tax bill, any municipality may furnish the tabulation required hereunder and any other pertinent information in a statement accompanying the mailing or delivery of the tax bill.

The tax bill shall also contain a statement reporting amounts of State aid and assistance received by the municipality, school districts, special districts and county governments used to offset local tax levies. The director shall provide each tax collector with a certification of the amounts of said State aid and assistance for inclusion in the tax bill.

38. R.S.54:4-66 is amended to read as follows:

When taxes payable; when delinquent.

54:4-66. Taxes shall be payable and shall be delinquent as hereinafter stated:

- a. Taxes shall be payable the first installment as hereinafter provided on February first, the second installment on May first, the third installment on August first and the fourth installment on November first, after which dates if unpaid, they shall become delinquent;
- b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the penalties hereinafter prescribed;
- c. In municipalities with a January 1 through December 31 fiscal year, the dates hereinbefore provided for payment of the first and second installments of taxes being before the true amount of the tax will have been determined, the amount to be payable as each of the first two installments shall be one-quarter of the total tax finally levied against the same property or taxpayer for the preceding year, or, if directed to do so for the tax year by resolution of the municipal governing body, one-half of the tax levied for the second half of the preceding tax year, as appropriate; and the amount to be payable for the third and fourth installments shall be the full tax as levied for the current year, less the amount charged as the first and second installments; the amount thus found to be payable as the last two installments shall be divided equally for and as each installment. An appropriate adjustment by way of discount shall be made, if it shall

appear that the total of the first and second installments exceeded one-half of the total tax as levied for the year;

d. In municipalities that operate on the State fiscal year, there shall be two annual tax bills delivered and the amounts payable shall be as follows:

1. In the tax year in which the fiscal year is changed, a tax bill shall be delivered on or before June 14 of the tax year for the third and fourth installments. The amount to be payable for the two installments shall be 50% of the full tax levied against the same property or taxpayer for municipal purposes in the preceding tax year, plus the full tax as levied for the current tax year for county, school and other purposes, excepting municipal purposes, less the amount charged as the first and second installments for county, school and other purposes, excepting municipal purposes; the amount found to be payable shall be divided equally for each installment.

2. Thereafter, in each tax year a tax bill shall be delivered on or before October 1 of the pre-tax year for the first and second installments of the tax year and on or before June 14 for the third and fourth installments. The amount to be payable for the first two installments shall be the full tax levied for municipal purposes against the property or taxpayer for the current municipal fiscal year less the amount charged for municipal purposes as the third and fourth installments in the preceding tax year, plus one-half of the total tax levied against the property or taxpayer for county, school and other purposes, excepting municipal purposes, in the preceding tax year. The amount so derived shall be divided equally for each installment. The amount payable for the third and fourth installments shall be 50% of the full tax levied for municipal purposes against the property or taxpayer for the preceding municipal fiscal year, plus the full tax as levied for the current tax year for county, school and other purposes, excepting municipal purposes, less the amount charged as the first and second installments for county, school and other purposes, excepting municipal purposes. The amount so derived shall be divided equally for each installment. An appropriate adjustment by way of discount shall be made if it appears that the total of that portion of the first two installments which is taxes for county, school or other purposes, excepting municipal purposes, exceeded one-half of the total tax for those purposes as levied for the tax year;

e. Taxes may be received and credited as payments at any time, even prior to the dates hereinbefore fixed for payment.

39. R.S.54:4-67 is amended to read as follows:

Discount for prepayment; interest for delinquency.

54:4-67. The governing body of each municipality may by resolution fix the rate of discount to be allowed for the payment of taxes or assessments previous to the date on which they would become delinquent. The rate so fixed shall not exceed 6% per annum, shall be allowed only in case of payment on or before the thirtieth day previous to the date on which the taxes or assessments would become delinquent. The governing body may also fix the rate of interest to be charged for the nonpayment of taxes or assessments on or before the date when they would become delinquent, and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable. The rate so fixed shall not exceed 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00, to be calculated from the date the tax was payable until the date of actual payment.

"Delinquency" means the sum of all taxes and municipal charges due on a given parcel of property covering any number of quarters or years. The governing body may also fix a penalty to be charged to a taxpayer with a delinquency in excess of \$10,000 who fails to pay that delinquency prior to the end of the calendar year. The penalty so fixed shall not exceed 6% of the amount of the delinquency.

40. R.S.54:4-91 is amended to read as follows:

Collector's annual statement of receipts.

54:4-91. Prior to the 60th day after the close of the preceding fiscal year of the municipality, annually, in all taxing districts, the collector shall file with the treasurer or chief financial officer of the taxing district and with the governing body thereof, a statement of the amount of his receipts during the preceding year, and of the amount of taxes added to the preceding year's assessment, taxes of the preceding year abated or canceled and taxes of the preceding year remaining unpaid at the end of said year. Such statement shall be in such form as may be prescribed by the Director of the Division of Local Government Services.

41. Section 2 of P.L.1944, c.115 (C.54:4-91.1) is amended to read as follows:

C.54:4-91.1 Collector's list of delinquent taxes believed not collectible.

2. On or before May first annually, or in municipalities which operate on the State fiscal year, on or before November 1 annually, the collector shall file with the governing body, and in addition thereto he may, from time to time, file with the governing body, a list in duplicate of delinquent taxes which he believes are not collectible by reason of a fictitious, double or other palpably erroneous assessment or in the case of poll taxes, dog taxes or taxes on personal property, by reason of the removal, absence, death or insolvency of the taxpayer. Such list shall set forth the name of the delinquent if it appears on the tax rolls, the amount due from each delinquent, the type of tax assessed, the period for which the tax was levied and if the tax is upon real property, a description of the property assessed, and in each case the reason why the collector believes that such tax is not collectible.

42. R.S.54:5-6 is amended to read as follows:

Unpaid taxes a lien; penalties and costs.

54:5-6. Taxes on lands shall be a lien on the land on which they are assessed on and after the first day of the fiscal year of the municipality for which the taxes are assessed, and all interest, penalties, and costs of collection which thereafter fall due or accrue shall be added to and become a part of such lien.

43. R.S.54:5-19 is amended to read as follows:

Power of sale; "collector" and "officer" defined.

54:5-19. When unpaid taxes or any municipal lien, or part thereof, on real property, remains in arrears on April first in the fiscal year following the fiscal year when the same became in arrears, or, in the case of municipalities that operate on the State fiscal year, on October first in the fiscal year following the fiscal year when the same became in arrears, the collector or other officer charged by law in the municipality with that duty, shall subject to the provisions of the next paragraph, enforce the lien by selling the property in the manner set forth in this article.

The term "collector" as hereinafter used includes any such officer, and the term "officer" includes the collector.

The municipality may by resolution direct that where unpaid taxes or other municipal liens, or part thereof, are in arrears for more than one year, such sale shall include only such unpaid taxes or other municipal liens as were in arrears in the year desig-

nated in such resolution, and may by resolution, either general or special, direct that there shall be omitted from such sale any or all such unpaid taxes, and other municipal liens, or parts thereof, on real property, upon which regular, equal monthly installment payments are being made, in pursuance to such agreement as may be authorized by said resolution between the collector and the owner or person interested in the property upon which such delinquent taxes may be due; provided, that said agreement shall require payment of such installment payments in amounts large enough to pay in full all delinquent taxes, assessments and other municipal liens held by the municipality, in not more than five years from the date of such agreement; provided, that the extension of time for payment of such arrearages herein authorized shall not apply to any parcel of property which prior thereto has been included in any plan theretofore adopted by any municipality of this State under and pursuant to the provisions of any public statute of this State whereunder prior extensions for the payment of delinquent taxes were authorized; provided further, that the right of any person interested in such property to pay such arrears in such installments shall be conditioned on the prompt payment of the installments of taxes for the current year in which such agreement is made, and all subsequent taxes, assessments and other municipal liens imposed or becoming a lien thereafter, including all installments thereafter payable on assessments theretofore levied, and also the prompt payment of all installments of arrears as hereinbefore authorized; and provided further, that in case any such installment of arrears or any new taxes, assessments or other liens are not promptly paid, that is to say, within thirty days after the date when the same is due and payable, then such agreement shall be void, and in any such case the collector, or other officer charged by law with that duty, shall proceed to enforce such lien by selling in the manner in this article provided.

44. R.S.54:5-21 is amended to read as follows:

Lands listed for sale; liens listed; installments added.

54:5-21. The collector shall make a list of the lands so subject to sale, describing them in accordance with the last tax duplicate, including the name of the owner as shown on the duplicate, amplifying the description in the duplicate if necessary to better identify the parcel. He shall enter on the list all taxes, assessments and other municipal charges which were a lien at the close of the fiscal year. He shall add to the list all unpaid installments of assessments for benefits theretofore levied and existing as

immediate or direct benefits, whether then payable or not, so that the list shall be a complete statement of all municipal charges against the property existing at the close of the fiscal year, together with all interest and costs on all of the items of the list computed to date of sale. If directed so to do by resolution, the collector shall omit from such list such lands as may be subject to sale for unpaid taxes or for any municipal lien, or part thereof, upon which regular installment payments are being made under any agreement or agreements approved by the municipality.

45. R.S.54:5-25 is amended to read as follows:

Notice of sale; contents.

54:5-25. After completing the list or sections thereof the collector shall give public notice of the time and place of sale, stating the description of the several lots and parcels of land and the owner's name as contained in the list, together with the total amount due thereon respectively as computed to the date of tax sale and stating in substance that the respective lands will be sold to make the amounts severally chargeable against them on said date as computed in the list, together with interest to the date of sale, and the costs of sale. No other statements need be included in the notice.

46. R.S.54:5-31 is amended to read as follows:

Sale at auction for amount advertised.

54:5-31. At the time and place specified in the notice of sale, or adjournment, the collector shall sell at public auction each parcel of real property which has been so advertised, upon which the municipal liens remain unpaid, unless an error is found requiring readvertisement. The sale shall be made for the amount for which the parcel was advertised, unless that amount is found to be in excess of the correct amount, and then for the correct amount together with the interest thereon unless such interest has already been included in the notice of sale and the costs of sale.

47. R.S.54:5-47 is amended to read as follows:

Certificate of sale; form and content.

54:5-47. The certificate shall be substantially in the following form:

"I, , collector of taxes of (name of municipality), hereby certify that on, 19....., I sold to for dollars, the

lands in the municipality described as
 on the tax duplicate of the municipality, and assessed thereon to
 as owner (followed by amplified descrip-
 tion if desired). The amount of sale was made up of the
 following items (followed by the items, including interest and
 costs). The sale is subject to redemption on repayment of the
 amount of the sale, together with interest thereon at the rate of
 per cent per annum from the date of sale, and the
 costs incurred by the purchaser. The sale is subject only to
 municipal liens accruing after (insert date
 of last item of taxes or assessment for which sale is made). The
 right to redeem will expire in six months after the service of
 notice to redeem, except that the right to redeem shall extend for
 six months from the date of sale when the municipality is the pur-
 chaser and extend for two years from the date of sale for all other
 purchasers.

“Witness my hand and seal this day of
, 19..... . (Followed by acknowledgment).”

48. R.S.54:5-61 is amended to read as follows:

Holder of tax title entitled to expenses; limitation.

54:5-61. The holder of the tax title, upon compliance with the provisions of section 54:5-62 of this title, shall be entitled for his expenses, to such sums as he may have actually paid out for recording fees, fees for services of notices necessarily and actually served, and fees and expenses in ascertaining the persons interested in the premises sold, but such fees and expenses shall not exceed in all the sum of twelve dollars, besides the fees actually paid for recording the certificate and fees actually paid for necessary advertising in a newspaper under this chapter. When the taxes, interest and costs shall exceed the sum of two hundred dollars, the holder of the tax title shall be entitled to collect from the owner or other person having an interest in the lands an additional sum equal to two per cent of the amount so paid for the tax title.

When the taxes, interest and costs shall exceed the sum of \$5,000, such additional sum shall be equal to 4% of such amount paid; and when that sum exceeds \$10,000, such additional sum shall be equal to 6% of such amount paid. This section shall also apply to all existing certificates held by municipalities on the effective date of this act.

49. The following statutes are repealed:

Repealer.

Section 2 of P.L.1989, c.31 (C.40A:4-11.1)
Section 3 of P.L.1989, c.31 (C.54:4-52a)
Section 4 of P.L.1989, c.31 (C.54:4-55a)
Section 6 of P.L.1989, c.31 (C.40A:4-45.3a2)
Section 7 of P.L.1989, c.31 (C.40A:4-27a)
R.S.54:5-20

50. This act shall take effect immediately, except that sections 28 through 31 shall remain inoperative until January 1, 1992.

Approved March 28, 1991.

CHAPTER 76

AN ACT concerning pilotage of vessels operating within the waters of this State, amending R.S.12:8-8, R.S.12:8-10, R.S.12:8-16 and R.S.12:8-35, and supplementing chapter 8 of Title 12 of the Revised Statutes.

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

1. R.S.12:8-8 is amended to read as follows:

Application to commissioners for pilots; rotation employment of pilots.

12:8-8. Whenever the services of a pilot by way of Sandy Hook is required to pilot a vessel sailing from any other port in the United States bound in or over the bar of Sandy Hook or into any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, written application for the pilot must first be made by the master, owner or consignee of the vessel to the commissioners. The commissioners shall thereupon designate the pilots so to be employed in rotation, according to the designated number of boats in service, beginning with the lowest number, so that the company of every boat in the service shall in their turn have the right to avail of such employment. The commissioners shall enforce this regulation by proper bylaws.

2. R.S.12:8-10 is amended to read as follows:

Pilot boats in Sandy Hook service; apprentices; control and direction of.

12:8-10. The pilot boats belonging in whole or in part to the United New Jersey Sandy Hook Pilots' Benevolent Association, or to the United New Jersey Sandy Hook Pilots' Association, shall be the only pilot boats in the New Jersey Sandy Hook pilot service, or in any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic. Apprentices shall be attached to the pilot boats of said association and the pilot boats may have more than one apprentice.

The apprentices shall be entered in the books of the commissioners in the name of and indentured to the executive committee of the association or the board of directors of the association, and shall serve as apprentices under the laws of this State.

Said executive committee or board of directors shall have the sole control of all apprentices until they have served the full term of four years and shall see that all apprentices entered in the commissioners' books in its name are fully instructed in their duties in such manner as is necessary to fully qualify them in every respect to perform the duties of a Sandy Hook pilot.

3. R.S.12:8-16 is amended to read as follows:

Oath of pilots.

12:8-16. Whenever a person shall produce to the Governor, or, in case of his absence from the seat of government, to the Secretary of State, a certificate of appointment from the commissioners, or a majority of them, the Governor or the Secretary of State, as the case may be, shall administer to such person the following oath:

"I, A.B., do solemnly swear (or affirm), that I will well and faithfully, and according to the best of my skill and knowledge, execute and discharge the business and duty of a branch pilot for the bar, Jersey City, Newark, and Perth Amboy and harbor of Sandy Hook, and any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, and that I will at all times use my best endeavors to repair on board all ships and vessels that I shall see and conceive to be bound for, or coming into, or going out of the harbor and bodies of water aforesaid, unless I am well assured that some other licensed pilot is then on board the same; and I

do further swear (or affirm), that I will, from time to time and at all times, make the best dispatch in my power to bring safely over the bar at Sandy Hook and into any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, every vessel committed to my care in coming in or going out; and that I will, from time to time and at all times, truly observe, follow, and fulfill, to the best of my skill, ability, and knowledge, all such orders and directions as I shall or may receive from the commissioners of pilotage, relative to all matters or things that may appertain to the duty of a pilot."

The Secretary of State shall charge a fee of \$25.00 for administering the oath.

4. R.S.12:8-35 is amended to read as follows:

Vessels required to take pilots.

12:8-35. All masters of foreign vessels and vessels from a foreign port, and all vessels sailing under register, bound in or over the bar of Sandy Hook or into any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, shall take a licensed pilot, or in case of refusal to take such pilot, the master, owner or consignee shall pay the pilotage as if one had been employed, and such pilotage shall be paid to the pilot first speaking or offering his services as pilot to such vessel.

C.12:8-29.1 Establishment of rules and regulations regarding fees.

5. The Board of Commissioners of Pilotage of the State of New Jersey, Division of Coastal Resources, Department of Environmental Protection, shall establish rules and regulations regarding fees for inbound, outbound, and transporting vessels operating within a bay, river, harbor, or port between Sandy Hook in the county of Monmouth, and the city of Atlantic City in the county of Atlantic.

C.12:8-9.1 Pilotage requirements not extended.

6. Nothing in this amendatory and supplementary act shall be construed to extend the requirement of pilotage to any type of vessel that is not required to be piloted pursuant to chapter 8 of Title 12 of the Revised Statutes, and any rules or regulations established thereunder by the Board of Commissioners of Pilotage of the State of New Jersey, Division of Coastal Resources, Department of Environmental Protection.

7. This act shall take effect 60 days after enactment, but the Board of Commissioners of Pilotage of the State of New Jersey, Division of Coastal Resources, Department of Environmental Protection, may take any anticipatory action as may be necessary for the implementation of this act on the effective date thereof.

Approved March 28, 1991.

CHAPTER 77

AN ACT concerning school elections and amending N.J.S.18A:14-8 and N.J.S.18A:14-44.

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

1. N.J.S.18A:14-8 is amended to read as follows:

Compensation.

18A:14-8. a. Each election officer shall be paid by the board for his services in conducting each election at an hourly rate not to exceed the maximum hourly rate established pursuant to subsection b. of this section for each hour actually worked, as may be fixed by the board of education.

b. The maximum hourly rate to be paid to school election officers shall be equal to 1/13 of the daily compensation payable to members of district boards of elections pursuant to R.S.19:45-6, exclusive of any adjustments to that compensation which may be made pursuant to subsection a., b. or c. of that section.

2. N.J.S.18A:14-44 is amended to read as follows:

Qualifications of voters.

18A:14-44. No person shall be permitted to vote at any school election unless--

- a. He is a citizen of the United States of the age of 18 years;
- b. He has been a resident of the State and the county 30 days before the election;
- c. He shall be registered to vote in an election district included within the school district or the respective polling district of the school district, as the case may be, at least 29 days prior to the date of the election, and his name shall appear upon the signature copy

register furnished for such school district or polling district, respectively, or he shall make proof to the election board at such election that he is entitled to vote at such election, notwithstanding that his name does not appear on the said signature copy register, in the manner prescribed in this chapter.

3. This act shall take effect immediately.

Approved April 1, 1991.

CHAPTER 78

AN ACT concerning license and examination fees for convalescent and nursing home administrators and amending P.L.1968, c.356.

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

1. Section 3 of P.L.1968, c.356 (C.30:11-13) is amended to read as follows:

C.30:11-13 Licensing of nursing home administrators; regulations.

3. Upon receipt of an application for license and a license fee of \$100, and an examination fee of \$100, the department shall cause an investigation to be made of the applicant and shall issue a license if it is found that said applicant is of good moral character and complies with the provisions of this act, the regulations of the department and the minimum standards established for the administration of a convalescent home or private nursing home. The license shall not be transferable or assignable and shall be posted in a conspicuous place on the licensed premises wherein the individual acts as an administrator, as prescribed by the regulations of the department. The Commissioner of Health, with the advice of the Nursing Home Administrators' Licensing Board, shall adopt, amend, promulgate and enforce such rules, regulations, and minimum standards for the training, experience and education of individuals acting as administrators of convalescent homes and private nursing homes to be licensed hereunder as may be reasonably necessary to accomplish the purposes of this chapter. In addition, the commissioner shall adopt rules and

regulations to provide for such periodic increases in the license fee and the examination fee as the commissioner deems necessary. Such rules, regulations and minimum standards when adopted shall be binding upon all licensees and applicants for a license under this chapter. Licensees and applicants for a license as a convalescent home or private nursing home administrator of an institution or home conducted exclusively for persons who rely upon treatment by spiritual means alone through prayer in accordance with the creed or tenets of a recognized church or religious denomination as described in section 9 of P.L.1947, c.340 (C.30:11-9) shall meet all rules, regulations, and minimum standards prescribed by the board, except medical rules, regulations, and minimum standards.

2. This act shall take effect immediately.

Approved April 1, 1991.

CHAPTER 79

AN ACT concerning shellfish and the taking thereof in the waters of this State, amending P.L.1950, c.310, and supplementing chapter 2 of Title 50 of the Revised Statutes.

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

1. Section 1 of P.L.1950, c.310 (C.50:2-6.1) is amended to read as follows:

C.50:2-6.1 License required for taking of surf clams; regulations.

1. No person shall take, harvest or dredge for surf clams (*Macra solidissima*) also known as *Spisula solidissima* from any waters of this State without first obtaining a surf clam license from the commissioner. The commissioner may issue licenses for the harvesting of surf clams within the waters of this State. Such license shall be issued on a seasonal basis pursuant to regulations adopted by the commissioner.

Such licenses shall grant the privilege of gathering surf clams by dredging, but only in the Atlantic ocean, but not in the Delaware bay northerly of a line from Cape May Point lighthouse

tower to Brandywine lighthouse or in the Sandy Hook bay west of a line from the west point of Sandy Hook to Roamer Shoal lighthouse. No boat or vessel shall be licensed under this act unless its bona fide owner is a resident of this State.

The commissioner may adopt regulations regarding the issuance procedures of such licenses.

The commissioner may issue permits for surf clam research, inventory and educational projects. Nothing in this section shall be construed to limit the activities of such projects.

2. Section 2 of P.L.1950, c.310 (C.50:2-6.2) is amended to read as follows:

C.50:2-6.2 Dredging license, limitations; seasons.

2. Any such licensed dredging operation shall be limited to the use of dredges that shall conform to any limits established by the commissioner by regulation. Notwithstanding any other provision of law, the commissioner may adopt regulations fixing the hours during which dredging will be permitted. No such dredging operation shall be permitted at any time between June 1 and September 30 in each year, unless changed by emergency order or regulation. Unless otherwise provided by regulation, all surf clams harvested within the waters of New Jersey (3 nautical miles) shall not be taken into another state or the waters thereof until said clams have been first landed in New Jersey. It shall be prima facie evidence of a violation of this section if a harvest vessel is observed by radar or other means leaving the waters of New Jersey and entering the waters of another state any time prior to landing.

3. Section 3 of P.L.1950, c.310 (C.50:2-6.3) is amended to read as follows:

C.50:2-6.3 Regulations; fees.

3. The Commissioner of Environmental Protection with the advice of the Shell Fisheries Council shall adopt regulations and amend or repeal such regulations from time to time as required for the conservation, protection, management, and improvement of the surf clam resource and industry. These regulations may include the imposition and collection of a per bushel fee for all surf clams harvested within the waters of this State, provided that the fee shall be in an amount not less than \$0.125 nor more than \$0.25 per bushel. Emergency regulations may be adopted where immediate danger exists to the resource or industry.

The surf clam license fee shall be fixed pursuant to regulation in an amount not less than \$600 nor more than \$1,000 per license issued to a bona fide New Jersey resident. The surf clam bait license fee shall be fixed pursuant to regulation in an amount not less than \$100 nor more than \$200.

C.23:3-12.1 "Shellfisheries Management Account" established.

4. There is established within the "hunters' and anglers' license fund" created pursuant to the provisions of R.S.23:3-11 and R.S.23:3-12, a separate and dedicated account to be known as the "Shellfisheries Management Account." This account shall be credited with all revenues from permit and landing fees collected pursuant to section 3 of P.L.1950, c.310 (C.50:2-6.3), and shall be allocated to the Division of Fish, Game and Wildlife in the Department of Environmental Protection, to support shellfish management and enforcement programs and to enhance the productivity of the shellfish resource of this State.

5. This act shall take effect immediately.

Approved April 1, 1991.

CHAPTER 80

AN ACT concerning the offense of maintaining a facility for sale of stolen automobiles or their parts and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:20-16 Operation of facility for sale of stolen automobile parts; penalties.

1. a. A person who knowingly maintains or operates any premises, place or facility used for the remodeling, repainting, or separating of automobile parts for resale of any stolen automobile is guilty of a crime of the second degree.

b. Notwithstanding any provision of law to the contrary, any person convicted of a violation of this section shall forthwith forfeit his right to operate a motor vehicle in this State for a period to be fixed by the court at not less than three nor more than five

years. The court shall cause a report of the conviction to be filed with the Director of the Division of Motor Vehicles.

2. This act shall take effect immediately.

Approved April 2, 1991.

CHAPTER 81

AN ACT concerning the use of juveniles for theft of automobiles and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:20-17 Use of juvenile in theft of automobiles, penalty.

1. a. A person who is at least 18 years of age who knowingly uses, solicits, directs, hires or employs a person who is in fact 17 years of age or younger to commit theft of an automobile is guilty of a crime of the second degree. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction under this section shall not merge with a conviction for theft of an automobile. Nothing contained in this act shall prohibit the court from imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this act be construed in any way to preclude or limit the prosecution or conviction of any person for conspiracy under N.J.S.2C:5-2, or any prosecution or conviction for any other offense.

b. It shall be no defense to a prosecution under this section that the actor mistakenly believed that the person which the actor used, solicited, directed, hired or employed was older than 17 years of age, even if such mistaken belief was reasonable.

2. This act shall take effect immediately.

Approved April 2, 1991.

CHAPTER 82

AN ACT creating the offense of leader of auto theft trafficking network and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:20-18 Leader of auto theft trafficking network, penalty.

1. A person is a leader of an auto theft trafficking network if he conspires with others as an organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to unlawfully take, dispose of, distribute, bring into or transport in this State automobiles as stolen property. Leader of auto theft trafficking network is a crime of the second degree. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000.00 or five times the retail value of the automobiles seized at the time of the arrest, whichever is greater.

Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of leader of auto theft trafficking network shall not merge with the conviction for any offense which is the object of the conspiracy. Nothing contained in this act shall prohibit the court from imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this act be construed in any way to preclude or limit the prosecution or conviction of any person for conspiracy under N.J.S.2C:5-2, or any prosecution or conviction for any other offense.

It shall not be necessary in any prosecution under this act for the State to prove that any intended profit was actually realized. The trier of fact may infer that a particular scheme or course of conduct was undertaken for profit from all of the attending circumstances, including but not limited to the number of persons involved in the scheme or course of conduct, the actor's net worth and his expenditures in relation to his legitimate sources of income, the number of automobiles involved, or the amount of cash or currency involved.

It shall not be a defense to a prosecution under this act that the automobile was brought into or transported in this State solely for ultimate distribution in another jurisdiction; nor shall it be a defense that any profit was intended to be made in another jurisdiction.

2. This act shall take effect immediately.

Approved April 2, 1991.

CHAPTER 83

**AN ACT concerning automobile theft, amending P.L.1982, c.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:20-2.1 Additional penalties for auto theft.

1. a. In addition to any other disposition authorized by law, a person convicted under the provisions of N.J.S.2C:20-2 of theft of an automobile shall be subject:

(1) For the first offense, to a penalty of \$500.00 and to the suspension or postponement of the person's license to operate a motor vehicle over the highways of this State for a period of one year.

(2) For a second offense, to a penalty of \$750.00 and to the suspension or postponement of the person's license to operate a motor vehicle over the highways of this State for a period of two years.

(3) For a third or subsequent offense, to a penalty of \$1,000.00, and to the suspension or postponement of the person's license to operate a motor vehicle over the highways of this State for 10 years.

b. The suspension or postponement of the person's license to operate a motor vehicle pursuant to subsection a. of this section shall commence on the day the sentence is imposed. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of one year for a first offense, two years for a second offense or 10 years for a third offense calculated from the day after the day the person reaches the age of 17 years. If the driving privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this Title or Title 39 of the Revised Statutes at the time of any conviction or adjudication of delinquency for a violation of any offense defined in this chapter or chapter 36 of this Title, the revocation, suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension, or postponement.

Upon conviction the court shall collect forthwith the New Jersey driver's licenses of the person and forward such license or licenses to the Director of the Division of Motor Vehicles along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any reason unable to collect the license or licenses of the person, the court shall cause a report of the con-

viction or adjudication of delinquency to be filed with the director. That report shall include the complete name, address, date of birth, eye color, and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle during the period of license suspension or postponement imposed pursuant to this section the person shall, upon conviction, be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. If the person is the holder of a driver's license from another jurisdiction, the court shall not collect the license but shall notify the director who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving privileges in this State.

c. All penalties provided for in this section shall be collected as provided for the collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be distributed in accordance with the provisions of N.J.S.2C:64-6 as if the collected monies were the proceeds of property forfeited pursuant to the provisions of chapter 64. However, the distributed monies are to be used for law enforcement activities related to auto theft.

C.2C:20-2.2 Additional fine for auto theft.

2. Notwithstanding the provisions of N.J.S.2C:43-3, if the fair market value of the automobile and its contents at the time it was stolen exceeds \$7,500.00 and the automobile is not recovered, the court may sentence the defendant to pay a fine for that higher amount.

3. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read as follows:

C.2A:4A-26 Referral to another court without juvenile's consent.

7. Referral to another court without juvenile's consent.

a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the family court to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

(1) The juvenile was 14 years of age or older at the time of the charged delinquent act; and

(2) There is probable cause to believe that the juvenile committed a delinquent act or acts which if committed by an adult would constitute:

(a) Criminal homicide other than death by auto, strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would constitute a crime of the first degree, aggravated sexual assault, sexual assault, aggravated assault which would constitute a crime of the second degree, kidnapping or aggravated arson; or

(b) A crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted, on the basis of any of the offenses enumerated in subsection a. (2) (a); or

(c) A crime committed at a time when the juvenile had previously been sentenced and confined in an adult penal institution; or

(d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a. (2) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or

(e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5; or

(f) Crimes which are a part of a continuing criminal activity in concert with two or more persons and the circumstances of the crimes show the juvenile has knowingly devoted himself to criminal activity as a source of livelihood; or

(g) An attempt or conspiracy to commit any of the acts enumerated in paragraph (a), (d) or (e) of this subsection; or

(h) Theft of an automobile pursuant to chapter 20 of Title 2C of the New Jersey Statutes; and

(3) Except with respect to any of the acts enumerated in subsection a. (2) (a) of this section, or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

However, if in any case the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities

available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted.

b. In every case where there is a motion seeking waiver, the prosecutor shall within a reasonable time thereafter file a statement with the Attorney General setting forth the basis for the motion. In addition, the court shall, in writing, state its reasons for granting or denying the waiver motion. The Attorney General shall compile this information and report its findings to the Legislature 18 months after the effective date of this act with the objective of developing, where appropriate, guidelines as to the waiver of juveniles from the family court.

c. An order referring a case shall incorporate therein not only the alleged act or acts upon which the referral is premised, but also all other delinquent acts arising out of or related to the same transaction.

d. A motion seeking waiver shall be filed by the prosecutor within 30 days of receipt of the complaint. This time limit shall not, except for good cause shown, be extended.

4. This act shall take effect immediately.

Approved April 2, 1991.

CHAPTER 84

AN ACT concerning eligibility for the "Pharmaceutical Assistance to the Aged and Disabled" program and amending P.L.1975, c.194.

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

1. Section 2 of P.L.1975, c.194 (C.30:4D-21) is amended to read as follows:

C.30:4D-21 Pharmaceutical assistance eligibility.

2. Any resident of this State who is either a recipient of disability insurance benefits under Title II of the federal Social Security Act (42 U.S.C. § 401 et seq.) or 65 years of age and over and whose annual income is less than \$15,700 if single or, if married, whose annual income combined with that of his spouse is less than \$19,250, shall be eligible for "Pharmaceutical Assistance to the Aged and Disabled" if he is not otherwise qualified for assistance under P.L.1968, c.413 (C.30:4D-1 et seq.). Annual income shall

not include gain from the sale of a principal residence that is excluded from gross income pursuant to N.J.S.54A:6-9.

2. This act shall take effect immediately and shall be retroactive to January 1, 1991.

Approved April 3, 1991.

CHAPTER 85

AN ACT authorizing certain local units to recover costs incurred in certain emergency response actions, and amending and supplementing P.L.1976, c.141.

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

C.58:10-23.11k1 Claim for cost recovery filed by local unit.

1. If a local unit files a claim pursuant to section 12 of P.L.1976, c.141 (C. 58:10-23.11k) seeking to recover cleanup, removal and related costs incurred as a result of an emergency response action, including costs related to the prevention, containment, or mitigation of a discharge, the administrator shall approve or deny the claim for reimbursable costs incurred pursuant to an emergency response action, without regard to the requirements of sections 13, 14, or 15 of P.L.1976, c.141, within 120 days of the filing of a completed claim, including all supportive information or documentation required by the administrator; provided, however, that the local unit shall obtain the approval of the department prior to initiating cleanup or removal, including prevention, containment or mitigation, activities. If the administrator fails to approve, in whole or in part, or deny the claim within the 120-day period, all costs in the claim shall be deemed approved. If the administrator denies the claim or approves only part of the costs claimed, the local unit shall not be precluded from seeking recovery of the costs denied by the administrator under any other provision of statutory law or in accordance with any remedies available under the common law.

2. Section 3 of P.L.1976, c.141 (C.58:10-23.11b) is amended to read as follows:

C.58:10-23.11b Definitions.

3. Unless the context clearly indicates otherwise, the following terms shall have the following meanings:

a. "Administrator" means the chief executive of the New Jersey Spill Compensation Fund;

b. "Barrel" means 42 United States gallons or 159.09 liters or an appropriate equivalent measure set by the director for hazardous substances which are other than fluid or which are not commonly measured by the barrel;

c. "Board" means a board of arbitration convened by the administrator to settle disputed disbursements from the fund;

d. "Cleanup and removal costs" means all costs associated with a discharge, incurred by the State or its political subdivisions or their agents or any person with written approval from the department in the: (1) removal or attempted removal of hazardous substances, or (2) taking of reasonable measures to prevent or mitigate damage to the public health, safety, or welfare, including, but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources, and shall include costs incurred by the department for the indemnification and legal defense of contractors pursuant to subsection a. of section 7 of this act, subject to the appropriation by law of moneys from the General Fund to the fund to defray these costs;

e. "Commissioner" means the Commissioner of Environmental Protection;

f. "Department" means the Department of Environmental Protection;

g. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

h. "Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into the waters or onto the lands of the State, or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State;

i. "Fair market value" means the invoice price of the hazardous substances transferred, including transportation charges; but where no price is so fixed, "fair market value" shall mean the market

price as of the close of the nearest day to the transfer, paid for similar hazardous substances, as shall be determined by the taxpayer pursuant to rules of the director;

j. "Fund" means the New Jersey Spill Compensation Fund;

k. "Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such 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 federal Environmental Protection Agency pursuant to section 311 of the federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977, Pub.L.95-217 (33 U.S.C. §1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C. §9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of this act;

l. "Major facility" includes, but is not limited to, any refinery, storage or transfer terminal, pipeline, deep-water port, drilling platform or any appurtenance related to any of the preceding that is used or is capable of being used to refine, produce, store, handle, transfer, process or transport hazardous substances. A vessel shall be considered a major facility only when hazardous substances are transferred between vessels.

A facility shall not be considered a major facility for the purpose of this act unless it has total combined aboveground or buried storage capacity of:

(1) 20,000 gallons or more for hazardous substances which are other than petroleum or petroleum products, or

(2) 200,000 gallons or more for hazardous substances of all kinds.

For the purposes of this definition, "storage capacity" shall mean only that total combined capacity which is dedicated to, used for or intended to be used for storage of hazardous substances of all kinds. Where appropriate to the nature of the facility, storage capacity may be determined by the intended or actual use of open land or unenclosed space as well as by the capacities of tanks or other enclosed storage spaces;

m. "Natural resources" means all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust or otherwise controlled by the State;

n. "Owner" or "operator" means, with respect to a vessel, any person owning, operating or chartering by demise such vessel; with respect to any major facility, any person owning such facility, or operating it by lease, contract or other form of agreement; with respect to abandoned or derelict major facilities, the person who owned or operated such facility immediately prior to such abandonment, or the owner at the time of discharge;

o. "Person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, the United States, the State of New Jersey and any of its political subdivisions or agents;

p. "Petroleum" or "petroleum products" means oil or petroleum of any kind and in any form, including, but not limited to, oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, and substances or additives to be utilized in the refining or blending of crude petroleum or petroleum stock in this State; however, any compound designated by specific chemical name on the list of hazardous substances adopted by the department pursuant to subsection 3k. shall not be considered petroleum or a petroleum product for the purposes of this act, unless such compound is to be utilized in the refining or blending of crude petroleum or petroleum stock in this State;

q. "Taxpayer" means the owner or operator of a major facility subject to the tax provisions of this act;

r. "Tax period" means every calendar month on the basis of which the taxpayer is required to report under this act;

s. "Transfer" means onloading or offloading between major facilities and vessels, or vessels and major facilities, and from vessel to vessel or major facility to major facility, except for fueling or refueling operations and except that with regard to the movement of hazardous substances other than petroleum, it shall also include any onloading of or offloading from a major facility;

t. "Vessel" means every description of watercraft or other contrivance that is practically capable of being used as a means of commercial transportation of hazardous substances upon the water, whether or not self-propelled;

u. "Waters" means the ocean and its estuaries to the seaward limit of the State's jurisdiction, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of this State;

v. "Act of God" means an act exclusively occasioned by an unanticipated, grave natural disaster without the interference of any human agency;

w. "Emergency response action" means those activities conducted by a local unit to clean up, remove, prevent, contain, or mitigate a discharge that poses an immediate threat to the environment or to the public health, safety, or welfare;

x. "Local unit" means any county or municipality, or any agency or other instrumentality thereof, or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad.

3. Section 7 of P.L.1976, c.141 (C.58:10-23.11f) is amended to read as follows:

C.58:10-23.11f Removal of hazardous substance discharges.

7. a. Whenever any hazardous substance is discharged, the department may, in its discretion, act to remove or arrange for the removal of such discharge or may direct the discharger to remove, or arrange for the removal of, such discharge. If the discharge occurs at any hazardous or solid waste disposal facility, the department may order the facility closed for the duration of the removal operations. The department may monitor the discharger's compliance with any such directive. Any discharger who fails to comply with such a directive shall be liable to the department in an amount equal to three times the cost of such removal, and shall be subject to the revocation or suspension of any license or permit he holds authorizing him to operate a hazardous or solid waste disposal facility.

Removal of hazardous substances and actions to minimize damage from discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the federal Water Pollution Control Act Amendments of 1972 (Pub.L.92-500, 33 U.S.C. §1251 et seq.).

Whenever the department acts to remove a discharge or contracts to secure prospective removal services, it is authorized to draw upon the money available in the fund. Such money shall be used to pay promptly for all cleanup costs incurred by the department in removing or in minimizing damage caused by such discharge.

The department may agree to defend and indemnify a contractor against claims, causes of action, demands, costs, or judgments made against a contractor arising as a direct result of the contractor's provision of hazardous substance cleanup or mitigation

services pursuant to a contract with the department. This legal defense and indemnification shall not apply to claims, causes of action, demands, costs, or judgments which are proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct, or to claims for punitive or exemplary damage. The department shall agree to provide legal defense and indemnification to a contractor only if it determines that adequate environmental liability insurance is not available or not available at a reasonable cost to the contractor. The department shall agree to provide legal defense and indemnification to a contractor pursuant to terms and limitations which it deems appropriate. Any agreement by the department to defend or indemnify a contractor shall not bar the department from the exercise of any available legal remedies for the enforcement of the contract between the department and the contractor, the recovery of damages to which the department may be entitled resulting from a contractor's failure to perform the contract, or for the recovery of funds expended for the defense of a contractor if the defense was undertaken in response to a claim or cause of action brought against the contractor which is proven to have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith, or criminal misconduct. No person other than a contractor shall have the right to enforce any agreement for defense and indemnification between a contractor and the department. The department shall not enter into an agreement to provide legal defense and indemnification to a contractor after January 1, 1990. For the purposes of this subsection, "contractor" means a person providing services to mitigate or clean up a discharge or release or threatened discharge or release of a hazardous substance in this State pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.) or the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C. §9601 et seq.).

Nothing in this section is intended to preclude removal and cleanup operations by any person threatened by such discharges, provided such persons coordinate and obtain approval for such actions with ongoing State or federal operations. No action taken by any person to contain or remove a discharge shall be construed as an admission of liability for said discharge. No person who renders assistance in containing or removing a discharge shall be liable for any civil damages to third parties resulting solely from acts or omissions of such person in rendering such assistance, except for acts or omissions of gross negligence or willful misconduct. In the course of cleanup operations, no person shall discharge any detergent into the waters of this State without prior authorization of the commissioner.

b. Notwithstanding any other provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), the department, subject to the approval of the administrator with regard to the availability of funds therefor, or a local unit as part of an emergency response action and with the approval of the department, may remove or arrange for the removal of any hazardous substance which:

(1) Has not been discharged from a grounded or disabled vessel, if the department determines that such removal is necessary to prevent an imminent discharge of such hazardous substance; or

(2) Has not been discharged, if the department determines that such substance is not satisfactorily stored or contained and said substance possesses any one or more of the following characteristics:

(a) Explosiveness;

(b) High flammability;

(c) Radioactivity;

(d) Chemical properties which in combination with any discharged hazardous substance at the same storage facility would create a substantial risk of imminent damage to public health or safety or an imminent and severe damage to the environment;

(e) Is stored in a container from which its discharge is imminent as a result of contact with a hazardous substance which has already been discharged and such additional discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(f) High toxicity and is stored or being transported in a container or motor vehicle, truck, railcar or other mechanized conveyance from which its discharge is imminent as a result of the significant deterioration or the precarious location of the container, motor vehicle, truck, railcar or other mechanized conveyance, and such discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(3) Has been discharged prior to the effective date of P.L.1976, c.141.

c. If and to the extent that he determines that funds are available, the administrator shall approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance other than petroleum as authorized by subsection b. of this section; provided that in determining the availability of funds, the administrator shall not include as available funds revenues realized or to be realized from the tax on the transfer of petroleum, to the extent that such revenues result from a tax levied at a rate in

excess of \$0.01 per barrel, pursuant to subsection b. of section 9 of P.L.1976, c.141 (C.58:10-23.11h), unless the administrator determines that the sum of claims paid by the fund on behalf of petroleum discharges or removals plus pending reasonable claims against the fund on behalf of petroleum discharges or removals is greater than 30% of the sum of all claims paid by the fund plus all pending reasonable claims against the fund.

d. The administrator may only approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance discharged prior to the effective date of P.L.1976, c.141, pursuant to subsection b. of this section, if, and to the extent that, he determines that adequate funds from another source are not or will not be available; and provided further, with regard to the cleanup and removal costs incurred for discharges which occurred prior to the effective date of P.L.1976, c.141, the administrator may not during any one-year period pay more than \$18,000,000.00 in total or more than \$3,000,000.00 for any discharge or related set or series of discharges.

e. Notwithstanding any other provisions of P.L.1976, c.141, the administrator, after considering, among any other relevant factors, the department's priorities for spending funds pursuant to P.L.1976, c.141, and within the limits of available funds, shall make payments for the restoration or replacement of, or connection to an alternative water supply for, any private residential well destroyed, contaminated, or impaired as a result of a discharge prior to the effective date of P.L.1976, c.141; provided, however, total payments for said purpose shall not exceed \$500,000.00 for the period between the effective date of this subsection e. and January 1, 1983, and in any calendar year thereafter.

f. Any expenditures made by the administrator pursuant to this act shall constitute, in each instance, a debt of the discharger to the fund. The debt shall constitute a lien on all property owned by the discharger when a notice of lien, incorporating a description of the property of the discharger subject to the cleanup and removal and an identification of the amount of cleanup, removal and related costs expended from the fund, is duly filed with the clerk of the Superior Court. The clerk shall promptly enter upon the civil judgment or order docket the name and address of the discharger and the amount of the lien as set forth in the notice of lien. Upon entry by the clerk, the lien, to the amount committed by the administrator for cleanup and removal, shall attach to the

revenues and all real and personal property of the discharger, whether or not the discharger is insolvent.

The notice of lien filed pursuant to this subsection which affects the property of a discharger subject to the cleanup and removal of a discharge shall create a lien with priority over all other claims or liens which are or have been filed against the property, except if the property comprises six dwelling units or less and is used exclusively for residential purposes, this notice of lien shall not affect any valid lien, right or interest in the property filed in accordance with established procedure prior to the filing of this notice of lien. The notice of lien filed pursuant to this subsection which affects any property of a discharger, other than the property subject to the cleanup and removal, shall have priority from the day of the filing of the notice of the lien over all other claims and liens filed against the property, but shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien pursuant to this subsection.

g. In the event a vessel discharges a hazardous substance into the waters of the State, the cleanup and removal and related costs resulting from that discharge that constitute a maritime lien on the discharging vessel pursuant to 33 U.S.C. §1321 or any other law, may be recovered by the Department of Environmental Protection in an action in rem brought in the district court of the United States. An impoundment of a vessel resulting from this action shall continue until:

(1) the claim against the owner or operator of the vessel for the cleanup and removal and related costs of the discharge is satisfied;

(2) the owner or operator of the vessel, or a representative of the owner or operator, provides evidence of financial responsibility as provided in section 2 of P.L.1991, c.58 (C.58:10-23.11g2) and satisfactorily guarantees that these costs will be paid; or

(3) the impoundment is otherwise vacated by a court order.

The remedy provided in this subsection is in addition to any other remedy or enforcement power that the department may have under any other law.

Any action brought by the State pursuant to this subsection and any impoundment of a vessel resulting therefrom shall not subject the State to any liability to any person harmed thereby or cause the State to be in any way liable for a subsequent or continued discharge of a hazardous substance from that vessel.

4. Section 8 of P.L.1976, c.141 (C.58:10-23.11g) is amended to read as follows:

C.58:10-23.11g Liability for cleanup and removal costs.

8. a. The fund shall be strictly liable, without regard to fault, for all cleanup and removal costs and for all direct and indirect damages no matter by whom sustained, including but not limited to:

(1) The cost of restoring, repairing, or replacing any real or personal property damaged or destroyed by a discharge, any income lost from the time such property is damaged to the time such property is restored, repaired or replaced, and any reduction in value of such property caused by such discharge by comparison with its value prior thereto;

(2) The cost of restoration and replacement, where possible, of any natural resource damaged or destroyed by a discharge;

(3) Loss of income or impairment of earning capacity due to damage to real or personal property, including natural resources destroyed or damaged by a discharge; provided that such loss or impairment exceeds 10% of the amount which claimant derives, based upon income or business records, exclusive of other sources of income, from activities related to the particular real or personal property or natural resources damaged or destroyed by such discharge during the week, month or year for which the claim is filed;

(4) Loss of tax revenue by the State or local governments for a period of one year due to damage to real or personal property proximately resulting from a discharge;

(5) Interest on loans obtained or other obligations incurred by a claimant for the purpose of ameliorating the adverse effects of a discharge pending the payment of a claim in full as provided by this act.

b. The damages which may be recovered by the fund, without regard to fault, subject to the defenses enumerated in subsection d. of this section against the owner or operator of a major facility or vessel, shall not exceed \$50,000,000.00 for each major facility or \$150.00 per gross ton for each vessel, except that such maximum limitation shall not apply and the owner or operator shall be liable, jointly and severally, for the full amount of such damages if it can be shown that such discharge was the result of (1) gross negligence or willful misconduct, within the knowledge and privity of the owner, operator or person in charge, or (2) a gross or willful violation of applicable safety, construction or operating standards or regulations. Damages which may be recovered from, or by, any other person shall be limited to those authorized by common or statutory law.

c. (1) Any person who has discharged a hazardous substance, or is in any way responsible for any hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all

cleanup and removal costs no matter by whom incurred. Such person shall also be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs incurred by the department or a local unit pursuant to subsection b. of section 7 of P.L.1976, c.141 (C.58:10-23.11f).

(2) In addition to the persons liable pursuant to paragraph (1) of this subsection, in the case of a discharge of a hazardous substance from a vessel into the waters of the State, the owner or operator of a refinery, storage, transfer, or pipeline facility to which the vessel was en route to deliver the hazardous substance who, by contract, agreement, or otherwise, was scheduled to assume ownership of the discharged hazardous substance, and any other person who was so scheduled to assume ownership of the discharged hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs if the owner or operator of the vessel did not have the evidence of financial responsibility required pursuant to section 2 of P.L.1991, c.58 (C.58:10-23.11g2).

Where a person is liable for cleanup and removal costs as provided in this paragraph, any expenditures made by the administrator for that cleanup and removal shall constitute a debt of that person to the fund. The debt shall constitute a lien on all property owned by that person when a notice of lien identifying the nature of the discharge and the amount of the cleanup, removal and related costs expended from the fund is duly filed with the clerk of the Superior Court. The clerk shall promptly enter upon the civil judgment or order docket the name and address of the liable person and the amount of the lien as set forth in the notice of lien. Upon entry by the clerk, the lien, to the amount committed by the administrator for cleanup and removal, shall attach to the revenues and all real and personal property of the liable person, whether or not that person is insolvent.

For the purpose of determining priority of this lien over all other claims or liens which are or have been filed against the property of an owner or operator of a refinery, storage, transfer, or pipeline facility, the lien on the facility to which the discharged hazardous substance was en route shall have priority over all other claims or liens which are or have been filed against the property. The notice of lien filed pursuant to this paragraph which affects any property of a person liable pursuant to this paragraph other than the property of an owner or operator of a refinery, storage, transfer, or pipeline facility to which the discharged hazardous substance was en route, shall have priority from the day of the filing of the notice of the lien over all claims and liens filed against the property,

but shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien pursuant to this paragraph.

To the extent that a person liable pursuant to this paragraph is not otherwise liable pursuant to paragraph (1) of this subsection, or under any other provision of law or under common law, that person may bring an action for indemnification for costs paid pursuant to this paragraph against any other person who is strictly liable pursuant to paragraph (1) of this subsection.

Nothing in this paragraph shall be construed to extend or negate the right of any person to bring an action for contribution that may exist under P.L.1976, c.141, or any other act or under common law.

d. An act or omission caused solely by war, sabotage, or God, or a combination thereof, shall be the only defenses which may be raised by any owner or operator of a major facility or vessel responsible for a discharge in any action arising under the provisions of this act.

5. Section 16 of P.L.1976, c.141 (C.58:10-23.11o) is amended to read as follows:

C.58:10-23.11o Disbursement of moneys from 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 P.L.1976, c.141 (C.58:10-23.11f);

(2) Damages as defined in section 8 of P.L.1976, c.141 (C.58:10-23.11g);

(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 P.L.1976, c.141, including any costs incurred by the department pursuant to P.L.1990, c.78 or pursuant to any other law designed to prevent the discharge of a hazardous substance, 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.);

(7) Costs attributable to the department's obligation to defend and indemnify a contractor pursuant to subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), subject to the appropriation by law of moneys from the General Fund to the fund to defray these costs;

(8) Administrative costs incurred by the department to implement the provisions of P.L.1977, c.74 (C.58:10A-1 et seq.), as amended and supplemented by P.L.1990, c.28, on a timely basis, except that the amounts used for this purpose shall not exceed \$2,000,000. Any moneys disbursed by the department from the fund for this purpose shall be repaid to the fund in equal amounts from the penalties collected by the department pursuant to P.L.1977, c.74 and P.L.1990, c.28, in annual installments beginning July 1, 1991 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer;

(9) Such sums as may be necessary to reimburse a local unit for costs incurred in an emergency response action taken to prevent, contain, mitigate, clean up or remove a discharge of a hazardous substance.

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.

6. Section 18 of P.L.1976, c.141 (C.58:10-23.11q) is amended to read as follows:

C.58:10-23.11q Payment of cleanup costs or damages arising from single incident.

18. Payment of any cleanup costs or damages by the fund arising from a single incident shall be conditioned upon the administrator acquiring by subrogation all rights of the claimant to recovery of such costs or damages from the discharger or other responsible party. The administrator shall then seek satisfaction from the discharger or other responsible party in the Superior Court if the discharger or other responsible party does not reimburse the fund. In any such suit, except as provided by subsection d. of section 8 of P.L.1976, c.141 (C.58:10-23.11g.), the administrator need prove only that an unlawful discharge occurred which was the responsibility of the discharger or other responsible party

or that a hazardous substance was removed pursuant to subsection b. of section 7 of P.L.1976, c.141 (C.58:10-23.11f) for which the person was in any way responsible. The administrator is hereby authorized and empowered to compromise and settle the amount sought for costs and damages from the discharger or other responsible party and any penalty arising under this act.

7. Within one year of the effective date of this act, the administrator shall submit a status report on the implementation of the claims procedures established pursuant to section 1 of P.L.1991, c.85 (C.58:10-23.11k1) to the Assembly Energy and Environment Committee and the Senate Environmental Quality Committee, or their successors. The report shall include all claims made by local government units during the year, the amount of the claims, and how and the period within which the claims were settled. The report shall evaluate the procedures established for processing claims by local units pursuant to section 1 of P.L.1991, c.85 (C.58:10-23.11k1), and may include such recommendations for changes thereto as the department may deem appropriate.

8. This act shall take effect immediately.

Approved April 4, 1991.

CHAPTER 86

AN ACT prohibiting certain claims based on oral credit agreements and amending R.S.25:1-5.

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

1. R.S.25:1-5 is amended to read as follows:

Promises or agreements not binding unless in writing.

25:1-5. Promises or agreements not binding unless in writing. No action shall be brought upon any of the following agreements or promises, unless the agreement or promise, upon which such action shall be brought or some memorandum or note thereof, shall be in writing, and

signed by the party to be charged therewith, or by some other person thereunto by him lawfully authorized:

- a. A special promise of an executor or administrator to answer damages out of his own estate;
- b. A special promise to answer for the debt, default or miscarriage of another person;
- c. An agreement made upon consideration of marriage;
- d. A contract for sale of real estate, or any interest in or concerning the same;
- e. An agreement that is not to be performed within one year from the making thereof;
- f. A contract, promise, undertaking or commitment to loan money or to grant, extend or renew credit, in an amount greater than \$100,000, not primarily for personal, family or household purposes, made by a person engaged in the business of lending or arranging for the lending of money or extending credit. For the purposes of this subsection, a contract, promise, undertaking or commitment to loan money shall include agreements to lease personal property if the lease is primarily a method of financing the obtaining of the property; or
- g. An agreement by a creditor to forbear from exercising remedies pursuant to a contract, promise, undertaking or commitment which is subject to the provisions of subsection f. of this section.

2. This act shall take effect immediately.

Approved April 4, 1991.

CHAPTER 87

AN ACT concerning the inspection of certain State buildings and structures and amending P.L.1975, c.217.

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

1. 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 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. In an emergency or cost savings situation, the commissioner may delegate, by rule, the authority to conduct field inspections for the purpose of enforcing the code. The Division of Building and Construction and any public or private agency which receives such a delegation shall carry out any review or inspection responsibilities with persons certified by the Commissioner 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.

2. This act shall take effect immediately.

Approved April 4, 1991.

CHAPTER 88

AN ACT authorizing the sale of certain real property owned by the Department of Military and Veterans' Affairs.

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

1. The Department of Military and Veterans' Affairs is authorized to sell and convey all of the State's interest in 1.17± acres of surplus real property located in the Borough of Red Bank, Monmouth County. The property is designated as Block 62, Lot 17, on the Borough of Red Bank tax map, and known as the Red Bank Armory.

2. The sale shall be upon terms and conditions as approved by the State House Commission on January 31, 1989.

3. This act shall take effect immediately.

Approved April 4, 1991.

CHAPTER 89

AN ACT concerning property tax quarterly payment amounts billed by certain municipalities of the State, amending R.S.54:4-64, R.S.54:4-65 and R.S.54:4-66 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.54:4-64 is amended to read as follows:

Delivery of tax bills.

54:4-64. a. As soon as the tax duplicate is delivered to the collector of the taxing district, as provided in R.S.54:4-55, he shall at once begin the work of preparing, completing, mailing or otherwise delivering tax bills to the individuals assessed, and shall complete that work at least 47 days before the third installment of taxes falls due. He shall also, at least two months before the first installment of taxes for the year falls due, prepare and mail, or otherwise deliver to the individuals assessed, a tax bill for such following first and second installments, computed by using one-half of the complete tax last previously levied or by using the second half of that tax previously levied, if directed to do so by resolution of the municipal governing body for the tax year. When any individual assessed has authorized the collector to mail or otherwise deliver his tax bill to a mortgagee or any other agent, the collector shall, at the

same time, mail or otherwise deliver a duplicate tax bill to the individual assessed and shall print across the face of such duplicate tax bill the following inscription: "This is not a bill -- for advice only." The validity of any tax or assessment, or the time at which it shall be payable, shall not be affected by the failure of a taxpayer to receive a tax bill, but every taxpayer is put on notice to ascertain from the proper official of the taxing district the amount which may be due for taxes or assessments against him or his property.

b. As provided in subsection a. of this section, a mortgagor as the individual assessed for property taxes or other municipal charges with respect to the property securing a mortgage loan, may authorize the tax collector to mail or otherwise deliver his tax bill to a mortgagee or servicing organization. This tax authorization form shall be assignable in the event the mortgagee or servicing organization sells, assigns or transfers the servicing of the mortgage loan to another mortgagee or servicing organization.

c. The tax collector of the taxing district shall, upon receipt of a written request from a mortgagee or servicing organization on a form approved by the commissioner, mail or otherwise deliver a mortgagor's tax bill to a property tax processing organization. The commissioner shall provide by regulation for a procedure by which the tax collector of a taxing district may request the Director of the Division of Local Government Services in the Department of Community Affairs to review the appropriateness of the request to mail or otherwise deliver a mortgagor's tax bill to a property tax processing organization.

d. If a mortgagee, servicing organization, or property tax processing organization requests a duplicate copy of a tax bill, the tax collector of a taxing district shall issue a duplicate copy and may charge a maximum of \$5 for the first duplicate copy and a maximum of \$25 for each subsequent duplicate copy of the same tax bill in the same tax year, the actual charge being set by municipal ordinance. The commissioner shall promulgate regulations to effectuate the provisions of this subsection d. which regulations shall include a procedure by which a mortgagee, servicing organization, or property tax processing organization may appeal and be reimbursed for the amount it has paid for a duplicate copy of a tax bill, or any part thereof.

e. As used in subsections b., c., and d. of this section, "mortgagee," "mortgagor," "mortgage loan," "servicing organization" and "property tax processing organization" shall have the same meaning as the terms have pursuant to section 1 of P.L.1990, c.69 (C.17:16F-15).

2. R.S.54:4-65 is amended to read as follows:

Brief tabulation on tax bills to indicate expenditures.

54:4-65. Each tax bill shall have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the rate per \$100.00 of assessed valuation or the number of cents in each dollar paid by the taxpayer which is to be used for the payment of State school taxes, other State taxes, county taxes, local school expenditures and other local expenditures. The last named item may be further subdivided so as to show the amount for each of the several departments of the municipal government. In lieu of printing such information on the tax bill, any municipality may furnish the tabulation required hereunder and any other pertinent information in a statement accompanying the mailing or delivery of the tax bill.

Also included with the annual tax bill, on a form prescribed by the Director of the Division of Local Government Services in the Department of Community Affairs, the tax collector, in consultation with the chief financial officer of the municipality, shall prepare a statement. The statement shall report the amounts of State aid and assistance related to service assumptions approved by the Division of Local Government Services, payable to the county, municipality and school district for county, municipal and school district purposes, that offset local tax levies.

C.54:4-64a Tax bill for first half payment divided equally.

3. The complete tax bill delivered to each property taxpayer, mortgagee or any other agent by the tax collector pursuant to R.S.54:4-64 for the first half payment computed using the method set forth in that statute shall be divided equally to obtain the first two post tax year quarterly payment installments.

4. R.S.54:4-66 is amended to read as follows:

When taxes payable; when delinquent.

54:4-66. Taxes shall be payable and shall be delinquent as hereinafter stated:

a. Taxes shall be payable the first installment as hereinafter provided on February first, the second installment on May first, the third installment on August first and the fourth installment on November first, after which dates if unpaid, they shall become delinquent;

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the penalties hereinafter prescribed;

c. The dates hereinbefore provided for payment of the first and second installments of taxes being before the true amount of the tax will have been determined, the amount to be payable as each of the first two installments shall be one-quarter of the total tax finally levied against the same property or taxpayer for the preceding year or one-half of the tax levied for the second half of the previous tax year, as appropriate, and the amount to be payable for the third and fourth installments shall be the full tax as levied for the current year, less the amount charged as the first and second installments; the amount thus found to be payable as the last two installments shall be divided equally for and as each installment. An appropriate adjustment by way of discount shall be made, if it shall appear that the total of the first and second installments exceeded one-half of the total tax as levied for the year;

d. Taxes may be received and credited as payments at any time, even prior to the dates hereinbefore fixed for payment.

5. This act shall take effect immediately, and shall apply to property taxes assessed and levied for each tax year beginning on or after January 1, 1991.

Approved April 4, 1991.

CHAPTER 90

AN ACT concerning the determination of death, enacting the New Jersey Declaration of Death Act and supplementing Title 26 of the Revised Statutes.

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

C.26:6A-1 Short title; declarations in accord with act.

1. a. This act shall be known and may be cited as the "New Jersey Declaration of Death Act."

b. The death of an individual shall be declared in accordance with the provisions of this act.

C.26:6A-2 Declaration of death based on cardio-respiratory criteria.

2. An individual who has sustained irreversible cessation of all circulatory and respiratory functions, as determined in accordance with currently accepted medical standards, shall be declared dead.

C.26:6A-3 Declaration of death based on neurological criteria.

3. Subject to the standards and procedures established in accordance with this act, an individual whose circulatory and respiratory functions can be maintained solely by artificial means, and who has sustained irreversible cessation of all functions of the entire brain, including the brain stem, shall be declared dead.

C.26:6A-4 Physician to declare death.

4. a. A declaration of death upon the basis of neurological criteria pursuant to section 3 of this act shall be made by a licensed physician professionally qualified by specialty or expertise, in accordance with currently accepted medical standards and additional requirements, including appropriate confirmatory tests, as are provided pursuant to this act.

b. Subject to the provisions of this act, the Department of Health, jointly with the Board of Medical Examiners, shall adopt, and from time to time revise, regulations setting forth (1) requirements, by specialty or expertise, for physicians authorized to declare death upon the basis of neurological criteria; and (2) currently accepted medical standards, including criteria, tests and procedures, to govern declarations of death upon the basis of neurological criteria. The initial regulations shall be issued within 120 days of the enactment of this act.

c. If the individual to be declared dead upon the basis of neurological criteria is or may be an organ donor, the physician who makes the declaration that death has occurred shall not be the organ transplant surgeon, the attending physician of the organ recipient, nor otherwise an individual subject to a potentially significant conflict of interest relating to procedures for organ procurement.

d. If death is to be declared upon the basis of neurological criteria, the time of death shall be upon the conclusion of definitive clinical examinations and any confirmation necessary to determine the irreversible cessation of all functions of the entire brain, including the brain stem.

C.26:6A-5 Death not declared in violation of individual's religious beliefs.

5. The death of an individual shall not be declared upon the basis of neurological criteria pursuant to sections 3 and 4 of this act when the licensed physician authorized to declare death, has reason to believe, on the basis of information in the individual's available medical records, or information provided by a member of the individual's family or any other person knowledgeable about the individual's personal religious beliefs that such a declaration would violate the personal religious beliefs of the individual. In these cases, death shall be declared, and the

time of death fixed, solely upon the basis of cardio-respiratory criteria pursuant to section 2 of this act.

C.26:6A-6 Immunity granted to health care practitioner, provider, hospital.

6. A licensed health care practitioner, hospital, or the health care provider who acts in good faith and in accordance with currently accepted medical standards to execute the provisions of this act and any rules or regulations issued by the Department of Health or the Board of Medical Examiners pursuant to this act, shall not be subject to criminal or civil liability or to discipline for unprofessional conduct with respect to those actions. These immunities shall extend to conduct in conformity with the provisions of this act following enactment of this act but prior to its effective date.

C.26:6A-7 Obligations of insurance providers unchanged.

7. Changes in pre-existing criteria for the declaration of death effectuated by the legal recognition of modern neurological criteria shall not in any manner affect, impair or modify the terms of, or rights or obligations created under, any existing policy of health insurance, life insurance or annuity, or governmental benefits program. No health care practitioner or other health care provider, and no health service plan, insurer, or governmental authority, shall deny coverage or exclude from the benefits of service any individual solely because of that individual's personal religious beliefs regarding the application of neurological criteria for declaring death.

C.26:6A-8 Rules, regulations, policies, practices to gather reports, data.

8. a. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the Department of Health shall establish rules, regulations, policies and practices as may be necessary to collect annual reports from health care institutions, to gather additional data as is reasonably necessary, to oversee and evaluate the implementation of this act. The department shall seek to minimize the burdens of record-keeping imposed by these rules, regulations, policies and practices, and shall seek to assure the appropriate confidentiality of patient records.

b. The Department of Health, the Board of Medical Examiners, and the New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care shall jointly evaluate the implementation of this act and report to the Legislature, including recommendations for any changes deemed necessary, within five years from the effective date of this act.

9. If any provision of this act or its application to any individual or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

10. This act shall take effect on the 180th day following the date of its enactment.

Approved April 8, 1991.

CHAPTER 91

AN ACT correcting statutory references and amending various sections of the statutory law.

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

1. Section 1 of P.L.1970, c.151 (C.2A:1B-1) is amended to read as follows:

C.2A:1B-1 "Judge" defined.

1. "Judge" as used herein means any judge of the Superior Court, tax court, and municipal court.

2. Section 3 of P.L.1981, c.243 (C.2A:4-30.26) is amended to read as follows:

C.2A:4-30.26 Definitions.

3. Definitions: a. "Court" means the Superior Court, Chancery Division, Family Part of this State, and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

b. "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid.

c. "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

- d. "Law" includes both common and statutory law.
- e. "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.
- f. "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.
- g. "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.
- h. "Register" means to record in the Registry of Foreign Support Orders.
- i. "Registering court" means any court of this State in which a support order of a rendering state is registered.
- j. "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.
- k. "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.
- l. "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.
- m. "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

3. Section 11 of P.L.1981, c.243 (C.2A:4-30.34) is amended to read as follows:

C.2A:4-30.34 Jurisdiction.

11. Jurisdiction of any proceeding under this act is vested in the Superior Court, Chancery Division, Family Part of any county of this State.

4. Section 3 of P.L.1982, c.77 (C.2A:4A-22) is amended to read as follows:

C.2A:4A-22 General definitions.

3. General definitions. As used in this act:
- a. "Juvenile" means an individual who is under the age of 18 years.
 - b. "Adult" means an individual 18 years of age or older.
 - c. "Detention" means the temporary care of juveniles in physically restricting facilities pending court disposition.
 - d. "Shelter care" means the temporary care of juveniles in facilities without physical restriction pending court disposition.
 - e. "Commit" means to transfer legal custody to an institution.
 - f. "Guardian" means a person, other than a parent, to whom legal custody of the child has been given by court order or who is acting in the place of the parent or is responsible for the care and welfare of the juvenile.
 - g. "Juvenile-family crisis" means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in (1) a serious threat to the well-being and physical safety of a juvenile, or (2) a serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian, or (3) unauthorized absence by a juvenile for more than 24 hours from his home, or (4) a pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes.
 - h. "Repetitive disorderly persons offense" means the second or more disorderly persons offense committed by a juvenile on at least two separate occasions and at different times.
 - i. "Court" means the Superior Court, Chancery Division, Family Part unless a different meaning is plainly required.

5. Section 6 of P.L.1982, c.77 (C.2A:4A-25) is amended to read as follows:

C.2A:4A-25 Transfer from other courts.

6. Except as provided in section 4, and unless jurisdiction has been waived under section 7, if during the pendency in any other court of a case charging a person with a crime, offense or violation, it is ascertained that such person was a juvenile at the time of the crime, offense or violation charged, such court shall immediately transfer such case to the Superior Court, Chancery Division, Family Part. The Family Part shall thereupon proceed in the same manner as if the case had been instituted under this chapter in the first instance.

6. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read as follows:

C.2A:4A-26 Referral to another court without juvenile's consent.

7. Referral to another court without juvenile's consent.

a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the Superior Court, Chancery Division, Family Part to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

(1) The juvenile was 14 years of age or older at the time of the charged delinquent act; and

(2) There is probable cause to believe that the juvenile committed a delinquent act or acts which if committed by an adult would constitute:

(a) Criminal homicide other than death by auto, strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would constitute a crime of the first degree, aggravated sexual assault, sexual assault, aggravated assault which would constitute a crime of the second degree, kidnapping or aggravated arson; or

(b) A crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted, on the basis of any of the offenses enumerated in subsection a.(2)(a);

(c) A crime committed at a time when the juvenile had previously been sentenced and confined in an adult penal institution; or

(d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a.(2)(a) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or

(e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5; or

(f) Crimes which are a part of a continuing criminal activity in concert with two or more persons and the circumstances of the crimes show the juvenile has knowingly devoted himself to criminal activity as a source of livelihood; or

(g) An attempt or conspiracy to commit any of the acts enumerated in paragraph (a), (d) or (e) of this subsection; or

(h) Theft of an automobile pursuant to chapter 20 of Title 2C of the New Jersey Statutes; and

(3) Except with respect to any of the acts enumerated in subsection a.(2)(a) of this section, or with respect to any acts enumerated in

subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

However, if in any case the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted.

b. In every case where there is a motion seeking waiver, the prosecutor shall within a reasonable time thereafter file a statement with the Attorney General setting forth the basis for the motion. In addition, the court shall, in writing, state its reasons for granting or denying the waiver motion. The Attorney General shall compile this information and report its findings to the Legislature 18 months after the effective date of this act with the objective of developing, where appropriate, guidelines as to the waiver of juveniles from the Family Part.

c. An order referring a case shall incorporate therein not only the alleged act or acts upon which the referral is premised, but also all other delinquent acts arising out of or related to the same transaction.

d. A motion seeking waiver shall be filed by the prosecutor within 30 days of receipt of the complaint. This time limit shall not, except for good cause shown, be extended.

7. 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 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

Part 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 jurisdiction 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 teams, 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 operations 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 service plan for each county.

8. N.J.S.2A:5-2 is amended to read as follows:

Bond of surrogate; amount; surety; conditions; filing.

2A:5-2. Each surrogate, before assuming the duties of his office, shall enter into a bond to the State of New Jersey and to the county for which he is elected, as their interest may appear, in the sum of \$15,000 or in such greater sum not exceeding \$50,000 as the Superior Court may order, with sufficient corporate surety. The bond shall be conditioned that if he shall well and truly exe-

cute the office of surrogate of his county, and all things pertaining to the same, as well with respect to all persons concerned, as to the said county and the State of New Jersey, and at the expiration of his office, shall deliver to his successor in office all the moneys, things, books, papers, records and writings in his office or appertaining thereto, then the obligation shall be void, otherwise it shall be and remain in force. The bond, approved by the court, shall be filed in the office of the secretary of state and a duplicate filed with the clerk of the board of chosen freeholders of such county.

9. N.J.S.2A:5-4 is amended to read as follows:

Performance of duties of surrogate by judge of Superior Court in certain cases.

2A:5-4. If the surrogate of any county shall be a fiduciary under a will or otherwise, he and every employee of his shall be disqualified from performing the duties of his office with respect to the will or the fiduciaryship, but a judge of the Superior Court may perform such duties.

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

Wills, inventories and letters transmitted to clerk of Superior Court.

2A:5-18. Every surrogate shall, on the first Monday in February, May, August and November, in each year, transmit to and file with the clerk of the Superior Court all wills and inventories proved before him and a report of all letters of administration granted during the preceding three months. This section shall not apply to those wills proved before him which are on file in a court or public office of another state, under the laws of which they cannot be removed therefrom or, if permitted to be removed to this State for probate, cannot remain in this State for permanent filing.

11. N.J.S.2A:5-20 is amended to read as follows:

Recording of instruments, documents and papers.

2A:5-20. The surrogate of each county, either as surrogate or clerk of the Superior Court, Chancery Division, Probate Part shall record in his office the following instruments, documents and papers, among others:

- a. Orders and judgments of the Probate Part except such orders as he shall deem unnecessary to be recorded;
- b. Bonds required by law or order of the court given by fiduciaries;

- c. Accounts of executors, administrators, guardians, assignees and trustees, and revocations, requests and renunciations, necessary or proper to be recorded, if desired by any party in interest;
- d. Wills proved before him or the Probate Part together with the proofs thereof;
- e. Letters testamentary, of administration, of guardianship and of trusteeship granted or issued by him, and all things concerning the same, and also all inventories;
- f. Receipts and discharges given to executors, administrators, guardians or trustees upon the payment or delivery by them of legacies, distributive shares or personal property to the persons entitled thereto, or their executors or administrators, which receipts and discharges shall be acknowledged or proved as deeds of real estate are by law required to be acknowledged or proved;
- g. Receipts and discharges given to receivers, masters, trustees, or persons ordered to sell real estate, upon the payment by them in the proper execution of their trust, of shares or sums of money to persons entitled thereto, or to their executors or administrators, which receipts and discharges shall be acknowledged or proved as deeds of real estate are required by law to be acknowledged or proved.

12. N.J.S.2A:5-25 is amended to read as follows:

Rerecording where records are worn out or mutilated.

2A:5-25. Whenever the record of any instrument of record in the office of the surrogate of any county of this State shall become so worn out, mutilated, obliterated or obscured as to endanger the title to real estate or other property, any judge of the Superior Court may order such instrument to be recorded anew in a book to be kept in the office of such surrogate, which book shall be known as the book of rerecorded instruments. Transcripts thereof, when certified as such by such surrogate under his hand and seal of office, shall be received as legal evidence of the contents of any instrument so recorded in the courts of this State. All instruments so rerecorded shall be indexed in the appropriate books of indexes, being marked as reindexed.

13. N.J.S.2A:8-27 is amended to read as follows:

Complaints, warrants, summonses, oath, affidavits; holding to bail; officials authorized.

2A:8-27. Any judge of the Superior Court, or of a municipal court, any clerk or deputy clerk thereof, any officer authorized by N.J.S.2A:8-28 to take bail, the chief of police or other person acting in that capacity in any municipality and the police officer in responsible

charge of the police station may, within the municipality wherein an offender may be apprehended, administer or take any oath, acknowledgment, complaint or affidavit to be used in the proceeding, issue warrants and summonses, endorse warrants from other counties, and upon arrest hold the accused to bail, the offense with which he is charged being bailable, for his appearance before the Superior Court or any municipal court, in the county at such time as he may direct.

Whenever a member of the police force appointed by the Port of New York Authority serves the summons part of a uniform traffic ticket, the member of such police force assigned to desk duty at the Port Authority facility to which the officer serving the summons is attached, may administer the oath required to be taken to complete the complaint part of the said uniform traffic ticket.

14. N.J.S.2A:8-28 is amended to read as follows:

Holding to bail; judges authorized.

2A:8-28. In any municipality, a judge of the Municipal Court shall have the power in criminal cases to hold defendants to appear before the court having jurisdiction to hear the matter by taking recognizances of bail with surety or sureties in such reasonable sum as he may deem fit and to forward the same to the said court before the time of appearance therein mentioned. Any such power shall be exercisable in the same manner and shall be subject to the same limitations as in the case of the judge of the court before which any such defendant is to appear.

15. Section 1 of P.L.1968, c. 460 (C.2A:8-42) is amended to read as follows:

C.2A:8-42 Docketing of certain judgments authorized.

1. Any judgment assessing a penalty and any final judgment of a municipal court, when not less than \$10.00, including costs, remains due thereon, may be docketed by the municipality or party recovering the same, his executors, administrators or assigns, in the Superior Court, in the manner and with the effect hereinafter provided.

16. Section 3 of P.L.1968, c. 460 (C.2A:8-44) is amended to read as follows:

C.2A:8-44 Filing of statement; contents; action by court clerk.

3. The clerk of the Superior Court shall require that there be filed in his office a statement, signed by the clerk of the municipi-

pal court in which the judgment was entered and sealed with the seal of the municipal court, containing:

- a. The name of the court,
- b. The names of the parties to the action in which the judgment was rendered,
- c. The name of the attorney, if any, of the party in whose favor the judgment was rendered,
- d. The amount and date of the judgment and
- e. The date of issue and return of execution, if any,
- f. Which statement shall be accompanied by an affidavit of the party, his attorney or agent, in whose favor the judgment was rendered that, at the time of the filing of the statement a certain stated amount, not less than \$10.00, was due on the judgment.

Upon the filing of such statement, the clerk of the Superior Court shall enter in his docket a transcript of the judgment in words at length, containing the name of the municipal court in which the judgment was rendered, the style of the action, the names in full of the parties to the action, the name of the attorney, if any, of the party in whose favor the judgment was rendered, the amount recovered with costs, the substance of the return of the officer serving the process, and the amount stated to be due in the affidavit.

17. Section 5 of P.L.1968, c. 460 (C.2A:8-46) is amended to read as follows:

C.2A:8-46 Provision and keeping of docket.

5. The clerk of the Superior Court shall provide and keep a docket, in which shall be entered, upon compliance with the provisions of this act, the judgments to be docketed pursuant to this act. The docket of the clerk of the Superior Court may be that one in which judgments of other courts are docketed.

18. Section 6 of P.L.1968, c.460 (C.2A:8-47) is amended to read as follows:

C.2A:8-47 Index of dockets; public records.

6. The clerk of the Superior Court shall make and keep a complete alphabetical index to the dockets required to be kept by this act.

The dockets and the indexes thereto shall be public records, to which all persons desiring to examine the same shall have access.

19. Section 7 of P.L.1968, c.460 (C.2A:8-48) is amended to read as follows:

C.2A:8-48 Operation of docketing as judgment.

7. A judgment docketing in the Superior Court in the manner herein provided shall, for the time of the docketing, operate as though it were a judgment obtained in an action originally commenced in the court wherein it has been docketed.

20. Section 9 of P.L.1968, c.460 (C.2A:8-50) is amended to read as follows:

C.2A:8-50 Issue of execution on docketed judgment.

9. Execution may issue on a judgment docketed as herein provided out of the Superior Court, with the same effect as if issued on a judgment originally obtained in the court wherein the judgment has been docketed.

21. Section 11 of P.L.1968, c.460 (C.2A:8-52) is amended to read as follows:

C.2A:8-52 No issue of execution pending certain final determinations.

11. If a judgment has been docketed before the grant of a new trial or an appeal taken, no execution shall issue thereon out of the Superior Court pending the final determination of such proceedings.

22. Section 12 of P.L.1968, c.460 (C.2A:8-53) is amended to read as follows:

C.2A:8-53 Granting of new trial; effect on issue of execution.

12. If a judgment has been docketed and execution issued thereon out of the Superior Court before the grant of a new trial by the municipal court, the municipal court may nevertheless grant a new trial, and, if granted, no further proceedings shall be had on the execution pending the determination of a new trial.

23. Section 13 of P.L.1968, c. 460 (C.2A:8-54) is amended to read as follows:

C.2A:8-54 Revival of docketed judgment.

13. A judgment docketed as provided in this article may be revived by proceedings in the Superior Court in the same manner, in the like cases and with the like effect as if such judgment had been obtained in an action commenced in such court.

24. N.J.S.2A:10-3 is amended to read as follows:

Review of convictions for contempt in certain inferior courts.

2A:10-3. Every summary conviction and judgment, by the Superior Court in the law division or chancery division or by any inferior

court except the municipal court, for a contempt, shall be reviewable by the appellate division of the Superior Court and all convictions and judgments for contempt by the municipal courts shall be reviewable by the Superior Court. Such review shall be both upon the law and the facts and the court shall give such judgment as it shall deem to be lawful and just under all the circumstances of the case and shall enforce the same as it shall order.

25. N.J.S.2A:10-4 is amended to read as follows:

Breach of condition of supersedeas bond.

2A:10-4. Upon the breach of the condition of any supersedeas bond given to the clerk of any inferior court in a contempt proceeding, the county prosecutor of the county in which the bond is given shall prosecute the same to effect, in the name of the clerk, and shall pay the proceeds of the recovery thereon to the county treasurer, to be distributed by him according to law.

26. N.J.S.2A:10-5 is amended to read as follows:

Civil contempt; punishment.

2A:10-5. Any person who shall be adjudged in contempt of the Superior Court by reason of his disobedience to a judgment, order or process of the court, shall, where the contempt is primarily civil in nature and before he is discharged therefrom, pay to the clerk of the court, for every such contempt, a sum not exceeding \$50 as a fine, to be imposed by the court, together with the costs incurred.

27. N.J.S.2A:10-6 is amended to read as follows:

Contempt by sheriff or other officer.

2A:10-6. A sheriff or other officer to whom any writ, process, judgment or order of the Superior Court is directed or delivered, who shall be adjudged in contempt of the court for failure to make return thereof or thereto, shall, before he is discharged from his contempt pay to the clerk of the court a sum not exceeding \$50 as a fine, to be imposed by the court, together with the costs incurred.

28. N.J.S.2A:10-7 is amended to read as follows:

Contempt in municipal courts.

2A:10-7. The municipal courts in this State shall have full power to punish for contempt in any case provided by N.J.S.2A:10-1.

29. N.J.S.2A:12-6 is amended to read as follows:

Distribution of law reports.

2A:12-6. The Administrative Director of the Courts is authorized to distribute or cause to be distributed any bound volumes of the New Jersey Reports and the New Jersey Superior Court Reports heretofore or hereafter published and delivered to him, as follows:

To each member of the Legislature, one copy of each volume of such reports.

To the following named, for official use, to remain the property of the State, the following number of copies of each volume of such reports:

- a. To the Governor, four copies;
- b. To the Department of Law and Public Safety, for the Division of Law, four copies; and the Division of Alcoholic Beverage Control, one copy;
- c. To the Department of the Treasury, for the State Treasurer, one copy; the Division of Taxation, three copies; and the Division of Local Government Services in the Department of Community Affairs, one copy;
- d. To the Department of State, one copy;
- e. To the Department of Personnel, one copy;
- f. To the Department of Banking, one copy; and the Department of Insurance, one copy;
- g. To the Board of Public Utilities in the Department of the Treasury, one copy;
- h. To the Department of Labor, for the commissioner, one copy; the Division of Workers' Compensation, five copies; the State Board of Mediation, one copy; and the Division of Employment Security, three copies;
- i. To the Department of Education, for the commissioner, one copy; and the Division of the State Library, Archives and History, 60 copies, five of which shall be deposited in the Law Library, and 55 of which shall be used by the director of the division in sending one copy to the state library of each state and territory of the United States, the same to be in exchange for the law reports of such states and territories sent to said division, which reports shall be deposited in and become part of the collection of the Law Library;
- j. To the Department of Transportation, one copy;
- k. To the Department of Human Services, one copy; and the Department of Corrections, one copy;
- l. To each judge of the federal courts in and for the district of New Jersey, one copy;

- m. To each justice of the Supreme Court, one copy;
- n. To each judge of the Superior Court, one copy;
- o. To the Administrative Director of the Courts, one copy;
- p. To each standing master of the Superior Court, one copy;
- q. (Deleted by amendment, P.L.1983, c.36.)
- r. To the clerk of the Supreme Court, one copy;
- s. To the clerk of the Superior Court, one copy;
- t. (Deleted by amendment, P.L.1983, c.36.)
- u. (Deleted by amendment, P.L.1983, c.36.)
- v. (Deleted by amendment, P.L.1991, c.91.)
- w. (Deleted by amendment, P.L.1991, c.91.)
- x. To each county prosecutor, one copy;
- y. To the Central Management Unit in the Office of Legislative Services, one copy;
- z. To each surrogate, one copy;
- aa. To each county clerk, one copy;
- ab. To each sheriff, one copy;
- ac. To Rutgers, The State University, two copies; and the law schools, five copies each;
- ad. To the law school of Seton Hall University, five copies;
- ae. To Princeton University, two copies;
- af. To the Library of Congress, four copies;
- ag. To the New Jersey Historical Society, one copy;
- ah. To every library provided by the board of chosen freeholders of any county at the courthouse in each county, one copy;
- ai. To the library of every county bar association in this State, one copy;
- aj. To each incorporated library association in this State, which has a law library at the county seat of the county in which it is located, one copy;
- ak. To each judge of the tax court, one copy.

The remaining copies of such reports shall be retained by the administrative director for the use of the State and for such further distribution as he may determine upon.

30. N.J.S.2A:15-35 is amended to read as follows:

Service of process, procedure, certificate filed.

2A:15-35. When service of process is authorized to be made under this article upon the Secretary of State or Commissioner of Banking or the Commissioner of Insurance in the case of any foreign corporation or association, then the sheriff or the clerk of the

court in which the action is commenced may serve the Secretary of State or Commissioner of Banking or the Commissioner of Insurance, as the case may be, by mailing to him, by registered mail, a copy of the summons and complaint with the fee prescribed by law. Service thereof shall be as effectual to bring such corporation or association into court as though the same were served in the county. The Secretary of State or Commissioner of Banking or the Commissioner of Insurance, upon giving notice to the defendant of the service of process as required by this article, shall file with the clerk of the court his certificate of the notice given.

31. N.J.S.2A:15-38 is amended to read as follows:

Effect of order for publication on corporation's real estate.

2A:15-38. From the time of the entry of the order for publication provided for by N.J.S.2A:15-37, the action shall be and remain a lien on the real estate to which the corporation was then entitled in the State.

After the time of the entry of the order for publication, the corporation shall not convey or in any manner alienate any real estate above-mentioned, until the plaintiff in the action is satisfied of his demand or judgment is entered for defendant. If such real estate is conveyed or aliened after such time, it may be sold on execution or otherwise, as if no conveyance or alienation had been made.

32. N.J.S.2A:15-62 is amended to read as follows:

Actions cognizable before the Superior Court, Law Division, Special Civil Part commenced in Law Division.

2A:15-62. If an action cognizable before the Superior Court, Law Division, Special Civil Part is brought in the Superior Court, Law Division and if the plaintiff obtains judgment for an amount not exceeding the jurisdictional limit of the Special Civil Part exclusive of costs, the plaintiff may be allowed costs, but not exceeding the amount allowable in the Special Civil Part.

This section shall not extend to any action in which the title to real estate may, in any way, come in question, nor to any action in which the judge before whom it is tried shall, immediately after the verdict or the finding, certify that, in his judgment, the action should have been brought in the division and part of the Superior Court in which it was instituted.

33. N.J.S.2A:15-67 is amended to read as follows:

Bond for costs by nonresident claimant.

2A:15-67. Where in any action in the Superior Court any plaintiff or any party asserting a counterclaim, cross-claim or third-party claim is a nonresident, he shall, if, at any time before trial, notice is given to him by an opposing party demanding security for costs, give bond in favor of the opposing party, or, if there is more than one making the demand, in favor of each of them, in the sum of \$100, with sufficient surety, conditioned to prosecute the action with effect and to pay costs if the action is dismissed or judgment passes against him. If there is more than one plaintiff or claimant, they may give bond jointly in the sum of \$100, all as aforesaid.

If the surety on the bond is an individual and not a corporation, he shall be a resident of this State.

The bond shall be filed in the office of the clerk of the court.

34. N.J.S.2A:16-3 is amended to read as follows:

Security for payment of judgment; order discharging real estate from lien.

2A:16-3. If appellant, in an appeal from a judgment of the Superior Court, deposits with the clerk of the court such an amount as shall be deemed by that court to be sufficient, as security for the payment of such amount as may finally be determined to be due in the action, the court may by order discharge the real estate of appellant from the lien of the judgment appealed from.

The amount deposited shall be subject to the lien of the judgment appealed from and of any subsequent judgment recovered in the action, and shall be retained by the clerk until the final determination of the action.

When the order has been filed and the deposit made as required, the clerk shall enter in the margin of the record of the judgment or at a discernible place at the entry of the judgment, the words "lien of judgment discharged by order of the court," with the date of the discharge. Thereupon and thereafter the real estate of appellant shall be absolutely discharged and freed from any claim on account of the judgment appealed from or the action in which the judgment was rendered.

35. N.J.S.2A:16-11 is amended to read as follows:

Civil judgment and 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 of the Special Civil Part of the Law Division shall not be entered unless it is docketed in the manner specifically provided for Special Civil Part judgments. 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.

36. N.J.S.2A:16-33 is amended to read as follows:

Judgment; effect on real estate.

2A:16-33. Where an appeal is taken from a municipal court in a civil action to the Superior Court, the judgment of the court on appeal shall not be binding on real estate unless an order is or has been entered in the minutes of the Superior Court directing the judgment to be recorded. From the time of the entry of the order, the judgment binds and shall bind all real estate of the judgment debtor in the State.

Such order may be entered at any time without notice. When entered, the judgment shall be recorded and indexed as other judgments of the court.

37. N.J.S.2A:16-44 is amended to read as follows:

Postponement of lien of judgment.

2A:16-44. All postponements of the lien of judgments appearing of record in the office of the clerk of the Superior Court shall contain a full description of the property as to which the judgment lien is proposed to be postponed, together with the book and page of the record of the judgment to be postponed.

38. N.J.S.2A:16-48 is amended to read as follows:

Acknowledgement of satisfaction on record when execution is returned satisfied.

2A:16-48. When the sheriff or other officer returns, satisfied, execution issued on any judgment recovered or docketed in the Superior

Court, Law Division, the clerk of the court issuing the execution shall enter "cancelled by execution returned, satisfied." Upon request the clerk shall tax the fee duly received by him as part of the execution fees.

39. N.J.S.2A:17-7 is amended to read as follows:

Execution on judgment of Superior Court on appeal from municipal court.

2A:17-7. Execution on a judgment of the Superior Court on appeal from a municipal court may issue immediately on the entry of the judgment.

40. N.J.S.2A:17-17 is amended to read as follows:

Real estate liable to execution.

2A:17-17. All real estate shall be liable to be levied upon and sold by executions to be issued on judgments obtained in any court of record in this State, except the Superior Court, Law Division, Special Civil Part, for the payment and satisfaction of the debt, damages, sum of money and costs so recovered or to be recovered; but no real estate of any testator or intestate shall be sold or in anywise affected by any judgment or execution against executors or administrators. No judgment obtained for the payment and satisfaction of any employment wage tax, including penalties, shall be enforced pursuant to this section.

41. N.J.S.2A:17-29 is amended to read as follows:

Notice to levying officer; stay of sale; jury to try claim.

2A:17-29. When, by virtue of an execution issued out of any court of this State, goods or chattels are levied on or taken into possession by a sheriff or other authorized officer, and claim is made thereto by a person other than the execution defendant, by notice in writing delivered to the officer executing the writ, the officer shall immediately delay his sale thereunder for 10 days, to enable the claimant to institute an action to establish the claim in said court. The action shall proceed in a summary manner and shall be tried by jury, unless a jury be waived by the parties to the action.

42. N.J.S.2A:17-50 is amended to read as follows:

When authorized; property subject to execution; application; issue of writ.

2A:17-50. When a judgment has been recovered in the Superior Court, and where any wages, debts, earnings, salary, income from trust funds, or profits are due and owing to the judgment debtor, or thereafter become due and owing to him, to the amount of

\$48.00 or more a week, the judgment creditor may, on notice to the judgment debtor unless the court otherwise orders, apply to the court in which the judgment was recovered, or to the court having jurisdiction of the same, and upon satisfactory proofs, by affidavit or otherwise, of such facts, the court shall grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds, or profits of the judgment debtor.

43. N.J.S.2A:17-59 is amended to read as follows:

Rights and credits taken and sold.

2A:17-59. Rights and credits of a defendant in execution, or within his custody or control as a representative if he is sued in a representative capacity, may be levied upon, taken and sold or collected by virtue of such execution, where the judgment is entered or docketed in the Superior Court.

44. N.J.S.2A:17-64 is amended to read as follows:

Order to debtor to pay in installments; modification.

2A:17-64. If it is made to appear that the judgment debtor is entitled to, or is in receipt of, an income or any property or money or things in action, or rights and credits, including such income as is derived from federal, state, county, municipal or other governmental sources, but not income or property as is recovered or exempt by law, the Superior Court may direct the judgment debtor to make payments at stated periods in installments, and upon such terms and conditions as the court may direct, out of the same, on account of the unsatisfied judgment. Application may be made at any time on behalf of the judgment creditor, his executor, administrator or assignee, or the judgment debtor, to modify the terms of such order, and the court may make such modification.

45. N.J.S.2A:17-65 is amended to read as follows:

Order forbidding transfer or other disposition of property or money.

2A:17-65. In aid of execution, the Superior Court upon proof by the oath of the party or his or its agent or attorney or of any other person, showing facts establishing that the judgment debtor has property or any person owes him or it, or holds money or property in possession or action in trust for him or it, or for his or its use over and above such property as is exempt or reserved by law, may make an order forbidding the payment of such debt, or

the transfer of such property or money by or to such debtor, or any third person until the further order of the court. The term "property" shall include rights and credits as defined in article 8 of this title.

46. N.J.S.2A:17-66 is amended to read as follows:

Receiver; appointment.

2A:17-66. In aid of execution, the Superior Court may, on application of either the judgment creditor or the defendant and in its discretion, order the appointment of a receiver of the property and things in action belonging or due to or held in trust for the judgment debtor as aforesaid, at the time of the recovery of the judgment or at any time thereafter. The court may, at any time and in its discretion, order the receiver to give bond for the faithful performance of his duties, in an amount and with such security as it may by order prescribe.

47. N.J.S.2A:18-16 is amended to read as follows:

Right to jury trial; demand.

2A:18-16. Either party to any action commenced in the Superior Court, Law Division, Special Civil Part may demand a trial by jury.

48. N.J.S.2A:18-32 is amended to read as follows:

Docketing judgments of the Special Civil Part.

2A:18-32. Any final judgment of the Special Civil Part when not less than \$10, including costs, remains due thereon, may be docketed by the party recovering the same, his executors, administrators or assigns, with the Clerk of the Superior Court in the manner and with the effect hereinafter provided.

Any judgment recovered in the Special Civil Part in an action against any heir or devisee of a decedent by creditors of the decedent may be general or special and it may be docketed with the Clerk of the Superior Court and execution issued thereon in the same manner as if the action had originally been instituted in the Law Division.

This section shall not apply to judgments recovered in the Special Civil Part in actions to enforce a mechanic's lien claim, which shall be docketed as required by the mechanic's lien law.

49. N.J.S.2A:18-27 is amended to read as follows:

Life of execution and return.

2A:18-27. A writ of execution issued out of the Superior Court, Law Division, Special Civil Part shall remain valid and effective

for the purpose of a levy, and shall be operative and effective against any goods and chattels levied upon, for one year from the date of its issuance, unless sooner satisfied. Thereafter it shall be void. The officer shall make a return to the clerk of the proceedings had by him on such writ forthwith after a satisfaction thereof, otherwise within one year.

50. N.J.S.2A:18-29 is amended to read as follows:

Liability of officer to judgment creditor for neglect or default in making execution.

2A:18-29. If, by reason of the negligence of an officer in the performance of any of the duties imposed upon him respecting an execution for the Superior Court, Law Division, Special Civil Part, the execution creditor fails to recover the amount, or any part thereof, to which he is entitled under the execution, with costs, the officer shall be liable to the execution creditor therefor, recoverable in an action of contract, with double costs.

51. N.J.S.2A:18-33 is amended to read as follows:

Docketing of judgment pending determination of motion for new trial or appeal.

2A:18-33. During the pendency of a motion for a new trial, or an appeal, a judgment of the Superior Court, Law Division, Special Civil Part may be docketed unless otherwise ordered by the trial or appellate court.

52. N.J.S.2A:18-34 is amended to read as follows:

Statement and affidavit filed with clerk; transcript entry of judgment.

2A:18-34. The clerk of the Superior Court, shall require that there be filed in his office a statement, signed by the clerk of the Special Civil Part in which the judgment was entered containing:

- a. The name of the court,
- b. The names of the parties to the action in which the judgment was rendered,
- c. The name of the attorney, if any, of the party in whose favor the judgment was rendered,
- d. The amount and date of the judgment and
- e. The date of issue and return of execution, if any,
- f. Which statement shall be accompanied by an affidavit of the party, his attorney or agent, in whose favor the judgment was rendered that, at the time of the filing of the statement a certain stated amount, not less than \$10, was still due on the judgment.

Upon the filing of such statement, the clerk of the Superior Court shall enter in his docket a transcript of the judgment in words at length, containing the Special Civil Part in which the judgment was rendered, the style of the action, the names in full of the parties to the action, the name of the attorney, if any, of the party in whose favor the judgment was rendered, the amount recovered with costs, the substance of the return of the officer serving the process, and the amount stated to be due in the affidavit.

53. N.J.S.2A:18-35 is amended to read as follows:

Issue and return of execution not necessary.

2A:18-35. It shall not be necessary, before obtaining the statement mentioned in this article, that execution issue out of and be returned into the Superior Court, Law Division, Special Civil Part. The statement may be made and filed at any time after judgment entered in that court, with the same effect as if execution had been issued and returned. If, however, execution has issued, the statement shall not be made and filed before a return has been made to the execution.

54. N.J.S.2A:18-36 is amended to read as follows:

Clerks' dockets.

2A:18-36. The clerk of the Superior Court shall provide and keep a docket, in which shall be entered, upon compliance with the provisions of this article, the judgments to be docketed pursuant to this article. The docket of the clerk of the Superior Court may be that one in which judgments of other courts are docketed.

55. N.J.S.2A:18-37 is amended to read as follows:

Indexes to dockets; dockets and indexes public records.

2A:18-37. The clerk of the Superior Court shall make and keep a complete alphabetical index to the dockets required to be kept by this article.

The dockets and the indexes thereto shall be public records, to which all persons desiring to examine the same shall have access.

56. N.J.S.2A:18-38 is amended to read as follows:

Operation and effect of docketed judgment in general.

2A:18-38. A judgment docketed in the Superior Court in the manner herein provided shall, from the time of its docketing, operate as though it were a judgment obtained in an action originally commenced in the Superior Court other than in the Special Civil Part.

57. N.J.S.2A:18-39 is amended to read as follows:

Satisfaction of docketed judgment; entry.

2A:18-39. Satisfaction of a judgment docketed as herein provided may be entered in the same manner and upon the same evidence in which satisfaction of an original judgment of the Superior Court other than of the Special Civil Part.

58. N.J.S.2A:18-40 is amended to read as follows:

Execution out of Superior Court on docketed judgment.

2A:18-40. Execution may issue on a judgment docketed as herein provided out of the Superior Court, with the same effect as to the real and personal property of the judgment debtor as if issued on a judgment originally obtained in the Superior Court other than in the Special Civil Part.

59. N.J.S.2A:18-41 is amended to read as follows:

Jurisdiction of Special Civil Part over docketed judgments.

2A:18-41. After a judgment has been docketed as herein provided, no execution shall issue in the Special Civil Part. The Special Civil Part shall have original jurisdiction with respect to the granting of a new trial, the taking of an appeal or any other matter affecting the validity of the original judgment. Any order in connection with the validity of a judgment shall be filed in both the Superior Court and in the Special Civil Part.

60. N.J.S.2A:18-42 is amended to read as follows:

No execution on docketed judgments pending application for new trial or appeal.

2A:18-42. If a judgment has been docketed before the grant of a new trial or an appeal taken, no execution shall issue thereon pending the final determination of such proceedings.

61. N.J.S.2A:18-43 is amended to read as follows:

New trial notwithstanding judgment docketed and execution issued.

2A:18-43. If a judgment has been docketed and execution issued thereon before the grant of a new trial by the Special Civil Part, the Special Civil Part may nevertheless grant a new trial, and, if granted, no further proceedings shall be had on the execution pending the determination of the new trial.

62. N.J.S.2A:18-44 is amended to read as follows:

Revival of docketed judgment.

2A:18-44. A judgment docketed as provided in this article may be revived by proceedings in the Superior Court in the same manner, in the like cases and with the like effect as if such judgment had been obtained in an action commenced in the Superior Court other than in the Special Civil Part.

63. N.J.S.2A:18-51 is amended to read as follows:

Tenancy created by agent; termination by owner; recovery of possession or rentals.

2A:18-51. If real estate is leased by an agent of the owner thereof, in his own name or as agent, the owner, his assignee or grantee may terminate the tenancy as the agent might do. The owner or his duly authorized agent, assignee or grantee may institute and maintain proceedings to recover the possession or the rentals thereof in their own names or in the name of the former agent, in the same manner and with the same effect as though the real estate had been leased in their own names.

64. N.J.S.2A:18-53 is amended to read as follows:

Removal of tenant in certain cases; jurisdiction.

2A:18-53. Except for residential lessees and tenants included in section 2 of this act, any lessee or tenant at will or at sufferance, or for a part of a year, or for one or more years, of any houses, buildings, lands or tenements, and the assigns, undertenants or legal representatives of such tenant or lessee, may be removed from such premises by the Superior Court, Law Division, Special Civil Part in an action in the following cases:

a. Where such person holds over and continues in possession of all or any part of the demised premises after the expiration of his term, and after demand made and written notice given by the landlord or his agent, for delivery of possession thereof. The notice shall be served either personally upon the tenant or such person in possession by giving him a copy thereof or by leaving a copy of the same at his usual place of abode with a member of his family above the age of 14 years.

b. Where such person shall hold over after a default in the payment of rent, pursuant to the agreement under which the premises are held.

c. Where such person (1) shall be so disorderly as to destroy the peace and quiet of the landlord or the other tenants or occupants living in said house or the neighborhood, or (2) shall willfully

destroy, damage or injure the premises, or (3) shall constantly violate the landlord's rules and regulations governing said premises, provided, such rules have been accepted in writing by the tenant or are made a part of the lease; or (4) shall commit any breach or violation of any of the covenants or agreements in the nature thereof contained in the lease for the premises where a right of re-entry is reserved in the lease for a violation of such covenants or agreements, and shall hold over and continue in possession of the demised premises or any part thereof, after the landlord or his agent for that purpose has caused a written notice of the termination of said tenancy to be served upon said tenant, and a demand that said tenant remove from said premises within three days from the service of such notice. The notice shall specify the cause of the termination of the tenancy, and shall be served either personally upon the tenant or such person in possession by giving him a copy thereof, or by leaving a copy thereof at his usual place of abode with some member of his family above the age of 14 years.

65. Section 1 of P.L.1983, c.446 (C.2A:18-59.1) is amended to read as follows:

C.2A:18-59.1 Terminally ill tenants.

1. Notwithstanding the provisions of any other law to the contrary, 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 a 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.

66. N.J.S.2A:18-60 is amended to read as follows:

Removal of proceedings into Law Division.

2A:18-60. At any time before an action for the removal of a tenant comes on for trial, either the landlord or person in possession may apply to the Superior Court, which may, if it deems it of sufficient importance, order the cause transferred from the Special Civil Part to the Law Division.

67. N.J.S.2A:18-61 is amended to read as follows:

Trial by jury in Law Division.

2A:18-61. A summary action for the removal of a tenant, commenced in the Special Civil Part but transferred to the Law Division shall be tried before a jury, unless a jury is waived.

68. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read as follows:

C.2A:18-61.1 Residential lessees and tenants; grounds for removal.

2. No lessee or tenant or the assigns, under-tenants or legal representatives of such lessee or tenant may be removed by the Superior Court from any house, building, mobile home or land in a mobile home park or tenement leased for residential purposes, other than owner-occupied premises with not more than two rental units or a hotel, motel or other guest house or part thereof rented to a transient guest or seasonal tenant, except upon establishment of one of the following grounds as good cause:

- a. The person fails to pay rent due and owing under the lease whether the same be oral or written;
- b. The person has continued to be, after written notice to cease, so disorderly as to destroy the peace and quiet of the occupants or other tenants living in said house or neighborhood;
- c. The person has willfully or by reason of gross negligence caused or allowed destruction, damage or injury to the premises;
- d. The person has continued, after written notice to cease, to substantially violate or breach any of the landlord's rules and regulations governing said premises, provided such rules and regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term;
- e. The person has continued, after written notice to cease, to substantially violate or breach any of the covenants or agreements contained in the lease for the premises where a right of reentry is

reserved to the landlord in the lease for a violation of such covenant or agreement, provided that such covenant or agreement is reasonable and was contained in the lease at the beginning of the lease term;

f. The person has failed to pay rent after a valid notice to quit and notice of increase of said rent, provided the increase in rent is not unconscionable and complies with any and all other laws or municipal ordinances governing rent increases;

g. The landlord or owner (1) seeks to permanently board up or demolish the premises because he has been cited by local or State housing inspectors for substantial violations affecting the health and safety of tenants and it is economically unfeasible for the owner to eliminate the violations; (2) seeks to comply with local or State housing inspectors who have cited him for substantial violations affecting the health and safety of tenants and it is unfeasible to so comply without removing the tenant; simultaneously with service of notice of eviction pursuant to this clause, the landlord shall notify the Department of Community Affairs of the intention to institute proceedings and shall provide the department with such other information as it may require pursuant to rules and regulations. The department shall inform all parties and the court of its view with respect to the feasibility of compliance without removal of the tenant and may in its discretion appear and present evidence; (3) seeks to correct an illegal occupancy because he has been cited by local or State housing inspectors and it is unfeasible to correct such illegal occupancy without removing the tenant; or (4) is a governmental agency which seeks to permanently retire the premises from the rental market pursuant to a redevelopment or land clearance plan in a blighted area. In those cases where the tenant is being removed for any reason specified in this subsection, no warrant for possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with;

h. The owner seeks to retire permanently the residential building or the mobile home park from residential use or use as a mobile park, provided this paragraph shall not apply to circumstances covered under subsection g. of this section;

i. The landlord or owner proposes, at the termination of a lease, reasonable changes of substance in the terms and conditions of the lease, including specifically any change in the term thereof, which the tenant, after written notice, refuses to accept; provided that in cases where a tenant has received a notice of termination pursuant to subsection g. of section 3 of P.L.1974, c.49

(C.2A:18-61.2), or has a protected tenancy status pursuant to section 9 of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.) the landlord or owner shall have the burden of proving that any change in the terms and conditions of the lease, rental or regulations both is reasonable and does not substantially reduce the rights and privileges to which the tenant was entitled prior to the conversion;

j. The person, after written notice to cease, has habitually and without legal justification failed to pay rent which is due and owing;

k. The landlord or owner of the building or mobile home park is converting from the rental market to a condominium, cooperative or fee simple ownership of two or more dwelling units or park sites, except as hereinafter provided in subsection l. of this section. Where the tenant is being removed pursuant to this subsection, no warrant for possession shall be issued until this act has been complied with. No action for possession shall be brought pursuant to this subsection against a senior citizen tenant or disabled tenant with protected tenancy status pursuant to the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), as long as the agency has not terminated the protected tenancy status or the protected tenancy period has not expired;

l. (1) The owner of a building or mobile home park, which is constructed as or being converted to a condominium, cooperative or fee simple ownership, seeks to evict a tenant or sublessee whose initial tenancy began after the master deed, agreement establishing the cooperative or subdivision plat was recorded, because the owner has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing. However, no action shall be brought against a tenant under paragraph (1) of this subsection unless the tenant was given a statement in accordance with section 6 of P.L.1975, c.311 (C.2A:18-61.9);

(2) The owner of three or less condominium or cooperative units seeks to evict a tenant whose initial tenancy began by rental from an owner of three or less units after the master deed or agreement establishing the cooperative was recorded, because the owner seeks to personally occupy the unit, or has contracted to sell the unit to a buyer who seeks to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing;

(3) The owner of a building of three residential units or less seeks to personally occupy a unit, or has contracted to sell the residential

unit to a buyer who wishes to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing;

m. The landlord or owner conditioned the tenancy upon and in consideration for the tenant's employment by the landlord or owner as superintendent, janitor or in some other capacity and such employment is being terminated.

n. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing, a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who has been so convicted or has so pleaded, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person who harbors or permits a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of an act which if committed by an adult would constitute the offense of use or possession under the said act.

o. The person has been convicted of or pleaded guilty to, or if a juvenile, has been adjudicated delinquent on the basis of an act which if committed by an adult would constitute an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats against the landlord, a member of the landlord's family or an employee of the landlord; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who has been so convicted or has so pleaded, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently.

p. The person has been found, by a preponderance of the evidence, liable in a civil action for removal commenced under this act for an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic threats against the landlord, a member of the landlord's family or an employee of the landlord, or under the

“Comprehensive Drug Reform Act of 1987,” N.J.S.2C:35-1 et al., involving the use, possession, manufacture, dispensing or distribution of a controlled dangerous substance, controlled dangerous substance analog or drug paraphernalia within the meaning of that act within or upon the leased premises or the building or complex of buildings and land appurtenant thereto, or the mobile home park, in which those premises are located, and has not in connection with his sentence for that offense either (1) successfully completed or (2) been admitted to and continued upon probation while completing a drug rehabilitation program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises, knowingly harbors therein a person who committed such an offense, or otherwise permits such a person to occupy those premises for residential purposes, whether continuously or intermittently, except that this subsection shall not apply to a person who harbors or permits a juvenile to occupy the premises if the juvenile has been adjudicated delinquent upon the basis of an act which if committed by an adult would constitute the offense of use or possession under the said “Comprehensive Drug Reform Act of 1987.”

69. N.J.S.2A:18-67 is amended to read as follows:

Docketing small claims judgments.

2A:18-67. Judgments recovered in the division of small claims of the Superior Court, Law Division, Special Civil Part may be docketed as judgments in the Special Civil Part proper are docketed.

70. N.J.S.2A:19-1 is amended to read as follows:

Definitions.

2A:19-1. As used in this chapter:

- a. “General assignment” means a transfer or conveyance by a debtor in writing, whereby the debtor transfers or conveys to an assignee, in trust for the benefit of his creditors, all of his property. A “general assignment” includes an assignment by a debtor made under section 2A:20-6 of this title.
- b. “Debtor” means any person liable on a debt, including any person in actual confinement or discharged under bond pursuant to chapter 20 of this title.
- c. “Court” means the Superior Court.
- d. “Creditor” includes any person to whom a debt is due.
- e. “Debt” includes any debt, demand or claim.

f. "Assignor" means any debtor who has executed a general assignment.

g. "Assignee" means an assignee under a general assignment, including an assignee appointed under chapter 20 of this title.

71. N.J.S.2A:19-7 is amended to read as follows:

Assignee to record and file assignment.

2A:19-7. The assignee, upon receiving a general assignment, shall forthwith record it, including the inventory and list of creditors with their claims, in the county where the assignor resides and in any other counties or states where he may deem it necessary. The same shall be recorded in this State in the office of the register of deeds in counties having such an office and in the office of the county clerk in other counties. A copy of the same, executed by the assignor or certified by the register or county clerk, shall be filed by the assignee with the surrogate of the county where the assignor resides or with the clerk of the Superior Court.

72. N.J.S.2A:19-45 is amended to read as follows:

Corporation deemed resident of what county.

2A:19-45. A corporation making a general assignment shall be deemed, for the purposes of this chapter, a resident of the county in which its principal office is located.

73. N.J.S.2A:19-47 is amended to read as follows:

Removal of assignee and transfer of estate to receiver.

2A:19-47. In case a corporation shall, at any time after the making of a general assignment, be adjudged insolvent and a receiver thereof be appointed by the Superior Court, the said court may, whenever it may deem it to the interest of the stockholders or creditors, remove the assignee and direct and compel him to transfer and convey the trust estate in his hands to the receiver to be administered under the direction of said court. The assignee shall thereupon present his accounts to the Superior Court for settlement and allowance.

74. N.J.S.2A:19-50 is amended to read as follows:

One partner to reside in State.

2A:19-50. In order to bring a general assignment of partners in business within the operation of this chapter, it shall be sufficient if any one of them resides in this State.

75. N.J.S.2A:20-1 is amended to read as follows:

Debtors in actual confinement.

2A:20-1. Any person, in actual confinement for debt or damages in any jail of this State, who is willing to deliver up to his creditor or creditors all his estate, both real and personal, toward their payment, may bring an action, in a summary manner, for his discharge under this chapter, in the Superior Court.

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

Persons arrested; discharge; requirements.

2A:20-2. Any person arrested or held in custody by any officer in any civil action upon mesne process or process of execution, or who is surrendered in discharge of his bail, shall be discharged from arrest or custody by the officer upon compliance with the following requirements:

a. He shall make out and deliver to the officer making the arrest, or in whose custody he may be, a true and perfect inventory, under oath or affirmation, of all of his personal property and real estate, or any interest therein;

b. He shall give bond to the plaintiff at whose suit he is arrested, with sufficient security, in double the sum for which he is arrested or taken in execution. If the security is individual and not corporate, the surety or sureties shall be freeholders and resident of the county. Such bond shall be conditioned as follows:

1. That he will commence an action in the Superior Court on or before a certain designated date, not more than one month after the date of the bond and apply for his discharge under this chapter; and

2. That he will in all things comply with the requirements of this chapter; and

3. That he will prosecute such an action diligently until duly discharged as an insolvent debtor and, if refused a discharge, he will surrender himself immediately thereafter to the sheriff, warden or keeper of the jail of such county, there to remain until discharged by due course of law.

In case of the forfeiture of such bond by breach of any condition therein, the plaintiff, his executors or administrators, may bring an action thereon, and recover the debt, damages and costs due from such person, and for which such arrest was made.

77. N.J.S.2A:20-3 is amended to read as follows:

Persons arrested; discharge; action.

2A:20-3. Any person arrested as stated in N.J.S.2A:20-2 and who has given the bond therein prescribed, may bring an action in a summary manner for his discharge under this chapter in the Superior Court.

78. N.J.S.2A:22-1 is amended to read as follows:

Action in Superior Court.

2A:22-1. The Superior Court shall allow an unmarried person of full age, a husband with his wife's consent, a wife with her husband's consent or a husband and wife jointly to adopt an adult person and may change the name of the adult, if the court is satisfied that the adopting parent or parents are of good moral character and of reputable standing in their community, and that the adoption will be to the advantage and benefit of the person to be adopted.

79. N.J.S.2A:24-2 is amended to read as follows:

Who may submit to arbitration; agreement for judgment upon award by specified court.

2A:24-2. Two or more persons by their agreement in writing may submit to arbitration a controversy existing between them at the time of the agreement, whether the controversy arises out of a contract or the refusal to perform the whole or a part thereof or out of any other matter. They may also agree in writing that a judgment of a court of record, chosen by them shall be rendered upon the award made pursuant to the submission.

80. N.J.S.2A:24-3 is amended to read as follows:

Nonperformance of agreement; action for order of arbitration.

2A:24-3. Where a party is aggrieved by the failure, neglect or refusal of another to perform under a written agreement providing for arbitration, the Superior Court may in a summary action direct that the arbitration proceed in the manner provided for in the agreement. The party alleged to be in default may demand a jury trial as to the issue that there has been no agreement in writing for an arbitration or that there has been no failure to comply therewith.

81. N.J.S.2A:24-5 is amended to read as follows:

Naming arbitrators or umpire.

2A:24-5. If a method is provided in the agreement for naming or appointing an arbitrator or an umpire, it shall be followed; but if not

so provided, or if one is provided and a party thereto shall fail to avail himself thereof, or for other reasons there shall be a lapse or failure in the naming of an arbitrator or an umpire or in filling a vacancy, the Superior Court may in the summary action provided for in N.J.S.2A:24-3 or in another action, designate and appoint an arbitrator or an umpire, as the case may require, who shall act thereunder with the same force and effect as if specifically named therein. The arbitration shall be by a single arbitrator unless otherwise provided.

82. N.J.S.2A:26-2 is amended to read as follows:

Issuance of attachments; grounds.

2A:26-2. An attachment may issue out of the Superior Court upon the application of any resident or nonresident plaintiff against the property, real and personal, of any defendant in any of the following instances:

a. Where the facts would entitle plaintiff to an order of arrest before judgment in a civil action; and in such cases the attachment may issue against the property of a female, or of a corporation in the same manner as though the defendant would be liable to arrest in a civil action, except that, in actions founded upon a tort, an attachment shall not issue against a corporation upon which a summons can be served in this State; or

b. Where the defendant absconds or is a nonresident of this State, and a summons cannot be served on him in this State; but an attachment shall not issue hereunder against the rolling stock of a common carrier of another state or against the goods of a nonresident in transit in the custody of a common carrier of this or another state; or

c. Where the cause of action existed against a decedent, which survives against his heirs, devisees, executors, administrators or trustees, and there is property in this State which by law is subject to plaintiff's claim; but no action of attachment may be brought hereunder against the heirs unless they, or some of them, nor against the devisees unless they, or some of them, nor against the executors unless they, or some of them, nor against the administrators unless they, or some of them, nor against the trustees unless they, or some of them, are unknown or nonresident and cannot be served with a summons in this State; or

d. Where plaintiff has a claim of an equitable nature as to which a money judgment is demanded against the defendant, and

the defendant absconds or is a nonresident and a summons cannot be served upon him in this State; or

e. Where the defendant is a corporation created by the laws of another state but authorized to do business in this State and such other state authorizes attachments against New Jersey corporations authorized to do business in that state.

For the purposes of this section a summons can be served upon a person in this State where service can duly be made upon someone on his behalf in the State, but not where service may be made only by publication in the State.

83. N.J.S.2A:26-9 is amended to read as follows:

Lien of attachment on real estate of defendant; amendment of return; disposal of real estate; conveyances by defendant void.

2A:26-9. The attachment from the time of its issue, shall constitute a lien on the real estate of the defendant in the State even though the officer fails to especially attach the same or part thereof; and the defendant cannot thereafter assign, transfer or convey the same or any interest therein. The attachment shall also be a lien upon all real estate acquired by defendant in the State after such issue and before final judgment. The court may order the clerk to amend the return to the attachment by annexing thereto a description of such real estate, and may make orders for the disposal thereof. All conveyances by the defendant pending the attachment shall be void against the plaintiff. The said lien shall continue to be a lien until the claim of plaintiff is satisfied, the attachment is discharged or judgment is given against plaintiff.

84. N.J.S.2A:28-1 is amended to read as follows:

Application for and appointment of commissioners.

2A:28-1. When any dispute arises between the owners of adjoining lands as to the location of any dividing line or lines between such lands, the Superior Court may, on application of either owner on notice to the other, appoint three disinterested commissioners, one of whom shall be a practical surveyor, who shall fix, ascertain and regulate such lines.

85. N.J.S.2A:35-1 is amended to read as follows:

Jurisdiction in real property possessory actions.

2A:35-1. Any person claiming the right of possession of real property in the possession of another, or claiming title to such

real property, shall be entitled to have his rights determined in an action in the Superior Court.

86. N.J.S.2A:39-6 is amended to read as follows:

Actions cognizable before Superior Court.

2A:39-6. Any forcible unlawful entry and detainer, forcible detainer and unlawful detainer as defined in this chapter shall be cognizable before the Superior Court, and the court may hear and determine an action therefor in a summary manner.

87. Section 2 of P.L.1974, c.47 (C.2A:42-10.16) is amended to read as follows:

C.2A:42-10.16 Warrant for possession; execution.

2. In any proceeding for the summary dispossession of a tenant, warrant for possession issued by a court of appropriate jurisdiction:

a. Shall include a notice to the tenant of any right to apply to the court for a stay of execution of the warrant, together with a notice advising that the tenant may be eligible for temporary housing assistance or other social services and that the tenant should contact the appropriate county welfare agency, at the address and telephone number given in the notice, to determine eligibility; and

b. Shall be executed not earlier than the third day following the day of personal service upon the tenant by the appropriate court officer. In calculating the number of days hereby required, Saturday, Sunday and court holidays shall be excluded; and

c. Shall be executed during the hours of 8 a.m. to 6 p.m., unless the court, for good cause shown, otherwise provides in its judgment for possession.

Whenever a written notice, in accordance with the provisions of subsection 2a., is given to the tenant by the court, this shall constitute personal service in accordance with the provisions of subsection 2b.

The Superior Court, Law Division, Special Civil Part shall retain jurisdiction for a period of 10 days subsequent to the actual execution of the warrant for possession for the purpose of hearing applications by the tenant for lawful relief.

88. Section 3 of P.L.1981, c.323 (C.2A:42-102) is amended to read as follows:

C.2A:42-102 Violations, penalties.

3. Any person, firm or corporation or any agent, officer or employee thereof who shall violate any provision of this act shall

be subject to a civil penalty of not more than \$200.00 for the first offense and not more than \$500.00 for each subsequent offense. Any such penalty shall be enforced and collected in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) by summary proceedings or in a summary manner. Any action to collect or enforce any such penalty shall be brought in the Superior Court or municipal court by the Attorney General, a municipal or county prosecutor, or the injured party.

89. N.J.S.2A:44-4 is amended to read as follows:

Statement of amount; offer by owner and demand for possession; deposit of amount claimed with court; action for possession; costs.

2A:44-4. The owner or person entitled to the immediate possession of the aircraft, or part thereof, so detained as provided by this article, may on learning of the detention of the same, immediately demand from the person detaining such aircraft or part thereof, or from the person in charge of the place where it is detained, a statement showing the true amount claimed to be due and owing for landing or take-off fees or for the storing, maintaining, keeping or repairing of such aircraft, or for furnishing gasoline, fuel, accessories, materials or other supplies therefor. If upon receiving such statement he considers the amount thereof excessive, he may offer what he considers to be reasonably due and demand possession of the aircraft or part thereof so detained. If possession is refused, he may obtain possession thereof by depositing the amount claimed in the statement with the clerk of any court of competent jurisdiction in the county where the aircraft or part thereof may be situated, together with \$12 to cover the cost of court in actions commenced in the Superior Court, Law Division, Special Civil Part and \$60 in any other court.

90. N.J.S.2A:44-13 is amended to read as follows:

Sale of perishable goods; application to court; procedure.

2A:44-13. Where the consignee of perishable goods cannot be found by the carrier or shall neglect or refuse to receive the same or to pay the costs and expenses of transportation, or the charges for detention or demurrage, the carrier or its agent may apply in writing to the Superior Court and such court on proof that the goods have been transported and are perishable and that the consignee cannot be found or neglects or refuses to receive the same or to pay the costs and expenses of transportation, detention or

demurrage charges, shall order the public sale thereof by a constable or sheriff of the county at a time and place named in the order, of which sale such advertisement shall be made and notice given as the court shall direct.

91. N.J.S.2A:44-17 is amended to read as follows:

Proceeds of sale; disposition.

2A:44-17. The fees and expenses of a sale authorized by this article shall be paid first and next the expenses and charges of the carrier for transportation, detention or demurrage and storage. The residue shall be paid to the clerk of the county who shall pay the same to the owner on the order of the Superior Court. If no person shall, within one year after the sale, claim the proceeds, the same shall be paid into the school fund of the State.

92. N.J.S.2A:44-23 is amended to read as follows:

Statement of amount claimed; offer by owner of reasonable amount and demand for possession; regaining vehicle; costs.

2A:44-23. The owner or the person entitled to the immediate possession of the motor vehicle or part thereof so detained, may, on learning of the detention of the same, immediately demand from the garage keeper or the person in charge thereof, a statement of the true amount claimed to be due for the storing, maintaining, keeping or repairing of such motor vehicle, or for furnishing gasoline, accessories or other supplies therefor. If upon receiving such statement he considers the amount thereof excessive, he may offer what he considers to be reasonably due and demand possession of the motor vehicle or part thereof so detained. If possession is refused, he may obtain possession thereof by depositing the amount claimed in the statement with the clerk of a court of competent jurisdiction in the county where the motor vehicle or part thereof may be, together with \$10 to cover the costs of court in an action in the Superior Court, Law Division, Special Civil Part and \$50 in any other court.

93. N.J.S.2A:44-60 is amended to read as follows:

Action to enforce lien.

2A:44-60. Any person having a lien under this article may enforce the same by an action in the Superior Court.

94. N.J.S.2A:44-90 is amended to read as follows:

New Jersey State Library

Stop notice satisfied or abandoned; certificate; contents; discharge by order.

2A:44-90. When a stop notice has been filed pursuant to N.J.S.2A:44-77 and the claim for which the stop notice was filed has been paid, satisfied or settled by the parties, the party filing such notice shall file with the proper county clerk a certificate duly acknowledged or proved, directing the proper county clerk to discharge the stop notice of record, which certificate shall contain:

- a. The name of the owner of the land named in the notice;
- b. The name of the person by or on whose behalf the notice was filed;
- c. The location of the property;
- d. The file number of the county clerk's office indorsed upon each notice filed under authority of section 2A:44-77 of this title;
- e. The date of filing the notice; and
- f. The sum of money or other consideration paid in discharge of the claim.

If the claimant shall fail or refuse to file such certificate, then upon application by any proper party in interest, the Superior Court upon five days' written notice to the claimant, to be served in the same manner as is provided in N.J.S.2A:44-79, or upon satisfactory proof that the claimant cannot be found within the State, the court may, upon good cause being shown, order the stop notice discharged.

The court, when the claimant cannot be found within the State, shall order the money claimed in the stop notice to be deposited in trust with the proper county clerk, to be claimed within six years. In case the sum so deposited shall not be claimed within six years from the date it is so deposited, the county clerk shall repay the funds so deposited to the original depositor or his representatives or assigns, after deducting his service charge as provided by sections N.J.S.22A:2-29 and N.J.S.40A:9-71.

The county clerk shall thereupon attach the certificate or order to the original stop notice on file and shall note on the record thereof "discharged by certificate" or "discharged by court order," as the case may be.

95. N.J.S.2A:44-97 is amended to read as follows:

Action in Superior Court; parties.

2A:44-97. When a lien claim is filed pursuant to this article, the same shall be enforced by an action in the Superior Court which action shall be commenced against the builder, owner of the land and building, and every person holding a mortgage of

record and every other person whose interest in the property would be affected or cut off by the judgment and sale thereunder.

96. N.J.S.2A:44-99 is amended to read as follows:

Indorsement on claim of time of commencement of action.

2A:44-99. The county clerk shall, upon the presentation of the certificate prescribed in N.J.S.2A:44-101, indorse on the lien claim the time of the commencement of the action.

If no such indorsement is made within four months or within the extended period provided by N.J.S.2A:44-98, from the last date of the labor performed or materials furnished, or if such claimant shall fail to issue the summons in the action within five days after the filing of the complaint or to prosecute his claim diligently within one year from the commencement of the action or such further time as the court may by order direct, the lien shall be discharged by an order signed by the Superior Court.

97. N.J.S.2A:44-101 is amended to read as follows:

Certificate of commencement of action in Superior Court; indorsement on lien claim by county clerk.

2A:44-101. The plaintiff in an action brought in the Superior Court on a lien claim, shall obtain from the clerk of such court a certificate to the effect that an action has been commenced in that court on such lien claim, specifying the court wherein the action is brought, and the date when such action was so commenced. The certificate shall be presented to the proper county clerk within 10 days after the commencement of the action, who shall indorse on the lien claim that an action thereon has been commenced, specifying the court wherein, and the date when such action was commenced.

98. N.J.S.2A:44-106 is amended to read as follows:

Effect of docketed judgment.

2A:44-106. A judgment of the Superior Court, Law Division, Special Civil Part under this article shall be docketed with the clerk of the Superior Court by the party recovering the same, and shall, from the time of such docketing, operate as though the judgment had been obtained in the Law Division.

No judgment shall be so docketed after the granting of a new trial, or the taking of an appeal or a proceeding otherwise to review such judgment.

99. N.J.S.2A:44-107 is amended to read as follows:

Statement of judgment filed in clerk's office; contents.

2A:44-107. When judgment is obtained in the Superior Court, Law Division, Special Civil Part under this article there shall be filed in the office of the clerk of the Superior Court a statement signed and sealed by the clerk of the Special Civil Part containing:

- a. The name of the court;
- b. The names of the parties;
- c. Whether judgment is general against the builder or against the building and land only, or both; and
- d. The amount and date of judgment.

There shall be filed with or as a part of the statement an oath of the party, his attorney or agent stating the amount still due thereon.

100. N.J.S.2A:44-108 is amended to read as follows:

No execution out of Law Division, Special Civil Part on final judgment; new trial; review

2A:44-108. No execution shall issue out of the Superior Court, Law Division, Special Civil Part on a judgment rendered therein, under this article, nor shall any proceeding be had thereon except the granting of a new trial, or the taking of an appeal or other proceeding for review.

101. N.J.S.2A:44-113 is amended to read as follows:

Proceeds of sale; distribution; when paid.

2A:44-113. The sheriff or other officer conducting the sale authorized by this article shall pay the proceeds thereof to the clerk of the Superior Court, which court shall distribute the same among the lien claims filed under this article before an application for distribution thereof is made to said court. The amount due a lien claimant shall not be paid over to him until after his lien claim has been on file for three months; or if contested in the action or if a caveat is filed against such claim by the owner, mortgagee, or any lien claimant, until such claim is established by a special determination thereof.

102. N.J.S.2A:44-115 is amended to read as follows:

Orders to effectuate objects of article.

2A:44-115. The Superior Court shall provide proper disposition of proceeds of any sale to the persons entitled thereto under this article.

103. N.J.S.2A:44-116 is amended to read as follows:

Claim satisfied or abandoned; certificate; contents; discharge by certificate or order.

2A:44-116. When a mechanic's notice of intention has been filed under N.J.S.2A:44-71 and the claim for which the notice was filed has been paid, satisfied or settled by the parties or abandoned by the party filing the notice, the party filing such notice shall file with the proper county clerk a certificate duly acknowledged or proved, directing the proper county clerk to discharge the mechanic's notice of intention of record, which certificate shall contain:

- a. The date of filing the mechanic's notice of intention;
- b. The file number indorsed thereon;
- c. The name of the owner of the land named in the notice;
- d. The location of the property; and
- e. The name of the person for whom the labor was performed or materials furnished.

If the claimant shall fail or refuse to file such certificate, then upon application by any proper party in interest, the Superior Court, upon five days' written notice to the claimant, to be served upon him in the same manner as provided by N.J.S.2A:44-79, or upon satisfactory proof that the claimant cannot be served, may, upon good cause being shown, order the mechanic's notice of intention discharged.

When a mechanic's notice of intention has been filed pursuant to N.J.S.2A:44-71, and it is alleged that the claimant improperly refuses or neglects to file such certificate, upon application in the manner aforesaid, the Superior Court may inquire into the facts in a summary way, and upon good cause being shown, order the mechanic's notice of intention discharged, and may require the claimant to pay the costs and reasonable attorney's fees. If at the hearing it shall appear that the claimant willfully refused to honor a written request to file such certificate after a demand therefor, served upon the claimant 15 or more days after the satisfaction of the claim and 10 or more days prior to the application to the court for an order to discharge the notice, the court may assess additional costs against the claimant and in favor of the applicant in the amount of \$50.00.

The county clerk shall thereupon attach the certificate or order to the original notice of intention on file and shall note on the record thereof "discharged by certificate" or "discharged by court order," as the case may be.

104. N.J.S.2A:44-119 is amended to read as follows:

Building or land discharged from lien; how.

2A:44-119. A building and land upon which a lien is filed pursuant to this article may be discharged from the same. a. By payment, and a duly acknowledged or proved receipt therefor given by the lien claimant or his duly authorized attorney or agent, and filed with the proper county clerk;

b. By payment of the amount of the lien claim with interest and costs to the proper county clerk who shall pay the same to the lien claimant;

c. Upon application by any party in interest, on such written notice to the lien claimant as the court shall direct, or upon satisfactory proof that the lien claimant cannot be served, the Superior Court, if satisfied by affidavit or otherwise that:

1. The lien claimant has failed to file such lien claim within the time and in the manner provided by N.J.S.2A:44-91 and N.J.S.2A:44-92; or

2. More than the time limited for commencement of an action on such lien claim as provided in N.J.S.2A:44-98 has elapsed or without the entry of the time of commencement of such being made on the lien claim; or

3. The notice provided for in N.J.S.2A:44-100 has been served upon the lien claimant and the time limited thereby to commence an action has elapsed, without such action being commenced, or without the entry of the time of commencement of such action being made upon the lien claim; or

4. The lien claim has been paid, satisfied or settled by the parties; and the lien claim still remains open of record, such court shall order the clerk of the proper county to enter a discharge of the lien claim and the mechanic's notice of intention upon which it is based.

When judgment of dismissal or final judgment in favor of the owner defendant is entered in an action to enforce the lien claim under this article and no appeal is taken within the time allowed for such an appeal, or if an appeal is taken and finally determined in favor of the owner defendant, the court before which the judgment was rendered, upon application and such written notice to the lien claimant as the court shall direct, shall order the clerk of the proper county to enter a discharge of the lien claim and the mechanic's notice of intention upon which it is based.

A lien claim may also be satisfied of record by a warrant or authority made and executed by the attorney of record of the claim-

ant, if there be one, in the manner provided by law for the satisfaction of record of judgments for the recovery of money only.

105. N.J.S.2A:48-4 is amended to read as follows:

Protection of property; expenses.

2A:48-4. The mayor or officer or sheriff shall, upon receiving the notice, take all legal means to protect the property attacked or threatened. The expenses incurred by any of such officers in the performance of any duty hereby imposed shall be paid by the county treasurer of the county in which the property is situate, upon the approval thereof by a judge of the Superior Court of such county.

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

When authorized; proof required.

2A:51-1. Where a mortgage on real estate or chattels, or both, is recorded in the office of the county clerk or register of deeds and mortgages of any county, the Superior Court in a summary or other action brought by any mortgagor or party in interest may direct the county clerk or register to cancel the mortgage of record, provided the plaintiff shall:

- a. Present satisfactory proof that the principal and interest due on the mortgage have been fully paid; or
- b. Deposit with the clerk of the Superior Court in the county in which the mortgage is of record any balance of principal and interest due on the mortgage according to the terms thereof; or
- c. Present such special circumstances as to satisfy the court that the mortgagee and his successors, if any, in right, title and interest have no further interest in the mortgage or the debt secured thereby.

107. N.J.S.2A:53-1 is amended to read as follows:

Jurisdiction.

2A:53-1. The Superior Court shall have jurisdiction of declarations of intention, and of applications of aliens to become citizens of the United States.

108. N.J.S.2A:58-2 is amended to read as follows:

Jurisdiction of proceedings.

2A:58-2. Every court upon which jurisdiction is conferred by the statute imposing the penalty, shall have jurisdiction of proceedings for the enforcement of any such penalty.

109. N.J.S.2A:58-4 is amended to read as follows:

Money judgment; execution, property and persons subject to.

2A:58-4. If a money judgment is rendered against a defendant, execution may issue:

(1) Against the goods and chattels of such defendant in all cases, and also,

(2) Against the lands of such defendant if such judgment is rendered in the Superior Court, and also,

(3) Against the body of such defendant if the court in which the judgment is rendered shall, by special order, so direct and shall designate in said order the maximum number of days during which the defendant may be detained in custody under such body execution, in no case to exceed one hundred days.

110. N.J.S.2A:59-3 is amended to read as follows:

Court out of which writ is to issue.

2A:59-3. All writs of replevin shall issue out of the Superior Court.

111. N.J.S.2A:67-6 is amended to read as follows:

Sending citizen as prisoner out of State for offense committed within State; action for damages; punishment; disqualification; exceptions.

2A:67-6. For preventing illegal imprisonment of citizens of this State in prisons out of this State, no citizen of this State who is an inhabitant or resident thereof, shall be sent as a prisoner to any place whatsoever out of this State, for any crime or offense committed within this State, and every such imprisonment is hereby declared to be illegal unless such transfer of such person to a place of confinement outside the State is accomplished pursuant to the provisions of any interstate compact approved by the Legislature for such purpose and to which the State is signatory.

If any such citizen shall be so imprisoned, except as provided for herein by compact, he may, for every such imprisonment, maintain, by virtue of this chapter, an action at law in the Superior Court for the damages sustained thereby, against the person by whom he shall be so committed, detained, imprisoned, sent prisoner or transported contrary to the true intent and meaning of this chapter, and against any person who shall frame, contrive, write, seal, sign, or countersign any warrant or writing for such commitment, detainer, imprisonment or transportation, or who shall advise, aid or assist in the same or any of them. In such action the plaintiff may recover

penal as well as compensatory damages but in any case the damages shall not be less than \$1,500.00.

Any person who shall knowingly frame, contrive, write, seal, sign or countersign any warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison or transport any person contrary to this chapter, or advise, aid or assist therein, shall be fined or imprisoned at hard labor, or both, at the discretion of the court before which the conviction shall be had and shall in addition thereto, from thenceforth be disqualified from holding any office or trust or profit under this State.

Nothing contained in this chapter shall be construed to prevent the sending of a citizen of this State or person at any time resident therein, who has committed any treason, felony or misdemeanor in another state of the United States or in any foreign country, to such other state or foreign country having jurisdiction of such offense, for the purpose of being tried therefor.

112. N.J.S.2A:67-36 is amended to read as follows:

Appeal to Appellate Division of Superior Court.

2A:67-36. In all proceedings involving the writ of habeas corpus before a judge of the Superior Court, the prisoner may, after final decision by such judge, appeal therefrom to the Appellate Division of the Superior Court, if the imprisonment is for an alleged crime, and the decision is against the right of the prisoner to a discharge, and in any other case either party may so appeal. If a discharge, which is appealable, has been awarded, and an appeal is taken the discharge shall not be stayed on such appeal.

113. N.J.S.2A:71-13 is amended to read as follows:

Duties of county clerk performed by judge of the Superior Court.

2A:71-13. If the clerk of a county, upon whom any duty is imposed by this subtitle, or his deputy authorized to act in his place, is for any cause absent at the time and place when and where any of such duties are required to be performed, a judge of the Superior Court may perform the duties of the clerk.

114. N.J.S.2A:72-1 is amended to read as follows:

Ordering of jurors; service.

2A:72-1. Grand and petit jurors shall be ordered by the assignment judge of the Superior Court for the county or, by his order or in his

absence, by a judge designated by him for that purpose, or as provided by this chapter. The petit jurors shall serve in the Superior Court.

115. N.J.S.2A:73-5 is amended to read as follows:

Clerk to grand jury; appointment; term; attendance.

2A:73-5. The Assignment Judge of the Superior Court may appoint a clerk for the grand jury in and for each county, for a term not exceeding three years, unless sooner removed by the court. The clerk shall, when requested by the grand jury, attend its sessions, but shall not attend its deliberative sessions.

116. N.J.S.2A:74-8 is amended to read as follows:

Selection of trial jury on division of general panel into separate panels.

2A:74-8. The judges of the Superior Court sitting for the trial of issues or causes in a county in which the general panel of petit jurors has been divided into separate panels may direct the drawing of juries from one or more of the separate panels. In the drawing of trial juries in such cases there shall be put into the box only the names of the jurors constituting one of the separate panels designated by the trial judge.

If, because of challenges, the default of jurors or otherwise, a sufficient number of jurors cannot be had from the jurors composing any separate designated panel, the court in which the issue or cause is pending shall direct the sheriff to order the jurors composing another of the separate panels into which the general panel has been divided to attend the court, and the sheriff shall put into the box the names of the jurors composing such other separate panel.

117. N.J.S.2A:76-1 is amended to read as follows:

Foreign juries.

2A:76-1. The Superior Court may, in its discretion, order a trial by a foreign jury in any case, civil or criminal, commenced therein or removed thereto.

118. Section 34 of P.L.1960, c.52 (C.2A:84A-34) is amended to read as follows:

C.2A:84A-34 Presentation of proposed rules at Judicial Conference.

34. The subject matter and a tentative draft of a rule or rules proposed to be adopted pursuant to this article shall be entered upon the agenda and discussed at a Judicial Conference whose member-

ship shall at least include delegates from the Supreme Court, the Appellate Division of the Superior Court, the judges of the Superior Court, the judges of the municipal courts, the surrogates, the State Bar Association, the county bar associations, the Senate and General Assembly, the Attorney General, the county prosecutors, the law schools of this State, and members of the public.

119. N.J.S.2A:152-12 is amended to read as follows:

Continued violations of criminal law in municipalities; notice to municipal authorities.

2A:152-12. Whenever the mayor or other chief executive, or the chief of police or other head officer of police, of any municipality, shall be notified by a written communication delivered to him personally, signed by the governor or attorney general, or by a judge of the Superior Court or the prosecutor of the county in which the municipality is situate, stating that it is alleged, and that there is reason to believe it to be true, that there exists in one or more places in such municipality, designated in the communication, open, continued or notorious violation of Title 2C of the New Jersey Statutes, which section or sections shall be stated in such communication, by any person occupying or carrying on business in such place or places, whether such person be known or unknown, the mayor or other chief executive or the chief of police or other head police officer so notified shall take immediate, proper and efficient measures, by complaint and arrest or by raid and arrest or otherwise, to prevent the further continuance of such illegal practices and to bring any person so alleged to be offending to justice.

120. Section 1 of P.L.1956, c.134 (C.2A:152-17) is amended to read as follows:

C.2A:152-17 Payment of transcripts for indigent defendants.

1. Any person convicted of any crime may make application under oath to any judge of the Law Division of the Superior Court of the county where the venue was laid showing that a copy of the transcript of the record, testimony and proceedings at the trial is necessary for the filing of any application with the trial court, and that he is unable, by reason of poverty, to defray the expense of procuring the same, and any such judge may, being satisfied of the facts stated and of the sufficiency thereof, certify the expense thereof to the county treasurer, who shall thereupon pay such expense, the amount thereof having been approved by the judge to whom such application was made. Where

such person appeals to the Appellate Division of the Superior Court and copies of the transcript of the proceedings in the trial court are needed therefor he may make a similar application to such court which, being satisfied of the facts stated and the sufficiency thereof, may certify the expense and amount thereof to the county treasurer who shall thereupon pay such expense.

121. N.J.S.2A:153-2 is amended to read as follows:

Authority of chosen freeholders.

2A:153-2. The board of chosen freeholders of any county, on the recommendation and request in writing of the prosecutor of the county, approved by a judge of the Superior Court may offer a reward not exceeding \$5,000 for the detection and apprehension of any person guilty of murder, kidnapping, burglary, robbery, arson or other heinous crime in such county, the reward to be payable after conviction out of such funds of the county as may be applicable thereto. The reward shall be paid to such person or persons as the board of chosen freeholders may, in its discretion, deem entitled thereto.

122. Section 1 of P.L.1967, c.171 (C.2A:153-4) is amended to read as follows:

C.2A:153-4 Reward by municipality for apprehension of certain persons.

1. The governing body of any municipality, on the recommendation and request in writing of the municipal police chief or principal law enforcement officer of such municipality, approved by a judge of the Superior Court may offer a reward not exceeding \$3,000.00 for the detection and apprehension of any person guilty of murder, kidnapping, burglary, robbery, arson, or other heinous crime in such municipality; the reward is to be payable after conviction out of such funds of the municipality as may be applicable thereto. The reward shall be paid to such person or persons as the municipal governing body may, in its discretion, deem entitled thereto, but no such reward may be paid to any public employee, whose duty it is to investigate or to enforce the law.

123. N.J.S.2A:154-1 is amended to read as follows:

Conservators of the peace; powers and duties.

2A:154-1. Any judge of the Superior Court, or of a municipal court shall have power to cause to be kept all laws made or to be made for the conservation of the peace and for the good govern-

ment of the citizens and inhabitants of this State, within their respective counties, according to the force, form and effect of such laws, and to apprehend, and to cause to come before them, and imprison and punish all persons offending against such laws, or any of them, in their respective counties, in such manner as, according to such laws, shall be right and proper, and to perform and execute all such matters, acts and things as by law appertain to their office, and are or shall be enjoined upon them, or be committed to their charge and execution.

124. Section 2 of P.L.1970, c.6 (C.2A:158-1.2) is amended to read as follows:

C.2A:158-1.2 Salary of prosecutor; full time.

2. Notwithstanding the provisions of N.J.S.2A:158-10 any county prosecutor who is required or elects to devote his entire time to the duties of his office pursuant to this act shall receive an annual salary in the same amount as that payable to a full time judge of the Superior Court, Law Division.

125. N.J.S.2A:158-3 is amended to read as follows:

Oath of prosecutors.

2A:158-3. Every person appointed county prosecutor shall, before entering upon the duties of his office, take and subscribe before the clerk of the county for which he has been appointed, or before a judge of the Superior Court, the following oath:

"I, , do solemnly promise and swear (or affirm), that I will faithfully, justly and impartially execute the duties of county prosecutor of this State, in and for the county of , to the best of my abilities and understanding. So help me God."

126. N.J.S.2A:158-7 is amended to read as follows:

Expenses of prosecutors in enforcement of laws.

2A:158-7. All necessary expenses incurred by the prosecutor for each county in the detection, arrest, indictment and conviction of offenders against the laws shall, upon being certified to by the prosecutor and approved, under his hand, by a judge of the Superior Court, be paid by the county treasurer whenever the same shall be approved by the board of chosen freeholders of such county. The amount or amounts to be expended shall not exceed the amount fixed by the board of chosen freeholders in its regular or emergency appropriation, unless such expenditure is specifi-

cally authorized by order of the assignment judge of the Superior Court for such county.

127. N.J.S.2A:158-8 is amended to read as follows:

Expenses of prosecutors in enjoining nuisances under federal law.

2A:158-8. Whenever the prosecutor of any county shall bring an action, as authorized by the laws of the United States, to enjoin a nuisance as defined by the laws of the United States, all necessary expenses incurred thereby, certified to and approved under his hand by a judge of the Superior Court shall be paid by the county treasurer whenever the same shall be approved by the board of chosen freeholders of such county.

128. N.J.S.2A:158-9 is amended to read as follows:

Temporary prosecutors; appointment by court; powers; compensation.

2A:158-9. In the absence of the attorney general and of the county prosecutor, at any session of the Superior Court, the Assignment Judge of the Superior Court may appoint a fit person to prosecute the pleas of the State during that session. The person so appointed, on taking the oath or affirmation prescribed by N.J.S.2A:158-3, shall be vested, during such session, with the powers of a prosecutor, and be entitled to the same compensation and subject to the same penalties.

129. N.J.S.2A:160-2 is amended to read as follows:

Expenses of returning fugitives from justice.

2A:160-2. Whenever any person charged in this State with any crime shall flee from justice and be found in another state, territory or district, and the attorney general or the prosecutor for any county where such person is so charged shall recommend to the governor or person administering the government of this State that he demand the fugitive, so that he may be brought into this State for trial, and the fugitive shall, on the demand of the executive authority of this State, be delivered up for removal to this State, the expense of such removal, being first ascertained to the satisfaction of the prosecutor of the county where such person is so charged, and being approved by a judge of the Superior Court, shall be paid by the county treasurer out of the funds of such county.

130. N.J.S.2A:160-3 is amended to read as follows:

Advance of money to prosecutor for expenses of extradition; statement filed and approved by court.

2A:160-3. The county treasurer of any county may advance to the prosecutor of the county, or to such person as the prosecutor shall designate, from the funds of such county appropriated, set aside and available for court expenses, money necessary to defray the expenses of the prosecutor or such person as he shall designate, to be used for the arrest, extradition and return from foreign jurisdictions of persons charged with violating the criminal laws of this State, and who are fugitives from justice. No such money shall be advanced by the county treasurer, except upon written order of the prosecutor with the approval of the Assignment Judge in such county indorsed thereon, and unless the prosecutor shall file with the county treasurer a statement of the purposes for which the money is to be used and an estimate, in reasonable detail, of the anticipated expenses.

131. N.J.S.2A:160-4 is amended to read as follows:

Accounting of expenditures; excess returned.

2A:160-4. Immediately after the person to whom the money has been advanced by the county treasurer, as provided by N.J.S.2A:160-3, shall have completed the duties for which such money was advanced, he shall file with the county treasurer an itemized statement or account of the necessary expenses incurred in the performance of such duties, duly verified, certified to and approved under the hand of the prosecutor, and with the written approval of the Assignment Judge in such county. If the itemized statement or account so rendered and approved, as aforesaid, should exceed the sum of money so advanced to such person, the balance thereof shall be paid to such person by the county treasurer; and if the sum of money advanced to such person shall exceed the amount of his itemized statement or account of expenses, as the same shall be so certified and approved, such person shall forthwith return the excess money to the county treasurer.

132. N.J.S.2A:160-25 is amended to read as follows:

Discharge of accused; extension of time of commitment of accused; new bail for appearance.

2A:60-25. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond or undertaking, a judge may discharge him or may recommit him for a further period of 60 days, or a judge of the Superior

Court may again take bail for his appearance and surrender, as provided in N.J.S.2A:160-24, but within a period not to exceed 60 days after the date of such new bond or undertaking.

133. N.J.S.2A:161-1 is amended to read as follows:

Appointment of citizen to make immediate arrest.

2A:161-1. In all criminal complaints before a judge of the Superior Court or a municipal court, where in the opinion of such judge, public justice shall require that a warrant for the arrest of the alleged offender issue and be executed immediately, and no person authorized to make an arrest can be had in time, such judge may, by writing, under his hand and seal, appoint some fit person, who shall be a citizen of this State, to execute the warrant, who shall have the same authority in the premises in all respects and be subject to the same liability as a constable.

134. Section 1 of P.L.1974, c.93 (C.2A:162-11) is amended to read as follows:

C.2A:162-11 Disorderly persons; continuance of bail or recognizance on appeal.

1. In every case where a person has been convicted in a municipal court of a disorderly persons violation, and he has not violated or forfeited his bail or recognizance, such bail or recognizance shall continue in the same terms and effect pending appeal to the Superior Court in lieu of posting a new bond in connection with the appeal, or in the alternative the judge of the municipal court may discharge any such bail or recognizance and release the person on his own recognizance.

135. N.J.S.2A:164-1 is amended to read as follows:

Clinics to study mental and physical conditions before sentence of convicted persons; organization; personnel; rules for conduct of; expenses.

2A:164-1. In order that judges conducting courts for the trial of criminal cases may have complete information for use in determining sentences to be imposed, there may be organized and operated in each county a clinic for the study of the mental and physical conditions of defendants to be sentenced and their environments.

Each assignment judge of the Superior Court shall have authority to organize a clinic in the county or counties in which he presides.

A clinic shall consist of any number of qualified persons, more than three, as shall seem proper to the assignment judge organizing the same, one of which number shall be the county probation officer, one a physician licensed to practice in this State and one a psychologist.

Every clinic shall be conducted in accordance with rules prescribed by the courts which it shall serve and shall be operated without expense to the county in which it is organized unless the board of chosen freeholders thereof shall appropriate money to defray such expenses, which they are hereby authorized to do.

136. N.J.S.2A:168-5 is amended to read as follows:

Probation officers; appointment.

2A:168-5. The Assignment Judge of the Superior Court in each county may appoint a chief probation officer, and, on application of the chief probation officer, such men and women probation officers as may be necessary. Before any order is made by such judge appointing any additional probation officers, a notice of the time and place, when and where such order shall be considered, shall be given to the board of chosen freeholders of the county and they shall be given an opportunity to be heard as to the necessity of such additional probation officers. All probation officers who are to receive salaries shall be appointed in accordance with the rules and regulations of the Civil Service Commission. Orders of appointment shall be in writing and be filed in the office of the county clerk.

137. N.J.S.2A:168-7 is amended to read as follows:

Powers and duties of chief probation officer; additional employees.

2A:168-7. The chief probation officer shall have general supervision of the probation work under the direction of the court. He may appoint such other employees as may be necessary to carry out the purposes of this chapter, but the amount expended for this purpose shall not exceed the amount appropriated therefor in the annual county budget. The chief probation officer may make such necessary rules and regulations with respect to the management and conduct of the probation officers and other employees as may be authorized by the Assignment Judge of the Superior Court.

138. N.J.S.2A:168-8 is amended to read as follows:

Salaries and expenses of probation officers and employees.

2A:168-8. The judge authorized to appoint a chief probation officer or probation officers shall fix, by order under the hand of such judge, annual salaries to be paid such officers, and before any such order shall be made by such judge, notice of the time and place, when and where such order shall be considered, shall be given to the board of chosen freeholders of the county and such

board shall be given an opportunity to be heard upon the same and such order shall be filed in the office of the County Clerk. The amounts so fixed shall be paid in equal semimonthly payments in the same manner as the salaries of other officers of the county.

The necessary and reasonable expenses of salaried probation officers incurred in the performance of their duties shall be paid out of the county treasury, after itemized statements of such expenses have been approved by the chief probation officer and the Assignment Judge of the Superior Court and filed in the office of the county treasurer. On request of the chief probation officer, the necessary traveling and maintenance expenses in attending probation officers' meetings and conferences of social work shall be included, when previously authorized by the judge authorized to appoint probation officers.

The salaries of employees appointed by the chief probation officer shall be fixed by the board of chosen freeholders in accordance with the schedules of the Civil Service Commission, and paid in the same manner as the salaries of probation officers.

139. N.J.S.2A:168-9 is amended to read as follows:

Temporary probation officers; appointment; compensation.

2A:168-9. In case of the absence or disqualification of any probation officer for any cause, the Assignment Judge of the Superior Court may appoint some other person to serve temporarily as a probation officer, who shall receive as compensation for each day's service a sum determined by the court. The compensation so paid for any excess over 90 days' absence of any probation officer in any one year may be deducted from the salary of such probation officer.

140. Section 5 of P.L.1954, c.181 (C.2A:170-20.4) is amended to read as follows:

C.2A:170-20.4 Compliance required; service of process.

5. It shall be unlawful for any organization or association consisting in whole or in part of law enforcement officers of this State, or any county or municipality thereof or in whole or in part of law enforcement officers of any other state, and created or established in any other state, or any officer, member, agent or employee of such organization or association, to solicit or collect any funds or contributions in this State except in full compliance with all of the provisions of this act regulating solicitations or collections for or

on behalf of any organization or association of law enforcement officers of this State or any county or municipality thereof.

Any such organization or association for or on behalf of which any solicitations or collections are made in this State, and the officers and members thereof, shall by the making of such solicitations or collections make and constitute the Attorney General of New Jersey, its and their agent for the acceptance of process in any action or proceeding, civil, criminal or administrative, issuing out of the Superior Court or municipal court, or other court of civil or criminal jurisdiction, or issuing from any agency or instrumentality of this State, against such organization or association or any of its officers or members arising out of or by reason of such solicitations or collections or the maintenance of the trust fund established with the proceeds thereof. The solicitation or collection within this State of funds or contributions for or on behalf of any such organization or association shall be the signification of the agreement of such organization or association and the officers or members thereof, of its or their agreement that any such process against it or them which is so served shall be of the same legal force and validity as if served upon them personally or upon it in accordance with law within this State.

Any person who violates any provision of this section is a disorderly person.

141. Section 1 of P.L.1975, c.182 (C.2A:170-90.3) is amended to read as follows:

C.2A:170-90.3 Definitions.

1. As used in this act:

a. The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, income from trust funds, profits, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

b. The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt, and specifically includes any order of the Superior Court directing that an execution issue against earnings as herein defined.

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

General definitions.

2C:1-14. In this code, unless a different meaning plainly is required:

a. "Statute" includes the Constitution and a local law or ordinance of a political subdivision of the State;

- b. "Act" or "action" means a bodily movement whether voluntary or involuntary;
- c. "Omission" means a failure to act;
- d. "Conduct" means an action or omission and its accompanying state of mind, or, where relevant, a series of acts and omissions;
- e. "Actor" includes, where relevant, a person guilty of an omission;
- f. "Acted" includes, where relevant, "omitted to act";
- g. "Person," "he," and "actor" include any natural person and, where relevant, a corporation or an unincorporated association;
- h. "Element of an offense" means (1) such conduct or (2) such attendant circumstances or (3) such a result of conduct as
 - (a) Is included in the description of the forbidden conduct in the definition of the offense;
 - (b) Establishes the required kind of culpability;
 - (c) Negatives an excuse or justification for such conduct;
 - (d) Negatives a defense under the statute of limitations; or
 - (e) Establishes jurisdiction or venue;
- i. "Material element of an offense" means an element that does not relate exclusively to the statute of limitations, jurisdiction, venue or to any other matter similarly unconnected with (1) the harm or evil, incident to conduct, sought to be prevented by the law defining the offense, or (2) the existence of a justification or excuse for such conduct;
- j. "Reasonably believes" or "reasonable belief" designates a belief the holding of which does not make the actor reckless or criminally negligent;
- k. "Offense" means a crime, a disorderly persons offense or a petty disorderly persons offense unless a particular section in this code is intended to apply to less than all three;
- l. (Deleted by amendment, P.L.1991, c.91).
- m. "Amount involved," "benefit," and other terms of value. Where it is necessary in this act to determine value, for purposes of fixing the degree of an offense, that value shall be the fair market value at the time and place of the operative act.

143. Section 8 of P.L.1981, c.167 (C.2C:20-20) is amended to read as follows:

C.2C:20-20 Civil actions.

8. Civil Actions. a. Any person damaged in his business or property by reason of a violation of section 7 of this amendatory and supplementary act may sue therefor in any appropriate court and shall recover

threefold any damages he sustains and the cost of the suit, including a reasonable attorney's fee, costs of investigation and litigation.

b. (1) All persons who have possessed or obtained control of stolen property are liable as principals and may be sued jointly or severally, whether or not possession or control was joint.

(2) Any person held liable for possession or control of stolen property under chapter 20 of Title 2C of the New Jersey Statutes shall have standing to bring a civil action for contribution from any person who possessed or exercised control over the stolen property and who knew, had reason to know, or was reckless with regard to the risk that it was stolen.

c. Any action for damages under chapter 20 of Title 2C of the New Jersey Statutes shall be maintained in the Superior Court sitting without a jury.

144. Section 7 of P.L.1981, c.426 (C.2C:25-7) is amended to read as follows:

C.2C:25-7 Notice to victim; contents.

7. A law enforcement officer shall disseminate to the victim the following notice, which shall be written in both English and Spanish:

"You have the right to go to the Superior Court and file a complaint requesting relief including but not limited to the following: an order restraining your attacker from abusing you or directing your attacker to leave your household. You may request that the clerk of the court assist you in applying for this order. You also have the right to go to court and file a criminal complaint.

"On weekends, holidays and other times when the courts are closed, you may go to the municipal court for an emergency order granting the relief set forth above."

145. N.J.S.2C:43-15 is amended to read as follows:

Presentation of proposed rules at judicial conference.

2C:43-15. The subject matter and a tentative draft of a rule or rules proposed to be adopted pursuant to this chapter shall be entered upon the agenda and discussed at a Judicial Conference whose membership shall at least include delegates from the Supreme Court, the Appellate Division of the Superior Court, the judges of the Superior Court, the judges of the municipal courts, the surrogates, the State Bar Association, the county bar associations, the Senate and General Assembly, the Attorney General, the county prosecutors, the law schools of this State, and members of the public.

146. Section 3 of P.L.1979, c.396 (C.2C:46-4) is amended to read as follows:

C.2C:46-4 Fines and restitution; collection; disposition.

3. a. All fines and restitution shall be collected as follows:

(1) All fines and restitution imposed by the Superior Court or otherwise imposed at the county level, shall be collected by the county probation department except when such fine or restitution is imposed in conjunction with a custodial sentence to a State correctional facility in which event such fine or restitution shall be collected by the Department of Corrections.

(2) All fines and restitution imposed by a municipal court shall be collected by the municipal court clerk except if such fine or restitution is ordered as a condition of probation in which event it shall be collected by the county probation department.

All fines so collected shall be distributed to the appropriate governmental treasury as provided herein.

b. Except as provided in subsection c. with respect to fines imposed on appeals following convictions in municipal courts, all fines imposed by the Superior Court or otherwise imposed at the county level, shall be paid over by the officer entitled to collect same to:

(1) The county treasurer with respect to fines imposed on defendants who are sentenced to and serve a custodial term, including a term as a condition of probation, in the county jail, workhouse or penitentiary except where such county sentence is served concurrently with a sentence to a State institution; or

(2) The State Treasurer, with respect to all other fines.

c. All fines imposed by municipal courts on defendants convicted of crimes, disorderly persons offenses and petty disorderly persons offenses, and all fines imposed following conviction on appeal therefrom, and all forfeitures of bail shall be paid over by the officer entitled to collect same to the treasury of the municipality wherein the municipal court is located.

In the case of an intermunicipal court, fines shall be paid into the municipal treasury of the municipality in which the offense was committed, and costs, fees, and forfeitures of bail shall be apportioned among the several municipalities to which the court's jurisdiction extends, according to the ratios of the municipalities' contributions to the total expense of maintaining the court.

147. Section 4 of P.L.1979, c.396 (C.2C:46-5) is amended to read as follows:

C.2C:46-5 Applicability of act.

4. This act shall not affect fines and restitutions imposed under Title 39 of the Revised Statutes or in proceedings in the Superior Court, Chancery Division, Family Part which shall remain as heretofore.

148. N.J.S.3A:25-12 is amended to read as follows:

Distribution; when and how made.

3A:25-12. When a portion of the proceeds of real estate sold by judgment of the Superior Court to satisfy debts of a decedent is invested for the benefit of the surviving spouse during his or her lifetime, the court directing the sale, shall, upon the death of the life beneficiary, order the portion so invested to be distributed to the heirs or devisees of the person whose real estate was so sold in accordance with the law of descent or the will of the testator, as the case may be, unless the amount realized from the sale of said real estate remaining after the investment of said portion for the benefit of the surviving spouse was insufficient to pay the debts of the decedent as proved and allowed in the proceedings in which said judgment to sell was made and, in such case, the court shall direct the payment of the balance of such debts out of said principal sum so invested, so far as it shall be adequate for that purpose, in pro rata shares according to the amount of such debts so proved and allowed and shall direct distribution of any balance of said principal sum, remaining after the payment of said debts and interest, among the said heirs and devisees as aforesaid. However, that if any creditor, his personal representative or successor in interest, neglects for six years after the death of such surviving spouse to claim any balance upon his claim so proved and allowed as aforesaid, the share of said principal sum which would have been paid to such creditor hereunder, shall be distributed, by order of the court, among the said heirs and devisees as aforesaid.

149. N.J.S.3A:36-2 is amended to read as follows:

Admeasurement.

3A:36-2. A widow or widower entitled to dower or curtesy in real estate whereof her or his spouse died seized, an heir, devisee, or guardian of a minor or mental incompetent entitled to an estate in the real estate, or a purchaser thereof, may institute an action

in the Superior Court for the assignment to the widow or widower of her or his dower or curtesy therein.

150. N.J.S.3A:36-3 is amended to read as follows:

Where admeasurement cannot be had without prejudice; sale as in partition.

3A:36-3. When the Superior Court determines that the real estate, or part thereof, is so circumstanced that dower or curtesy cannot be assigned, admeasured and set off without prejudice to the owners, it may direct a sale thereof as in an action for partition where actual partition cannot be had without prejudice to owners, or in its discretion it may direct an assignment of the dower or curtesy from the rents and profits of the real estate. The court may order the real estate sold free from dower or curtesy, making compensation for the value thereof.

151. N.J.S.3A:36-4 is amended to read as follows:

Admeasurement when real estate is sold subject to dower or curtesy by judgment.

3A:36-4. If real estate is lawfully sold by a sheriff, assignee in bankruptcy or other public officer, whereby an inchoate right of dower or curtesy does or shall remain, the purchaser shall have the right, in an action in the Superior Court to have one half part thereof, or such other part according to the law in force when the right or estate became vested, admeasured and set off as and for the dower or curtesy portion.

152. R.S.4:1-23 is amended to read as follows:

Courts authorized to grant writs and orders.

4:1-23. The Superior Court and municipal courts, within their respective territorial jurisdictions, may grant such writs and orders as may be appropriate, including search warrants, according to the practice of such courts and in a summary manner, to enable the officers and employees of the department effectively to enforce the provisions of law which the department is charged with enforcing.

153. Section 6 of P.L.1962, c.126 (C.4:2A-6) is amended to read as follows:

C.4:2A-6 Penalties; enforcement of act.

6. Any person who violates any of the provisions of this act, or the rules and regulations thereunder, shall be liable to a pen-

alty of not more than \$50.00 for the first offense, and not more than \$200.00 for any subsequent offense.

For the purposes of section 2 of this act a master shall be liable for the actions of his servant to the same extent as the servant.

Penalties set forth in this act shall be sued for by and in the name of the secretary and shall be recoverable with costs. The Superior Court and municipal courts shall have jurisdiction to enforce the provisions of this act. Any proceeding for a violation of this act may be brought in the municipality where the violator resides, has a place of business, or principal office or where the act or omission or part thereof complained of occurred. The proceeding shall be summary in nature and in accordance with the penalty enforcement law (N.J.S.2A:58-1 et seq.).

In addition, the secretary may apply to the Superior Court for a judgment to restrain any violation or continuing violations of this act and the rules and regulations adopted thereunder.

154. Section 8 of P.L.1965, c.94 (C.4:3-11.17) is amended to read as follows:

C.4:3-11.17 Confiscation of eggs.

8. Any eggs marketed in violation of any provision of this act may be confiscated by a summary proceeding instituted by the secretary. The Superior Court or the municipal court having jurisdiction in the municipality in which such eggs are found shall have jurisdiction to hear and determine such proceedings.

155. Section 14 of P.L.1965, c.94 (C.4:3-11.23) is amended to read as follows:

C.4:3-11.23 Violations, penalties; enforcement

14. Any person who violates any provision of this act, or the rules and regulations issued pursuant thereto, shall be liable to a penalty of not less than \$50.00 nor more than \$100.00 for the first offense and a penalty of not less than \$100.00 nor more than \$200.00 for a second offense occurring within one year at the same location. Persistent violators who commit a third or subsequent offense at any individual location within one year shall be liable to a penalty of not less than \$300.00 nor more than \$500.00 for each such offense. Every day upon which a violation occurs at the same individual location shall be considered a separate violation. Penalties set forth in this act shall be sued for by and in the name of the secretary and shall be recoverable with costs. The Superior Court and every municipal court shall

have jurisdiction to enforce the provisions of this act. Any proceedings for a violation of this act may be brought in the municipality where the violator resides, has a place of business or principal office or where the act or omission or part thereof complained of occurred. The proceedings shall be summary in nature and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

156. Section 7 of P.L.1938, c.82 (C.4:3-18) is amended to read as follows:

C.4:3-18 Penalties; recovery; jurisdiction.

7. Any person convicted of violating any of the provisions of this act shall for the first offense be liable to a penalty not exceeding twenty-five dollars (\$25.00) and for any subsequent offense shall be liable to a penalty not exceeding fifty dollars (\$50.00). A civil action for the recovery of a penalty for the violation of any of the provisions of this act may be instituted and the penalty recovered either in the Superior Court or before the municipal court of any municipality. Jurisdiction to hear and determine actions under this act is hereby conferred upon the said courts.

157. Section 15 of P.L.1957, c.140 (C.4:5-106.15) is amended to read as follows:

C.4:5-106.15 Jurisdiction.

15. Jurisdiction of proceedings to collect penalties collectible under the provisions of this act is vested in the Superior Court and the municipal court in any municipality where the defendant may be apprehended or where he may reside. Process shall be either a summons or warrant and shall be prosecuted in a summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

158. Section 6 of P.L.1983, c.179 (C.4:5A-25) is amended to read as follows:

C.4:5A-25 Penalties; enforcement.

6. a. The department shall annually adopt a penalty schedule for specific violations of the provisions of this act or regulations adopted pursuant to this act. Penalties shall be set between a minimum of \$100.00 to a maximum of \$3,000.00 per violation.

b. Penalties shall be collected in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court or any municipal court where the defendant may

reside, or where the violation was detected, or where the defendant was apprehended shall have jurisdiction to enforce the act and the regulations adopted thereunder.

c. The department may bring an administrative action before an administrative law judge to enforce the provisions of this act or regulations adopted thereunder. Any final determination and penalty assessment by an administrative law judge may be enforced in the Superior Court in an action brought for that purpose by the Attorney General on behalf of the department.

d. Any habitual violation of the provisions of this act or any regulations adopted thereunder may be restrained by the Superior Court in an action brought for that purpose by the Attorney General on behalf of the department.

159. R.S.4:6-17 is amended to read as follows:

Penalty enforcement; hearing.

4:6-17. Any penalty imposed by this act shall be collected or enforced in a summary manner, without a jury, in any court of competent jurisdiction according to the procedure provided by "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction to enforce the provisions of this act.

Any violation of this chapter or any of the orders or rules or regulations of the department made pursuant to this act may be restrained by the Superior Court in an action brought for such purpose by the department.

The State Police, county and municipal law enforcement officers are authorized and directed to assist in the enforcement of the provisions of this chapter upon request by the department.

Any person aggrieved by an order of this department pursuant to this act shall have 15 days from the date of delivery of said order to petition the department for administrative hearing. The department shall, within 30 days of such petition, schedule said hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

160. R.S.4:7-14 is amended to read as follows:

Penalty for violation, recovery.

4:7-14. A person who shall violate any of the provisions of this article shall be subject to a penalty of fifty dollars (\$50.00) for each sale, shipment or delivery in violation of this article or for

each failure to obey the order or direction of the department made by authority of R.S.4:7-8 and R.S.4:7-9.

Penalties shall be sued for and recovered by and in the name of the department in the manner provided in article one of chapter twenty-three of this Title (R.S.4:23-1 et seq.), in the Superior Court or municipal court of any municipality.

161. R.S.4:7-18 is amended to read as follows:

Penalty for failure to obey order.

4:7-18. A person who shall fail to obey an order of the department made and served as prescribed in R.S.4:7-17, within the time therein specified, shall be liable to a penalty of fifty dollars (\$50.00) to be sued for and recovered by and in the name of the department in the manner provided in article one of chapter twenty-three of this Title (R.S.4:23-1 et seq.) in the Superior Court or municipal court of any municipality.

162. R.S.4:7-24 is amended to read as follows:

Inspection as a prerequisite to sales, penalty.

4:7-24. No nurseryman within the State shall sell or offer for sale any nursery stock or shall deliver the same within the State until it has been inspected by the department and until a certificate has been issued to him in accordance with the provisions of section 4:7-22 of this Title.

For every sale or shipment to a point within this State in violation of this section, a nurseryman shall be liable to a penalty of fifty dollars (\$50.00) to be sued for and recovered by and in the name of the department in the manner provided in article one of chapter twenty-three of this Title (R.S.4:23-1 et seq.) in the Superior Court or municipal court of any municipality.

163. R.S.4:7-26 is amended to read as follows:

Misuse of certificate, penalty.

4:7-26. Any nurseryman to whom a certificate has been issued, who shall:

- a. Use the same on stock not actually inspected; or
- b. In any way fail to comply with the conditions upon which the certificate was issued or the requirements of sections 4:7-15 to 4:7-35 of this Title—

Shall be liable to a penalty of one hundred dollars (\$100.00) for each offense, to be sued for and recovered by and in the name of the department in the manner provided in article one of chapter twenty-three of this Title (R.S.4:23-1 et seq.) in the Superior Court or municipal court of any municipality, and the certificate of such nurseryman may be canceled in the discretion of the department.

164. R.S.4:7-33 is amended to read as follows:

Carriers to refuse transportation, penalty.

4:7-33. Every carrier for hire maintaining offices or stations within this State for the receipt of nursery stock for transportation to points within or without the State, and the agents and servants of every such carrier, shall determine, before accepting stock for transportation to points within or without the State, that the stock offered for shipment at any such office or station is properly provided with a certificate as required by R.S.4:7-15 to R.S.4:7-35, signed by authority of the department and valid by its terms at the date on which the shipment is offered.

Every such carrier for hire and the agents and servants of every such carrier shall refuse for transportation in and delivery to points within this State, all boxes, bales, or parcels of nursery stock which are not accompanied by a certificate of inspection as required by R.S.4:7-30; but shipments of nursery stock from countries foreign to the United States, and bearing a certificate signed by a proper official of the country from which the stock was received, may be accepted at any port of entry within the State for transportation to points within or without the State.

For every violation of this section, and for every bale, box, parcel or package accepted or transported without such certificate, the carrier shall be liable to a penalty of fifty dollars (\$50.00), to be sued for and recovered by and in the name of the department in the manner provided in article one of chapter twenty-three of this Title (R.S.4:23-1 et seq.) in the Superior Court or a municipal court of any municipality.

165. Section 6 of P.L.1961, c.125 (C.4:8B-6) is amended to read as follows:

C.4:8B-6 Confiscation of grain sold in violation of act; jurisdiction.

6. Any lot of treated grain which is sold or distributed in violation of any provision of this act may be confiscated by a summary proceeding instituted by the State Seed Analyst. The Superior Court or municipal court having jurisdiction in the

municipality in which such grain is found shall have jurisdiction to hear and determine such proceeding.

166. Section 38 of P.L.1970, c.66 (C.4:9-15.38) is amended to read as follows:

C.4:9-15.38 Violations; penalties.

38. Any person convicted of violating any provision of this act or of any rule or regulation adopted thereunder other than a violation involving a plant nutrient deficiency shall be subject to a penalty of not less than \$25.00 nor more than \$100.00 for the first offense and not less than \$100.00 nor more than \$500.00 for any subsequent offense within a three-year period. The penalty shall be collected and enforced in summary proceedings under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) in the Superior Court.

167. R.S.4:10-15 is amended to read as follows:

Jurisdiction of action to recover penalty, application.

4:10-15. The action mentioned in R.S.4:10-14 to recover such penalty may be instituted and the penalty recovered either in the Superior Court or before the municipal court of any municipality.

Jurisdiction to hear and determine actions instituted under this chapter is hereby conferred upon the said courts.

This section shall not apply to R.S.4:10-5.

168. Section 8 of P.L.1962, c.62 (C.4:10-33) is amended to read as follows:

C.4:10-33 Penalty; injunctive relief.

8. Any person who violates any provision of this act or the rules and regulations issued pursuant thereto shall be liable to a penalty of not less than \$100.00 nor more than \$500.00 for each offense.

Each day of violation shall be deemed a separate offense.

Penalties set forth in this act shall be sued for by and in the name of the secretary and shall be recoverable with costs. The Superior Court and municipal courts shall have jurisdiction to enforce the provisions of this act or of any rule or regulation issued pursuant thereto. Any proceeding for a violation of this act may be brought in the municipality where the violator resides, has a place of business or principal office or where the act or omission or part thereof complained of occurred. The proceeding shall

be summary in nature and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

The secretary may institute an action in the Superior Court for injunctive relief to prevent and restrain any violation of this act or of any rules or regulations issued pursuant thereto.

169. Section 7 of P.L.1963, c.116 (C.4:10-40) is amended to read as follows:

C.4:10-40 Violations; penalties; jurisdiction and venue; injunctive relief.

7. Any person who violates any provision of this act, or the rules and regulations issued pursuant thereto, shall be liable to a penalty of not less than \$50.00 nor more than \$100.00 for the first offense and a penalty of not less than \$100.00 nor more than \$200.00 for the second offense occurring within one year. Persistent violators who commit a third or subsequent offense within one year shall be liable to a penalty of not less than \$300.00 nor more than \$500.00 for each such offense. Every day upon which a violation occurs shall be considered to be a separate violation.

Penalties set forth in this act shall be sued for by and in the name of the secretary and shall be recoverable with costs. The Superior Court and municipal courts shall have jurisdiction to enforce the provisions of this act and of any rule or regulation issued pursuant thereto. Any proceeding for a violation of this act may be brought in the county or municipality where the violator resides, has a place of business or principal office or where the act or omission or part thereof complained of occurred. The proceeding shall be summary in nature and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

The secretary may institute an action in the Superior Court for injunctive relief to prevent and restrain any violation of this act or any rules or regulations issued pursuant thereto.

170. Section 30 of P.L.1971, c.308 (C.4:10-72) is amended to read as follows:

C.4:10-72 Penalties; remedies.

30. Any person who violates any provision of this act or of any marketing program issued pursuant to this act shall be liable to a penalty of not less than \$100.00 nor more than \$500.00 for each offense.

Each day of violation shall be deemed a separate offense.

Penalties set forth in this act shall be sued for by and in the name of the secretary, and shall be recoverable with costs. The

Superior Court and municipal courts shall have jurisdiction to enforce the provisions of this act or of any marketing program issued pursuant to this act. Any proceeding for a violation of this act may be brought in the municipality where the violator resides, has a place of business or principal office, or where the act or omission or part thereof complained of occurred. The proceeding shall be summary in nature and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). A warrant may be issued in lieu of summons. If judgment shall be rendered for the plaintiff, the court shall cause any defendant, who may refuse or fail to pay forthwith the amount of the judgment rendered against him and all costs and charges incident thereto, to be committed to the county jail for a period not exceeding 30 days.

If a defendant who is committed to jail in default of payment of the penalty shall serve the full period for which he shall be committed, upon his release from jail he shall be entitled to have the judgment satisfied of record.

The secretary may institute an action in the Superior Court for injunctive relief to prevent and restrain any violation of this act or of any marketing program issued pursuant to the act.

Any action based upon the violation of this act or any marketing program issued pursuant to this act shall be commenced within one year from the date of the violation.

The penalties and remedies prescribed in this section shall be concurrent and alternative and shall not bar any other civil, criminal or administrative action authorized by law in respect to such violation.

171. Section 41 of P.L.1941, c.274 (C.4:12A-41) is amended to read as follows:

C.4:12A-41 Jurisdiction; enforcement.

41. The Superior Court shall have jurisdiction of actions for penalties under this act and such penalties shall be collected and enforced in a summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). If judgment be rendered for the plaintiff and the defendant fails forthwith to pay the amount of the judgment and the costs and charges incident thereto, said defendant may be committed to the county jail for any period not exceeding one hundred days.

172. R.S.4:17-2 is amended to read as follows:

Trespass; enforcement.

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 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.

173. R.S.4:19-8 is amended to read as follows:

Failure to kill dog found worrying livestock, penalty.

4:19-8. An owner or person harboring a dog which is found killing, worrying or wounding any sheep, lamb, domestic animal or poultry, who shall, after being informed thereof, fail to kill the dog within twenty-four hours after receiving such information, shall be liable, to any person who shall sue for the same, to a penalty of ten dollars (\$10.00), to be recovered with costs by a civil action before the Superior Court and shall also pay triple damages for any injury done.

174. Section 21 of P.L.1941, c. 151 (C.4:19-15.21) is amended to read as follows:

C.4:19-15.21 Courts of jurisdiction, summary hearing, process.

21. The Superior Court and the municipal courts shall have jurisdiction to hear and determine in a summary manner proceedings for violations of any of the provisions of this act. Penalties for such violations shall be enforced and recovered pursuant to

“the penalty enforcement law” (N.J.S.2A:58-1 et seq.) at the suit of the Commissioner of Health of the State of New Jersey or of the local board of health or the municipality. Process shall be either in the nature of a summons or warrant.

175. Section 8 of P.L.1983, c.172 (C.4:19A-7) is amended to read as follows:

C.4:19A-7 Violations; penalties; enforcement.

8. Any person who knowingly:

- a. Falsifies proof of eligibility for, or participation in, any of the programs enumerated in section 3 of this act;
- b. Furnishes any licensed veterinarian of this State with inaccurate information concerning the ownership of an animal submitted for an animal sterilization procedure;
- c. Furnishes the commissioner with false information concerning an animal sterilization fee schedule or an animal sterilization certificate submitted pursuant to section 5 of this act; or
- d. Violates in any other manner the provisions of this act, shall be subject to a penalty of not more than \$250.00 for the first offense and not more than \$500.00 for the second and each subsequent offense, to be collected in civil action by a summary proceeding under “the penalty enforcement law” (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction to enforce “the penalty enforcement law.”

176. R.S.4:22-29 is amended to read as follows:

Jurisdiction for action for penalty.

4:22-29. The action for the penalty prescribed in R.S.4:22-26 or R.S.4:22-27, shall be brought:

- a. In the Superior Court; or
- b. In a municipal court of the municipality wherein the defendant resides or where the offense was committed.

177. R.S.4:23-2 is amended to read as follows:

Jurisdiction.

4:23-2. Jurisdiction of proceedings to collect penalties collectible under the provisions of this article is vested in the Superior Court and the municipal courts, and in all other courts or officers specifically authorized by the law under which the proceeding is had, all of which courts and officers are hereinafter in this article designated as the “court.”

178. R.S.4:23-12 is amended to read as follows:

Jurisdiction.

4:23-12. Jurisdiction of proceedings to collect penalties collectible under the provisions of this article is vested in the Superior Court and the municipal courts in any municipality where the defendant may be apprehended or where he may reside, and all other courts or officers specifically authorized by the law under which the proceeding is had, all of which courts and officers are hereinafter in this article designated as the "court." Process shall be either a summons or warrant and proceedings shall be brought in a summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

179. Section 15 of P.L.1975, c.251 (C.4:24-53) is amended to read as follows:

C.4:24-53 Violations; injunction; penalty; enforcement.

15. If any person violates any of the provisions of this act, any standard promulgated pursuant to the provisions of this act, or fails to comply with the provisions of a certified plan the municipality or the district may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner. Any person who violates any of the provisions of this act, any standard promulgated pursuant to this act or fails to comply with the provisions of a certified plan shall be liable to a penalty of not less than \$25.00 nor more than \$3,000.00 to be collected in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

180. R.S.5:3-21 is amended to read as follows:

Penalty for violation.

5:3-21. Any person who shall violate any provision of this article shall be subject to a penalty of fifty dollars (\$50.00). Such penalty shall be imposed for each day such violation thereafter continues. The penalties may be imposed against the owner or lessee of the premises wherein such violation occurs, or both. The Superior Court and the municipal courts shall have jurisdiction of said violations and the penalties hereunder shall be enforced and collected in a summary manner under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

Penalties; recovery; disposition.

5:3-29. The Department of Labor may bring a civil action for the recovery of any such penalty in the Superior Court in the county wherein the violation occurred. All penalties so recovered shall be paid to said department and by it paid into the State treasury.

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

Penalty for violation.

5:4-5. Any person violating any of the provisions of this chapter shall, upon conviction thereof in a summary proceeding before any municipal court of this State, be sentenced to pay a fine not exceeding one hundred dollars (\$100.00) for each such offense, for the use of the State.

183. Section 11 of P.L.1940, c.17 (C.5:5-31) is amended to read as follows:

C.5:5-31 Removal of commissioner; hearing; subpoena; fees, review.

11. The Governor may remove any commissioner for inefficiency, neglect of duty or misconduct in office, giving to him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than fourteen days' notice either by personal service or registered mail.

The Governor shall have power to administer oaths and examine witnesses, and shall have the power to issue subpoenas to compel the attendance of witnesses and the production of all necessary reports, books, papers, documents, correspondence and other evidence at any designated place of hearing. The subpoenas shall be authenticated by the seal of the Governor, and any party to a proceeding before the Governor may secure from him subpoenas without charge. Misconduct on the part of a person attending a hearing or the failure of a witness when duly subpoenaed to attend, give testimony or produce any records, shall be punishable by the Superior Court in the county wherein the offense is committed in the same manner as such failure is punishable by that court in a case therein pending. The Governor shall certify such misconduct, failure to attend or produce records to the court.

The fees for the attendance of witnesses shall be the same as for the attendance of witnesses in other civil cases.

A person who, having been sworn or affirmed as a witness in any such proceeding, shall willfully give false testimony, shall be guilty of perjury.

The Governor, or any applicant, may in connection with any hearing before the Governor cause the deposition of witnesses within or without the State to be taken in the same manner as in civil actions in the Superior Court.

At the conclusion of such hearing, the Governor shall, within thirty days, make his findings.

If such commissioner shall be removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner and his findings thereof, together with a complete record of the proceedings, and shall give notice of his findings to such commissioner forthwith.

The action of the Governor and the propriety thereof shall be subject to review by a proceeding in lieu of prerogative writ in the Superior Court.

184. Section 34 of P.L.1940, c.17 (C.5:5-54) is amended to read as follows:

C.5:5-54 Oaths and witnesses; subpoenas; misconduct, failure to attend or produce records.

34. Each member of the commission and the executive director shall have power to administer oaths and examine witnesses, and shall have the power to issue subpoenas to compel the attendance of witnesses and the production of all necessary reports, books,, papers, documents, correspondence and other evidence at any designated place of hearing. The subpoenas shall be authenticated by the seal of the commission, and any party to a proceeding before the commission may secure from it subpoenas without charge. Misconduct on the part of a person attending a hearing or the failure of a witness when duly subpoenaed to attend, give testimony or produce any records, shall be punishable by the Superior Court in the county wherein the offense is committed in the same manner as such failure is punishable by that court in a case therein pending.

185. Section 5 of P.L.1959, c.108 (C.5:8-82) is amended to read as follows:

C.5:8-82 Authority to suspend and revoke licenses after hearing.

5. The commissioner shall have power to suspend and revoke licenses, after hearing, for violation of the law under which the license is issued or for violation of any provision of applicable law or of the rules and regulations made and promulgated by the commissioner.

As an alternative to any other sanctions herein or otherwise provided by law, any such violator shall be liable to a penalty of not more than \$250.00 for the first offense and not more than \$500.00 for the second and each subsequent offense.

The Superior Court and every municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of such violation, within the territorial jurisdiction of the court. The penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State upon the complaint of the commissioner.

Upon receiving evidence of any such violation, the commissioner is empowered to hold hearings upon said violation and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed such violation, in such amount within the limits of this act as he deems proper under the circumstances. Any such amounts collected by the commissioner shall be paid forthwith into the State Treasury for the general purposes of the State.

186. Section 32 of P.L.1938, c.48 (C.6:1-51) is amended to read as follows:

C.6:1-51 Investigation of aircraft accidents, hearings.

32. The Department of Commerce, Energy and Economic Development shall have the power to conduct investigations, inquiries and hearings concerning matters covered by the provisions of this act and accidents or injuries incident to the operation of aircraft occurring within this State, and for this purpose the department or its authorized representatives may take possession of any wreckage or aircraft damaged in such accidents and hold same until it releases such possession or unless any properly authorized paramount federal agency requests possession. In all investigations, inquiries and hearings the commissioner or his authorized representative in charge thereof, shall have the power to administer oaths and affirmations, certify to official acts, issue subpoenas, compel the attendance and testimony of witnesses and the production of papers, books, and documents. If any person shall fail to comply with any subpoena or order issued under authority of this chapter, the commissioner or said authorized representative may ex parte invoke the aid of the Superior Court of

this State. The court may thereupon order any such person to comply with the requirements of the subpoena or order, or to give evidence upon the matter in question.

187. Section 3 of P.L.1952, c.199 (C.6:5-3) is amended to read as follows:

C.6:5-3 Secretary of State as agent.

3. (a) Any person, not being a resident of this State, who shall operate, pilot or avigate any aircraft on or over the land or waters or through the airspace of this State, whether or not such person shall be licensed to do so in accordance with the laws of this State or of any other state or under the provisions of the laws, rules or regulations of the United States Government or otherwise; and

(b) Any person or persons, not being a resident or residents of this State or any corporation or association, not incorporated under the laws of this State and not duly authorized to transact business in this State, who by his, their or its agent or servant, shall cause to be operated, piloted or navigated on or over the land or waters or through the airspace of this State any aircraft, which is not registered in this State, whether or not the operator, owner or pilot shall be licensed to operate, pilot or avigate aircraft on or over the land or waters or through the airspace of this State; shall by the operation of such aircraft or by causing the same to be operated, piloted or avigated, over the land or waters or through the airspace of this State, make and constitute the Secretary of State his, their or its agent for the acceptance of process in any civil action issuing out of any court of civil jurisdiction, against any such person or persons, corporation or association, arising out of or by reason of any accident or collision occurring on or over the land or waters or in the airspace of this State in which such aircraft so operated, piloted or avigated is involved. The operating, piloting or avigating or causing to be operated, piloted or avigated of any such aircraft, on or over the land or waters or through the airspace of this State, shall be the signification of the agreement of such nonresident person operating, piloting or avigating the same or of such person or persons or corporation or association for whom such aircraft is operated, piloted or avigated, of his, their or its agreement that any process, against him, them or it which is so served shall be of the same legal force and validity as if served, upon him or them personally or upon it, in accordance with law within this State.

188. N.J.S.8A:10-6 is amended to read as follows:

Subpenas; enforcement.

8A:10-6. a. The executive director, the chairman, any member of the New Jersey Cemetery Board or any person designated by the cemetery board or the Commissioner of Banking may administer oaths and affirmations and shall have power to issue subpenas, to compel the attendance of any person, or the production of any books or papers necessary or incidental to any hearing before the board. Such subpoena may be served and the same witness fees paid as in cases in the Superior Court, as allowed by law.

b. In the event any person who has been duly served with a subpoena by the board fails or refuses to attend and testify and answer proper questions or to produce books, records, documents, papers, or other physical exhibits pursuant to the command of said subpoena, the board is authorized to apply to the Superior Court for an order compelling compliance with the subpoena or order of the board. Failure to obey the subpoena or the order of the court in reference thereto shall, in addition to any other action that may properly be taken by the courts, carry a penalty of \$100.00 to be collected by the board as provided in chapter 9 of this act.

189. Section 1 of P.L.1974, c.152 (C.9:2-7.2) is amended to read as follows:

C.9:2-7.2 Concealment of child; preliminary hearing as to custody.

1. When any husband and wife shall live in a state of separation without being divorced and shall have any minor child or children of the marriage, and when either spouse shall willfully conceal the whereabouts of said child or children, the Superior Court, Chancery Division, Family Part, upon application of the aggrieved parent, shall conduct a preliminary hearing as to the custody of said child or children and shall make such order relating thereto for the access of either parent to such child at such times and under such circumstances as it may deem proper.

190. R.S.9:2-9 is amended to read as follows:

Unfit parents and custodians, court action to grant relief.

9:2-9. When the parents of any minor child or the parent or other person having the actual care and custody of any minor child are grossly immoral or unfit to be intrusted with the care and education

of such child, or shall neglect to provide the child with proper protection, maintenance and education, or are of such vicious, careless or dissolute habits as to endanger the welfare of the child or make the child a public charge, or likely to become a public charge; or when the parents of any minor child are dead or cannot be found, and there is no other person, legal guardian or agency exercising custody over such child; it shall be lawful for any person interested in the welfare of such child to institute an action in the Superior Court, Chancery Division, Family Part, in the county where such minor child is residing, for the purpose of having the child brought before the court, and for the further relief provided by this chapter. The court may proceed in the action in a summary manner or otherwise.

191. R.S.9:2-10 is amended to read as follows:

Order for proper care of child.

9:2-10. In an action brought pursuant to R.S.9:2-9, the Superior Court, after an investigation shall have been made by the chief probation officer of the county in which the child may reside, concerning the reputation, character and ability of the plaintiff, or such other person as the court may direct, to properly care for such child, shall make an order or judgment committing the child to the care and custody of such person, who will accept the same, as the court shall for that purpose designate and appoint, until such child shall attain the age of eighteen years, or the further direction of the court; provided, however, that in proper cases such care and custody may be exercised by supervision of the child in his own home, unless the court shall otherwise order. Such order or judgment may require the giving of a bond by the person to whose care or custody the said child may be committed, with such security and on such conditions as the court shall deem proper.

192. Section 6 of P.L.1955, c. 232 (C.9:2-18) is amended to read as follows:

C.9:2-18 Procedure to terminate parental rights.

6. An approved agency which is providing supervision of a child may institute an action in the Superior Court, seeking the termination of the rights of the parents of such child and the transfer of custody of such child to the agency. A prior surrender of custody as provided by Article II of this act shall not be deemed a waiver of notice or service of process in proceedings under Article III hereof.

At least five days prior to the hearing, the plaintiff shall file with the court a written report as to all circumstances of the case.

193. Section 6 of P.L.1977, c. 367 (C.9:3-42) is amended to read as follows:

C.9:3-42 Jurisdiction.

6. An action for adoption shall be instituted in the Superior Court, Chancery Division, Family Part.

194. Section 15 of P.L.1977, c.367 (C.9:3-51) is amended to read as follows:

C.9:3-51 Judgments of adoption; records.

15. The clerk of the Superior Court shall maintain an alphabetical index of all judgments of adoption entered each year pursuant to this act, all of which records shall be sealed and thereafter shall be made accessible only by court order.

195. R.S.9:6-4 is amended to read as follows:

Jurisdiction of complaints.

9:6-4. Complaints for violation of the provisions of this chapter may be made to the Superior Court or any municipal court. Whenever any person, who shall be charged with any such offense upon oath before any court or by indictment, shall, in writing signed by him and addressed to the county prosecutor of the county wherein the offense was committed, waive indictment and trial by jury, or trial by jury, as the case may be, and request to be tried immediately before the Superior Court without a jury, the county prosecutor shall report such fact to such court, which, unless it shall deem the public interest will be benefited by denying such request, shall with all due and reasonable speed, proceed to try the person so charged and determine and adjudge his guilt or innocence.

196. R.S.9:6-7 is amended to read as follows:

Agents of societies commissioned as police officers and constables.

9:6-7. Any duly organized or incorporated humane society, having for one of its objects the protection of children from cruelty, may offer any agents or officers employed by such society to the mayor or other executive officer having authority to commission police officers of any municipality having a regularly organized police department, for the purpose of being commis-

sioned to act as police officers through the limits of such municipality for the purpose of arresting all the offenders against this chapter or any of the provisions thereof, whereupon the mayor in such city shall, if such persons are proper and discreet persons, commission them to act as such police officers, with all the rights and powers appertaining thereto; but no such municipality shall be liable in any way for the salary or wages of such officers, or for any expense whatever in relation thereto, except for the detention of prisoners.

In any municipality not having a regularly organized police department, such humane society may offer similarly qualified persons to the Assignment Judge of the Superior Court for the county, whereupon such court shall, if they be fit persons, commission such persons to act as constables, with power to arrest all offenders against this chapter or any provisions thereof; but no municipality or county shall be in anywise liable for the salary or wages of any such officer, or for any expense in relation thereto, except for the detention of prisoners.

All persons thus qualified under this section shall be deemed to be constables and police officers, and the keepers of jails or lock-ups or station houses in any of such counties are required to receive all persons arrested by such policemen or constables.

197. R.S.9:6-8 is amended to read as follows:

Warrants to enter place of supposed violation, arrest.

9:6-8. Whenever any person shall, before the Superior Court, or municipal court, make oath that the affiant believes that this chapter has been or is being violated in any place or house, such court shall forthwith issue a warrant to a constable or other authorized officer to enter such place or house and investigate the same, and such person may arrest or cause to be arrested all offenders and bring them before any court for a hearing of the case; and all constables and policemen shall aid in bringing all such offenders before such authorities for a hearing.

198. Section 2 of P.L.1974, c.119 (C.9:6-8.22) is amended to read as follows:

C.9:6-8.22 Jurisdiction of Superior Court, Chancery Division, Family Part.

2. The Superior Court, Chancery Division, Family Part in each county shall have jurisdiction over all noncriminal proceedings involving alleged cases of child abuse or neglect, and shall be

charged with the immediate protection of said children. All non-criminal cases involving child abuse shall be commenced in or transferred to this court from other courts as they are made known to the other courts. Commencement of cases of child abuse or neglect must be the first order of priority in the Family Part.

199. Section 3 of P.L.1974, c.119 (C.9:6-8.23) is amended to read as follows:

C.9:6-8.23 Law guardian; appointment.

3. a. Any minor who is the subject of a child abuse or neglect proceeding under this act must be represented by a law guardian to help protect his interests and to help him express his wishes to the court. However, nothing in this act shall be construed to preclude any other interested person or agency from appearing by counsel.

b. The Superior Court, Chancery Division, Family Part, on its own motion, will make appointments of law guardians.

200. Section 4 of P.L.1974, c.119 (C.9:6-8.24) is amended to read as follows:

C.9:6-8.24 Jurisdiction.

4. Jurisdiction. a. Notwithstanding any other law to the contrary, the Superior Court, Chancery Division, Family Part has exclusive original jurisdiction over noncriminal proceedings under this act alleging the abuse or neglect of a child.

b. In determining the jurisdiction of the court under this act, the age of the child at the time the proceedings are initiated is controlling.

c. In determining the jurisdiction of the court under this act, the child need not be currently in the care or custody of his parent or guardian, as defined herein.

d. If the matter in regard to the parent or guardian is referred to the county prosecutor by the Family Part or otherwise the Family Part may continue the proceeding under this act in regard to the child after such referral. If the proceeding in regard to the child is continued, the Family Part shall enter any preliminary order necessary to protect the interests of the child pending a final order from the criminal courts.

201. Section 5 of P.L.1974, c.119 (C.9:6-8.25) is amended to read as follows:

C.9:6-8.25 Transfer to and from the Superior Court.

5. Transfer to and from the Superior Court. a. Notice to the prosecutor. Immediately upon receipt of a complaint, the Superior Court,

Chancery Division, Family Part shall forward a copy of such complaint to the county prosecutor, after which the prosecutor shall take whatever action he deems necessary under all of the circumstances.

b. Any criminal complaint charging facts amounting to abuse or neglect under this act may be transferred by the county prosecutor or the criminal court in which the complaint was made, to the Family Part, in the county in which the former court is located. If any police officer, county prosecutor or criminal court receives a complaint which amounts to child abuse or neglect, the police officer, county prosecutor or criminal court shall report to the division pursuant to P.L.1971, c.437, section 3 (C.9:6-8.10). If any police officer, county prosecutor or the criminal court refers a matter with regard to the parent or guardian, or child, and there appears to be no basis for action in the Family Part, the proceeding may be terminated. If the Family Part determines a complaint should be filed, proceedings under this act shall be commenced immediately.

c. Nothing in this act shall be interpreted to preclude the county prosecutor from bringing criminal action against the parent or guardian or any other person even though the child involved is initially or ultimately the subject of proceedings in the Family Part.

202. Section 8 of P.L.1974, c.119 (C.9:6-8.28) is amended to read as follows:

C.9:6-8.28 Preliminary orders of court before preliminary hearing held.

8. Preliminary orders of court before preliminary hearing held.

a. The Superior Court, Chancery Division, Family Part may enter an order directing the temporary removal of a child from the place where he is residing before a preliminary hearing under this act, if (1) the parent or other person legally responsible for the child's care is absent or, though present, was asked and refused to consent to the temporary removal of the child and was informed of an intent to apply for any order under this section; and (2) the child appears so to suffer from the abuse or neglect of his parent or guardian that his immediate removal is necessary to avoid imminent danger to the child's life or health; and (3) there is not enough time to hold a preliminary hearing.

b. The order shall specify the facility to which the child is to be brought.

c. The Family Part may enter an order authorizing a physician or hospital to provide emergency medical or surgical procedures before a preliminary hearing is held under this act if (1) such pro-

cedures are necessary to safeguard the life or health of the child; and (2) there is not enough time to hold a preliminary hearing under section 11 hereof.

d. Any person who originates a proceeding pursuant to section 14 of this act may apply for through the Division of Youth and Family Services or the court on its own motion may issue, an order of temporary removal. The division shall make every reasonable effort to inform the parent or guardian of any such application, confer with a person wishing to make such an application and make such inquiries as will aid the court in disposing of such application. Within 24 hours the Division of Youth and Family Services shall report such application to the central registry of the division.

e. Any person acting under the authority of this act may request and shall receive appropriate assistance from local and State law enforcement officials.

203. 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 Superior Court, Chancery Division, Family Part 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 examin-

ing 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.

204. Section 11 of P.L.1974, c.119 (C.9:6-8.31) is amended to read as follows:

C.9:6-8.31 Preliminary orders after filing of complaint.

11. Preliminary orders after filing of complaint. a. In any case where the child has been removed without court order, except where action has been taken pursuant to P.L.1973, c.147 (C.9:6-8.16 et seq.) the Superior Court, Chancery Division, Family Part shall hold a hearing on the next court day to determine whether the child's interests require protection pending a final order of disposition. In any other case under this act, any person who may originate a proceeding may apply for, or the court, on its own motion, may order a hearing at any time after the complaint is filed to determine whether the child's interests require protection pending a final order of disposition.

b. Upon such hearing, if the court finds that continued removal is necessary to avoid an ongoing risk to the child's life or health, it shall affirm the removal of the child to an appropriate place or place him in the custody of a suitable person.

c. Upon such hearing the court may, for good cause shown, issue a preliminary order of protection which may contain any of the provisions authorized on the making of an order of protection under section 35 hereof.

d. Upon such hearing, the court may, for good cause shown, release the child to the custody of his parent or guardian from whose custody or care the child was removed, pending a final order of disposition, in accord with section 33 hereof.

e. Upon such hearing, the court may authorize a physician or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

f. If the court grants or denies a preliminary order requested pursuant to this section, it shall state the grounds for such decision.

g. In all cases involving abuse or neglect the court shall order an examination of the child by a physician appointed or designated for the purpose by the division. As part of such examination, the physician shall arrange to have color photographs taken as soon as practical of any areas of trauma visible on such child and may if indicated, arrange to have a radiological examination performed on the child. The physician, on the completion of such examination, shall forward the results thereof together with the color photographs to the court ordering such examination.

205. Section 15 of P.L.1974, c.119 (C.9:6-8.35) is amended to read as follows:

C.9:6-8.35 Preliminary procedure.

15. Preliminary procedure. The division may:

a. Confer with any person seeking to file a complaint, the potential respondent, and other interested persons concerning the advisability of filing a complaint under this act; and

b. Attempt to adjust suitable cases before a complaint is filed over which the court apparently would have jurisdiction.

c. The division shall not prevent any person or agency who wishes to file a complaint under this act from having access to the court for that purpose.

d. Efforts at adjustment under this section may not extend for a period of more than 30 days without an order of a judge of the court, who may extend the period for an additional 30 days.

e. Such adjustment may include a preliminary conference held by the division at its discretion upon written notice to the parent or guardian and the potential complainant for the purpose of attempting such adjustment, provided however that the division shall not be authorized under this section to compel any person to appear at any conference, produce any papers, or visit any place.

f. The Superior Court, Chancery Division, Family Part and the division shall deal with cases involving imminent physical harm or actual physical harm on a priority basis.

206. Section 20 of P.L.1977, c.119 (C.9:6-8.40) is amended to read as follows:

C.9:6-8.40 Records involving abuse or neglect.

20. Records involving abuse or neglect. When the division receives a report or complaint that a child may be abused or neglected; or when the division receives a request from the Superior

Court, Chancery Division, Family Part to investigate such allegations, the division may request of any and all public or private institutions, or agencies including law enforcement agencies, or any private practitioners, their records past and present pertaining to that child and other children under the same care, custody and control. Records kept pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982, c.77 (C.2A:4A-20 et seq.) may be obtained by the division, upon issuance by a court of an order on good cause shown directing these records to be released to the division for the purpose of aiding in evaluation to determine if the child is abused or neglected. In the release of the aforementioned records, the source shall have immunity from any liability, civil or criminal.

207. Section 50 of P.L.1974, c.119 (C.9:6-8.70) is amended to read as follows:

C.9:6-8.70 Appealable orders.

50. Appealable orders. An appeal may be taken as of right from any final order of disposition and from any other final order made pursuant to this act. An appeal from a final order or decision in a case involving child abuse may be taken as of right to the Appellate Division of the Superior Court. Pending the determination of such appeal, such order or decision shall be stayed where the effect of such order or decision would be to discharge the child, if the Superior Court, Chancery Division, Family Part or the court before which such appeal is pending finds that such a stay is necessary to avoid imminent risk to the child's life or health.

208. R.S.9:11-1 is amended to read as follows:

Appointment of trustees; number; term; other offices; vacancies.

9:11-1. In counties of the first class, whenever in its judgment it shall be necessary or proper, the governing body of the county shall appoint 8 persons who shall constitute a board to be known as the Board of Trustees of the Youth House of the county of They shall serve without compensation and shall hold office for a term of 4 years and until their successors are appointed, except that of the 8 members first appointed, 2 shall hold office for 4 years, 2 shall hold office for 3 years, 2 shall hold office for 2 years, and 2 shall hold office for 1 year. The holding of any other public office by any member of said board of trustees shall not be held to be incompatible with the office as member of such board of trustees. A vacancy caused by death,

resignation or otherwise shall be filled by the governing body of the county for the unexpired term.

209. R.S.9:11-3 is amended to read as follows:

Acquisition of site; erection of building.

9:11-3. The board of trustees organized under section 9:11-1 of this Title may acquire lands by gift, purchase or condemnation and erect buildings thereon suitable for the detention of persons, male or female, under 18 years of age adjudged delinquent, or convicted of violating a criminal statute, or detained to testify in a pending criminal prosecution or under commitment for appearance in the Superior Court, Chancery Division, Family Part pending final hearing of any cause.

The board of trustees with the approval of the board of chosen freeholders may select for a building site land owned by the county and not already devoted to other purposes inconsistent with the establishment of a youth house thereon. The board of trustees may also appoint such architect or engineers or both as in their judgment may be proper to prepare plans and specifications and supervise the erection of buildings.

The board of trustees of any youth house organized under this chapter and the board of chosen freeholders of the county wherein said youth house is situate may enter into and perform an agreement for the exchange of real estate owned respectively by the said board of trustees and said county.

210. Section 25 of P.L.1953, c.9 (C.9:12A-1) is amended to read as follows:

C.9:12A-1 Establishment of children's shelter; management; funds.

25. The governing body of any county may establish, equip and maintain a home for the temporary detention of children, separated entirely from any place of confinement of adults, to be known as "The Children's Shelter of County," which shall be conducted as an agency for the purposes of caring for the children of the county whose cases are pending before the Superior Court, Chancery Division, Family Part in the county or who are homeless or abandoned, abused, neglected or cruelly treated, or who, being under 16 years of age, are witnesses before such court or some other court.

The governing body of the county may appropriate sufficient funds for the purchase of property and the building or buildings and the furnishing of supplies and equipment therefor from the annual

appropriations, or if they consider the amount too great to add to the annual appropriation, they may issue bonds for such purpose.

The building may be built on property owned by the county or the governing body of the county may acquire the same by gift, purchase or condemnation.

The governing body of the county may appoint a committee of 7 citizens of the county, who together with the director of the governing body of the county as ex-officio shall constitute the board of trustees of the children's shelter. The board of trustees shall make the rules and regulations for the management of the children's shelter and the groupings of the children therein.

In any county in which a children's shelter is or shall be established and operated pursuant to this section, solely for children who are homeless or abandoned, abused, neglected or cruelly treated, the governing body of the county may, by resolution, determine to operate and manage such children's shelter instead of appointing a board of trustees for such purpose, in which case the governing body of the county shall have and may exercise all the powers of a board of trustees as provided in this section.

The shelter shall be in the charge of a superintendent, and the board of managers, or the governing body of the county, as the case may be, shall have authority to appoint the superintendent, and other employees in like manner as other county employees are appointed; the governing body of the county shall provide the funds for carrying on the shelter and for the betterments, improvements and replacements that may be required, in the annual appropriations, but money for new buildings and the equipment thereof and other permanent improvements may be raised by bond issue.

211. Section 9 of P.L.1983, c.17 (C.9:17-46) is amended to read as follows:

C.9:17-46 Jurisdiction.

9. a. The Superior Court shall have jurisdiction over an action brought under this act. The action shall be joined with an action for divorce, annulment, separate maintenance or support.

b. A person who has sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this act with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by law, personal jurisdiction may be acquired by service in accordance with the rules of the court.

c. The action may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

212. Section 11 of P.L.1983, c. 17 (C.9:17-48) is amended to read as follows:

C.9:17-48 Consent conference.

11. a. As soon as practicable after an action to declare the existence or nonexistence of the father and child relationship has been brought, a consent conference shall be held by the Superior Court, Chancery Division, Family Part intake service, the county probation department or the county welfare agency. A court appearance shall be scheduled in the event that a consent agreement cannot be reached.

b. On the basis of the information produced at the conference, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

- (1) That the action be dismissed with or without prejudice; or
- (2) That the alleged father voluntarily acknowledge his paternity of the child.

c. If the parties accept a recommendation made in accordance with subsection b., which has been approved by the court, judgment shall be entered accordingly.

d. If a party refuses to accept a recommendation made under subsection b., and blood tests or genetic tests have not been taken, the court may require the parties to submit to blood tests or genetic tests. Thereafter the Family Part intake service, with the approval of the court, shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial.

e. The guardian ad litem may accept or refuse to accept a recommendation under this section.

f. The consent conference may be terminated and the action set for trial if the court finds it unlikely that all parties would accept a recommendation that might be made under subsection b. or d.

g. No evidence, testimony or other disclosure from the consent conference shall be admitted as evidence in a civil action except by consent of the parties. However, blood tests or genetic tests ordered pursuant to subsection d. may be admitted as evidence.

213. Section 1 of P.L.1947, c.180 (C.9:21-1) is amended to read as follows:

C.9:21-1 Report on municipal conditions.

1. If on the determination of a criminal or juvenile delinquency case before the Superior Court it shall appear that the guilt of the defendant or delinquency of the child is attributable in whole or in part to the existence of deleterious, degrading or deteriorating conditions, practices or influences within the municipality wherein the convicted defendant or delinquent child resides, the court shall send a report as to such conditions, practices, or influences to the governing body of the municipality in which the convicted defendant or delinquent child resides.

214. Section 8 of P.L.1947, c.179 (C.9:22-8) is amended to read as follows:

C.9:22-8 Adjustment committee of guidance council; plan of operation; records; reports.

8. Any municipal youth guidance council may, by resolution, create a special subcommittee to be known as the adjustment committee consisting of persons qualified by experience and training to assist in and to co-ordinate the efforts of police, schools, and other agencies to provide guidance and counsel to children with incipient behavior problems and to co-operate with the Superior Court, Chancery Division, Family Part having jurisdiction when cases arise in which official adjudication of delinquency seems indicated.

When an adjustment committee shall have been appointed, the municipal youth guidance council shall draft a plan of operation which shall be registered with the State agency, referred to in section 6 of this act and with the Family Part having jurisdiction. This plan shall outline the procedure for the referral of cases to the committee by police, schools, other agencies concerned with youth problems, and by other interested persons. The adjustment committee of each municipal youth guidance commission shall maintain summary records of each child brought to its attention. The summary records shall include data concerning the circumstances surrounding each referral of a child to the committee, concerning his family, school, church, and neighborhood relationships, and concerning the methods used by the committee to improve the adjustment of the child. These records shall be confidential with the exception that they may be reviewed at any time by the judge of the Family Part having jurisdiction, to make sure that no child

properly referable to such court is denied access to the court. Each municipal youth guidance council may also be called upon to provide reports of the operations of its adjustment committee by the municipal governing body, the Family Part, or by the State agency.

215. Section 9 of P.L.1947, c.179 (C.9:22-9) is amended to read as follows:

C.9:22-9 Hearings.

9. Any municipal youth guidance council having an adjustment committee may petition the Superior Court, Chancery Division, Family Part, in its discretion, to either:

A. Establish a schedule for a holding of juvenile hearings in a suitable location chosen by the adjustment committee within the limits of the petitioning municipality; or

B. Appoint a referee to hear and recommend disposition of any cases specifically referred to the referee by the Family Part of the county and any cases coming within the provisions of the "New Jersey Code of Juvenile Justice," P.L.1982, c. 77 (C.2A:4A-20 et seq.) arising within the limits of the petitioning municipality. It shall be the duty of the petitioning municipality to see that adequate diagnostic services shall be made available to such children.

Any case requiring the detention of a child shall be referred to the Family Part for hearing.

Upon receipt of a petition to appoint a referee the Family Part shall proceed to appoint a member of the adjustment committee, or some other suitable person, as referee, in accordance with N.J.S.2A:4-12. Nothing in this provision shall limit the present discretionary power of the Family Part to appoint referees on their own initiative or to prevent such a court from hearing cases scheduled to be heard in the petitioning municipality in place of the referee so appointed by it.

216. R.S.10:1-7 is amended to read as follows:

Jurisdiction; costs and attorney's fees.

10:1-7. The aggrieved party or parties in any action authorized by R.S.10:1-6 may institute said action in the name of the State of New Jersey in the Superior Court. If judgment is awarded in favor of the plaintiff in such action, the aggrieved party shall be paid out of the judgment so recovered, the costs incurred in prosecuting such action, according to a bill of costs to be taxed as hereinafter provided, and also an attorney's fee of not less than

twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00) to be determined and fixed as hereinafter provided.

The bill of costs shall be taxed by the clerk of the court as in other civil actions within the jurisdiction of the court. The amount of the attorney's fee shall be determined and fixed by an order of the court.

217. Section 12 of P.L.1975, c.231 (C.10:4-17) is amended to read as follows:

C.10:4-17 Penalty; enforcement.

12. Any person who knowingly violates any of the foregoing sections of this act shall be fined \$100.00 for the first offense and no less than \$100.00 nor more than \$500.00 for any subsequent offense, recoverable by the State by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction to enforce said penalty upon complaint of the Attorney General or the county prosecutor, but the Attorney General or county prosecutor may refer the matter to the Public Advocate. Whenever a member of a public body believes that a meeting of such body is being held in violation of the provisions of this act, he shall immediately state this at the meeting together with specific reasons for his belief which shall be recorded in the minutes of that meeting. Whenever such a member's objections to the holding of such meeting are overruled by the majority of those present, such a member may continue to participate at such meeting without penalty provided he has complied with the duties imposed upon him by this section.

218. R.S.12:4-17 is amended to read as follows:

Recovery of penalties.

12:4-17. The Superior Court and every municipal court shall have jurisdiction to hear and determine actions for the recovery of penalties under R.S.12:4-16. All such penalties shall be enforced and collected under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and the process shall be a warrant. A commitment for failure to pay a penalty shall be to the county jail for a period of not more than twenty days. All penalties recovered under this section shall be paid to the county treasurer for the use of the county.

219. Section 31 of P.L.1954, c. 236 (C.12:7-34.31) is amended to read as follows:

C.12:7-34.31 Enforcement of act.

31. The Superior Court and every municipal court shall have jurisdiction to enforce the provisions of this act and every judge

of said courts shall have jurisdiction to receive complaints, order arrests, issue summonses and warrants, admit to bail, and take any action required of a judge in the enforcement of the provisions of this act within their respective territorial jurisdictions.

220. Section 2 of P.L.1957, c.111 (C.12:7B-2) is amended to read as follows:

C.12:7B-2 Penalty enforcement.

2. Any person who violates any provision of this act shall be subject to a fine not exceeding \$100.00, which shall be collected in the manner provided in "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and every municipal court shall have jurisdiction to enforce the provisions of this act.

221. N.J.S.12A:6-106 is amended to read as follows:

Application of the proceeds.

12A:6-106. In addition to the requirements of the two preceding sections:

(1) Upon every bulk transfer subject to this chapter for which new consideration becomes payable except those made by sale at auction it is the duty of the transferee to assure that such consideration is applied so far as necessary to pay those debts of the transferor which are either shown on the list furnished by the transferor (N.J.S.12A:6-104) or filed in writing in the place stated in the notice (N.J.S.12A:6-107) within 30 days after the mailing of such notice. This duty of the transferee runs to all the holders of such debts, and may be enforced by any of them for the benefit of all.

(2) If any of said debts are in dispute the necessary sum may be withheld from distribution until the dispute is settled or adjudicated.

(3) If the consideration payable is not enough to pay all of the said debts in full distribution shall be made pro rata.

(4) The transferee may within 10 days after he takes possession of the goods pay the consideration into the Superior Court in the county where the transferor had its principal place of business in this State and thereafter may discharge his duty under this section by giving notice by registered or certified mail to all the persons to whom the duty runs that the consideration has been paid into that court and that they should file their claims there. On motion of any interested party, the court may order the distribution of the consideration to the persons entitled to it.

222. Section 10 of P.L.1971, c.176 (C.13:1F-10) is amended to read as follows:

C.13:1F-10 Injunctive relief; penalties.

10. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

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 penalty of not more than \$3,000.00 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 shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

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.

223. Section 14 of P.L.1971, c.418 (C.13:1G-14) is amended to read as follows:

C.13:1G-14 Injunctive relief; penalties.

14. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

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 penalty of not more than \$3,000.00 for each offense, to be collected in a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested, except as provided in section 9 of this act. The Superior Court shall have jurisdiction to enforce said penalty enforcement

law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. 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 to the extent of 75% thereof where such person satisfies the department within one 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.

224. Section 5 of P.L.1973, c.39 (C.13:1I-5) is amended to read as follows:

C.13:1I-5 Injunctive relief; penalties.

5. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

Any person who violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not more than \$3,000.00 for each offense to be collected in 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 shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. 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.

225. Section 23 of P.L.1983, c.324 (C.13:1L-23) is amended to read as follows:

C.13:1L-23 Injunctive relief; penalties.

23. 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 and municipal courts shall have jurisdiction to hear and determine violations of the provisions of this amendatory and supplementary 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.

226. Section 3 of P.L.1982, c.167 (C.13:8-66) is amended to read as follows:

C.13:8-66 Penalties; enforcement.

3. a. Any person who abuses, mutilates, injures, removes or destroys any animal inhabiting a wildlife sanctuary shall be liable to a penalty of not less than \$100.00 and not more than \$5,000.00, to be collected in a civil action instituted by the Department of Environmental Protection by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and municipal courts shall have jurisdiction to enforce "the penalty enforcement law." If the prohibited activity is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense.

b. Nothing in this section shall be construed to interfere with any action taken by the Department of Environmental Protection to protect the public health or promote animal welfare.

227. Section 10 of P.L.1981, c. 369 (C.13:9-44.10) is amended to read as follows:

C.13:9-44.10 Penalties; enforcement.

10. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to provisions of this act, the department may:

(a) Institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation and the court may proceed in the action in a summary manner. 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 penalty of not more than \$5,000.00 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 and municipal courts shall have jurisdiction to enforce "the penalty enforcement law." The Attorney General or the prosecuting attorney of the municipality or county in which the offense was committed may prosecute the case. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is authorized to 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;

(b) Petition the Attorney General to bring a criminal action against any person who knowingly violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act and thereby causes a wildfire. Such person shall, upon conviction, be guilty of a crime of the fourth degree and notwithstanding the provisions of N.J.S.2C:43-3 shall be subject to a fine of not more than \$100,000.00 for each offense; or

(c) Levy a civil administrative remedy of not more than \$5,000.00 for each violation and additional penalties of not more than \$500.00 for each day during which such violation continues after receipt of an order from the department. No penalty shall be levied pursuant to this section until the person has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute violated; a concise statement of the facts alleged to constitute a violation; a statement of the person's right to a hearing. The person shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, then the notice shall become a final order after the expiration of the 20 day period. Payment is due when the final order is issued or the notice becomes a final order.

228. N.J.S.14A:5-20 is amended to read as follows:

Voting trust.

14A:5-20. (1) One or more shareholders of a corporation may confer upon a trustee or trustees the right to vote or otherwise represent his or their shares, for a period not to exceed 21 years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by filing an executed counterpart of the agreement at the registered office of the corporation and by depositing his or their shares of an original issue with, or by transferring his or their shares to, such trustee or trustees for the purposes of the agreement. After the filing of the agreement, certificates for shares shall be issued to the trustee or trustees to represent any shares of an original issue so deposited with him or them, and any certificates for shares so transferred shall be surrendered and cancelled and new certificates therefor issued to such trustee or trustees stating that they are issued under such agreement, and in the entry of such ownership in the records of the corporation that fact shall also be noted, and such trustee or trustees may vote the shares so transferred during the term of such agreement. The copy of the voting trust agreement so filed shall be subject to inspection at any reasonable time by any shareholder of the corporation or by any holder of a beneficial interest in the voting trust, in person or by agent or attorney. Voting trust certificates shall be issued to evidence beneficial interests in the voting trust.

(2) A trustee who votes shares subject to a voting trust shall incur no responsibility as shareholder, trustee, or otherwise, except for his own dereliction of duty.

(3) Where two or more persons are designated as voting trustees, and the right and method of voting any shares standing in their names at any meeting of the corporation are not fixed by the agreement appointing the trustees, the right to vote said shares and the manner of voting the same at any such meeting shall be determined by a majority of the trustees. If the trustees are equally divided as to how the shares shall be voted, the Superior Court may, in an action brought by any of such trustees, appoint an additional person to act with such trustees in such matter, and the right to vote said shares and the manner of voting the same at any such meeting shall be determined by a majority of the trustees and such additional person. The court may proceed in the action in a summary manner or otherwise.

(4) At any time within two years prior to the time of expiration of any such voting trust agreement as originally fixed or as extended as herein provided, one or more beneficiaries of the voting trust may, by agreement in writing and with the written consent of such voting trustees, extend the duration of such voting trust agreement with regard to the shares subject to their beneficial interest for an additional period not exceeding 21 years. The voting trustees shall, prior to the time of expiration of any such voting trust agreement, as originally fixed or as previously extended, as the case may be, file in the registered office of the corporation an executed counterpart of such extension agreement and of their consent thereto, and thereupon the duration of such voting trust agreement shall be extended for the period fixed in such extension agreement; but no such extension agreement shall affect the rights or obligations of persons not parties thereto.

(5) The validity of a voting trust or of an extension thereof, otherwise lawful, shall not be affected during a period of 21 years from the date of its commencement by the fact that by its terms it will or may last beyond such 21-year period; but it shall become inoperative at the end of such 21-year period.

229. R.S.15:5-6 is amended to read as follows:

Proceedings if lands to be overflowed or filled in abut on lands of other meadow company.

15:5-6. If the lands of a meadow company taking advantage of sections 15:5-3 to 15:5-7 abut on the lands of another meadow company, and it shall be necessary to erect a cross bank to protect the adjoining meadow company from the overflow or the fill, the managers of the meadow company so taking advantage of said sections 15:5-3 to 15:5-7, or a majority of them, may apply to the Superior Court for the appointment of three judicious and disinterested persons well acquainted with banked meadows, as commissioners. The commissioners shall be appointed by the court after the giving of such notice of the application as the court prescribes, and when appointed, after giving such notice of the time and place of meeting as the court directs, shall view the premises, hear the parties in interest, may adjourn from time to time, and shall lay out the correct bank required to protect the adjoining meadows and cause the same to be constructed, the cost thereof to be paid by each meadow company in accordance with the assessments made by the commissioners. If the adjoining meadow

company refuses to pay its proportion of the assessment, the company taking advantage of said sections 15:5-3 to 15:5-7 shall, in the first instance, pay the cost thereof, and the amount assessed against the adjoining company by the commissioners shall be returned in the report of the commissioners to the Superior Court. The collection of the same by the managers of the company so taking advantage of said sections 15:5-3 to 15:5-7 may be enforced by a civil action in any competent court or by a proceeding in lieu of prerogative writ. The commissioners shall receive such compensation as said court may order, to be paid by the plaintiffs.

230. R.S.15:8-4 is amended to read as follows:

Appointment of members for police duties at fires and fire drills; term of office; qualification; oath; authority and duties; arrest and punishment of persons refusing to obey orders.

15:8-4. Any duly organized volunteer fire company may provide for the appointment of certain of its members to perform certain police duties at fires and fire drills, for a term of office not exceeding five years from the date of the appointment. Such members shall, before entering upon their duties, qualify by taking and subscribing an oath that they will justly, impartially and faithfully discharge their duties according to the best of their ability and understanding. Said oath shall be administered by the municipal clerk and subscribed to in duplicate. The original copy of said oath shall be filed with the municipal clerk and the copy thereof filed with the secretary of the fire company making such appointment.

After appointment a member shall be eligible as a fire police and shall have full power and authority to act as such anywhere in the county in which he is appointed or in any other county in which he is called upon to act.

It shall be the duty of a member of the fire police to perform his duties under the supervision of the fire officer in charge of the fire or fire drill.

The duties of said fire police subject to the supervision aforesaid shall be to:

- (1) Protect property and contents.
- (2) Establish and maintain fire lines.
- (3) Perform such traffic duties as necessary, from the fire station to and at the vicinity of the fire, fire drill or other emergency call, until the arrival of a duly authorized police officer.
- (4) In the absence of investigating authorities, fire police shall investigate all causes of fires and preserve all evidence pertaining

to questionable fires and turn evidence over to proper investigating authorities.

(5) Wear the authorized fire police badge on the left breast of the outermost garment while on duty.

Provided, however, nothing herein contained shall give the fire police or any of them the right to supersede a duly authorized police officer.

If any person shall unreasonably refuse to obey the orders of the fire police such fire police may arrest him and keep him under arrest until the fire is extinguished or the drill completed. If the offender is found guilty by a municipal court or Superior Court, he shall be sentenced to pay a fine not exceeding \$200.00 and costs.

231. Section 1 of P.L.1952, c.330 (C.17:51-1) is amended to read as follows:

C.17:51-1 Acts which constitute commissioner as attorney for service of process, service

1. (a) Any of the following acts in this State, by an insurer not authorized to transact business in this State: (1) the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of business in relation to such contracts of insurance, is equivalent to and shall constitute an appointment by such insurer of the Commissioner of Insurance and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process and a complaint in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contracts of insurance, and any such act shall be signification of its agreement that such service of process and a complaint is of the same legal force and validity as personal service of the same in this State upon such insurer.

(b) Such service of process and a complaint upon the commissioner shall be made by leaving two copies thereof, with the fee prescribed by law, in the hands of the commissioner or someone designated by him in his office, or the clerk of the court may serve the commissioner by mailing such papers to him by registered mail, with the said fee. The commissioner shall forthwith mail by registered mail one of the copies of such process and complaint to the defendant at its last-known principal place of business, and shall keep a record of all papers so served upon him. The commissioner,

upon giving notice to the defendant of the service of process as required by this act, shall file with the clerk of the court his certificate of the notice given. Such service of process and a complaint is sufficient, provided notice of such service and a copy of the papers are sent within ten days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last-known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(c) Service of process and a complaint in any such action or proceeding shall in addition to the manner provided in subsection (b) of this section be valid if served upon any person within this State who, in this State on behalf of such insurer, is

- (1) soliciting insurance, or
- (2) making, issuing or delivering any contract of insurance, or
- (3) collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process and complaint is sent within ten days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last-known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(d) No plaintiff shall be entitled to a judgment by default under this section until the expiration of thirty days from date of the filing of the affidavit of compliance.

(e) Nothing in this section contained shall limit or abridge the right to serve any process, complaint, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

232. N.J.S.17B:34-8 is amended to read as follows:

Subpoenas.

17B:34-8. Subpoenas to witnesses shall be issued in the name of the commissioner by him or by any deputy commissioner or other employee designated by him at the request of any person interested in the proceeding, but no subpoena duces tecum shall be issued except for good cause shown. All subpoenas shall be subject to modification or cancellation on application and upon a showing that the same is oppressive or unreasonable, that the witness or evidence to be produced is not reasonably related to the matter, or on any other proper ground. Any person failing or refusing to comply with the command of a subpoena may be ordered by a judge of the Superior Court, on application made by the commissioner or by the person at whose instance the subpoena was issued, and to be proceeded upon in a summary manner, to comply with the terms of the subpoena or else to be punished by the court for contempt.

233. N.J.S.18A:6-21 is amended to read as follows:

Proceedings against recalcitrant witnesses.

18A:6-21. If a person subpoenaed to attend at any such hearing fails to obey the command of the subpoena, without reasonable cause, or if a person in attendance at any such hearing refuses without lawful cause to be examined or to answer a legal or pertinent question, or to exhibit any book, or other document, when ordered to do so by the officer holding such hearing, they or he may apply to any judge of the Superior Court, upon proof by affidavit of the facts, for an order returnable in such time as such judge shall fix, directing such person to show cause before such judge why he should not comply with such subpoena.

234. N.J.S.18A:47-1 is amended to read as follows:

Establishment; purposes.

18A:47-1. The board of education of a school district may establish and maintain a special school of instruction for the purpose of restraining, instructing, and caring for dependent and delinquent children under 16 years of age, committed to the school by the Superior Court, Chancery Division, Family Part. Such special school shall be deemed to be a part of the public school system of the school district in or by which it has been established.

235. N.J.S.18A:47-4 is amended to read as follows:

Pupils to be admitted; court order.

18A:47-4. Such special school shall receive, restrain, and instruct dependent delinquent children, and children under the age

of 16 years, committed to such school by the Superior Court, Chancery Division, Family Part pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982, c. 77 (C.2A:4A-20 et seq.).

If in the judgment of the court the best interests of a child demand that the special school have the entire charge and control of the child, the court may take the custody of the child from its parents or guardian and give it, for an indeterminate period, to the board of education having control of the special school. When in the judgment of the board the conduct of the child has so improved that it should be permitted to attend the regular public schools, it may return the child to the custody of its parents or guardian.

Any child, under the age of 16 years, arrested for any cause except murder or manslaughter, and pupils habitually truant or incorrigible, may, by order of the Family Part be held in the school until final judgment.

236. N.J.S.18A:47-12 is amended to read as follows:

Reports by superintendent.

18A:47-12. The superintendent of a special school of instruction shall, when required, present to the Superior Court, Chancery Division, Family Part a report concerning the conduct and maintenance of the school and the number of pupils therein and such other information as the court shall require.

237. N.J.S.18A:47-13 is amended to read as follows:

Construction of chapter.

18A:47-13. Nothing in this chapter shall be construed to alter or diminish any of the powers conferred on the Superior Court, Chancery Division, Family Part by any other legislation.

238. N.J.S.18A:61-4 is amended to read as follows:

Application for admission.

18A:61-4. Application for admission shall be made to the State board by a parent, guardian or friend of a proposed pupil in the manner directed by the board. The board shall require that the application be accompanied by a certificate from a judge of the Superior Court or the county clerk of the county, a chosen freeholder or clerk of the township, the mayor or other executive officer of the municipality in which the applicant shall reside, stating:

a. That the applicant is a legal resident of the municipality claimed as his residence;

- b. The age, circumstances and capacity of the proposed pupil; and
- c. The ability or inability of the proposed pupil or his parent or guardian to pay any part of the expense of his care and maintenance.

239. R.S.19:6-3 is amended to read as follows:

Members appointed by county board; by judge of Superior Court.

19:6-3. The county board shall, on or before April 1, appoint the members of the district boards. The members of any district board shall be equally apportioned between the two political parties which at the last preceding general election held for the election of all of the members of the General Assembly cast the largest and next largest number of votes respectively in this State for members of the General Assembly.

In case the county board shall neglect or refuse to appoint and certify the members of the district boards as herein provided, the Assignment Judge of the Superior Court shall, before April 10 in each year, make such appointments and certifications.

240. R.S.19:6-4 is amended to read as follows:

Removal of members.

19:6-4. A judge of the Superior Court or the county board shall have power to dismiss any member of a district board from such board for an illegal act, or for any cause which shall be determined in a summary way by such judge or county board. The county board shall dismiss the members of a district board from such board if upon any recount of the votes cast in such district it shall appear that errors occurred in the count or the certificate thereof, which, under the provisions of this Title, are sufficient to cause the costs of such recount to be paid by the State, county or municipality; and no person so removed from any board shall thereafter be eligible to serve as a member of the same or any other district election board. Application for the removal of all of the members, or of any member of any district election board, may, within ten days after the final order has been entered on any recount which may have been allowed affecting such district, be made by any candidate at the last election to a judge of the Superior Court or the county board. On the application, summary hearings shall be held to determine whether the board or the member was incompetent or careless in the receipt of illegal votes or the rejection of legal votes or otherwise in the conduct of the election generally. If, upon such hearing, it appears to the judge or the county board, as the case may be, that such incompetency or

carelessness existed, the board or the member thereof found so to be incompetent or careless shall be removed and upon such removal disqualified from further service as a member of any district board.

241. R.S.19:6-30 is amended to read as follows:

Maintenance of order, powers.

19:6-30. The district board in each election district, the county board, and the clerk thereof, the board of county canvassers and the board of State canvassers and the Superior Court shall, respectively, possess full power and authority to direct the police on duty to maintain regularity and order, and to enforce obedience to their lawful commands during their sessions respectively.

If a person shall refuse to obey the lawful command of any such board, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may by an order in writing, signed by its chairman and attested by its clerk, commit the person so offending to the common jail of the county in which the board shall have met, for a period not exceeding three days. Such order shall be executed by any sheriff or constable to whom it shall be delivered; or if a sheriff or constable shall not be present or shall refuse to act, by any other person deputed by the board in writing, and the keeper of such jail shall receive the person so committed, and safely keep him for such time as shall be provided in the commitment.

242. R.S.19:15-24 is amended to read as follows:

Challenging voter, procedure, violations by members of board, removal.

19:15-24. The district boards shall not give a ballot to any person unless they shall be satisfied that such person is in all respects qualified and entitled to vote; and for the purpose of satisfying themselves as to the right of any person who shall claim a right to vote they shall have power to examine such person, and any other person or persons, under oath or affirmation, touching such right, except as hereinbefore restricted. The board shall determine the right of the voter to vote, after making use of, and giving due weight to, the evidence afforded by his signature, if any, and such answers, and if any member of the board shall give or assent to give a ballot to any person challenged, without requiring him to take the oath or affirmation hereinbefore prescribed to be made upon such challenge, and the person shall not be qualified and entitled to vote, the member so giving or assent-

ing to give a ballot, shall be deemed to have given to such person a ballot, knowing it to be illegal. The question as to the giving of the ballot to the person shall be put in the following form:

“Shall a ballot be given to this person by this board?”

If a majority of the board shall decide to give a ballot to such voter or in case of a tie vote, the voter shall be given a ballot and allowed to vote.

If a majority of the board shall decide against giving a ballot to the voter no ballot shall be given. The board upon demand of a member of the board or any other citizen shall forthwith issue a warrant for the arrest of such person and deliver the same to a peace officer, who shall forthwith arrest him, and the right to challenge voters shall exist until the ballot shall have been deposited in the ballot box.

Every such challenge and the determination of the board shall in every instance be recorded in the signature comparison record, in the column “Sig. Comp. by,” used at the election at which the challenge has been made.

Any member of a district board who refuses or neglects to comply with the provisions of this section may be summarily removed from office by the county board, or any judge of the Superior Court assigned to the county.

243. R.S.19:17-5 is amended to read as follows:

Failure to deliver proper statements, etc., penalty.

19:17-5. If any district board neglects to give the following information on the statements of results: the total number of names on the signature copy register or register of voters, the total number of ballots rejected, the number of votes given for each person, and the number of votes given for or against each public question, or fails to deliver or safely transmit any statement of the result of any election, tally sheet, signature copy registers, register of voters, ballot box or boxes, ballot box keys, flag or any other document or book pertaining to any election, within the time required by this Title, or destroys or damages, or causes or allows any loose leaf binder, registry book or other book or document to be destroyed or damaged or fails to perform any duties provided by this Title or imposed by the county board or by the commissioner, the payment of part or all of the compensation of the members of the board shall be withheld by the county treasurer or collector, as the case may be, by order of the county board or the commissioner, as the case

may be, or may be forfeited by like order; and the Secretary of State or the clerk of the county or the municipal clerk, as the case may be, shall certify to the county board the name of any district board so failing to deliver or transmit such statements, books, documents or articles as hereinbefore mentioned.

In case of failure of a district board to produce the required statements, books or other documents within twenty-four hours after being notified, the county board may make application to the Superior Court for an order to show cause why the members of such district board shall not be held in contempt of court for such neglect or failure, and punished accordingly.

244. R.S.19:18-1 is amended to read as follows:

Election records placed in ballot box.

19:18-1. As soon as the election shall be finished and the votes canvassed and the statements made and certified by the district board as herein required, all ballots which have been cast, whether the same have been canvassed and counted or rejected for any cause, and one tally sheet, spoiled and unused ballots, shall be carefully collected and deposited in the ballot box.

In all municipalities the signature copy registers shall not be placed in the ballot box but shall be delivered immediately by the district board to the commissioner of registration.

In order to carry out his duties, any superintendent of elections in counties having a superintendent of elections shall have access and be permitted to inspect and examine any and all signature copy registers for said county for any election which may have been or shall be held in said county and any official or person having possession or custody of same who shall refuse to deliver said signature copy registers to the office of said superintendent of elections forthwith upon demand having been made upon him by said superintendent of elections as aforesaid shall be guilty of a misdemeanor. Unless the said official having custody or possession of said signature copy registers shall forthwith produce the same at the office of the superintendent of elections when demanded by him so to do, the said superintendent of elections may apply to a judge of the Superior Court assigned to the county and such judge shall forthwith make an order directing the official having possession or custody of the said signature copy registers to produce them at once in the court in which said judge

may be sitting, and upon their being produced said judge shall deliver the same to the superintendent of elections.

245. R.S.19:18-4 is amended to read as follows:

Preservation of ballot boxes and contents.

19:18-4. Every municipal clerk to whom the ballot boxes shall be delivered shall thereupon keep the same, with their contents, but shall not have the keys thereof in his possession until required for the next ensuing election, and shall not open or permit to be taken or opened any ballot box for the space of three months after the same has been so deposited, except when he shall be called upon by some court or other tribunal authorized to try the merits of such election or to take testimony regarding the same; and after such trial or investigation the clerk shall have such box or boxes returned to be held for any purpose within the time that same are required to remain in his custody.

After the space of three months the municipal clerk may remove the contents thereof and preserve the same for two years, and permit the ballot boxes to be used at any election, unless an order shall have been made directing a recount of the ballots contained therein, or a petition filed contesting any nomination or election necessitating the use of the ballots contained in such boxes, within the time limited by law.

When any election is required to be held for any purpose within such three months, the judge of the Superior Court assigned to the county, upon application of the governing body of any municipality, may direct that the contents of such ballot boxes be removed and preserved for two years and that these ballot boxes be used at such election.

246. R.S.19:26-2 is amended to read as follows:

Primary books; public inspection; removal of names.

19:26-2. The party primary poll books shall be subject to public inspection, and any voter whose name appears therein may apply to a judge of the Superior Court in the county, at any time prior to the next primary election to have the person's name stricken from such book, and the court shall have power to hear the application in a summary way at such time and upon such notice to that person as it may prescribe, and if satisfied that the applying voter's name has been improperly placed on such primary book, the court may make an order directing the commissioner, the county clerk or the municipal clerk, as the case may be, to erase the name from

the primary book, and the commissioner or clerk, as the case may be, shall thereupon erase the same.

247. R.S.19:28-1 is amended to read as follows:

Application for recount.

19:28-1. When any candidate at any election shall have reason to believe that an error has been made by any district board or any board of canvassers in counting the vote or declaring the vote of any election, he may, on or before the second Saturday following such election, or declaration of any board of canvassers, apply to a judge of the Superior Court assigned to the county wherein such district or districts are located, for a recount of the votes cast at the election in any district or districts.

When ten voters at any election shall have reason to believe that an error has been so made in counting or declaring the vote upon any public question at any election, such voters may, within a like time, make like application for a like recount of the votes cast at the election on such public question.

248. R.S.19:28-5 is amended to read as follows:

Order filed.

19:28-5. When any such certificate shall be issued or revoked by order of the judge of the Superior Court, his order shall be filed with the Secretary of State or with the clerk of the county or municipality, as the case may be, in and for which such election was held.

249. R.S.19:31-15 is amended to read as follows:

Check up to prevent fraudulent voting, procedure for removing name, application to vote.

19:31-15. For the purpose of preventing fraudulent voting and of eliminating names improperly registered, the commissioner in counties having a superintendent of elections, and the county board in all other counties, may within ninety days after each general election preceding the general election at which members of the House of Representatives are elected send by government reply postal card to each registrant who failed to vote at such election, at his registered address, a notice substantially as follows:

“Please answer the question as to residence and removal as indicated on attached reply card.

.....
Commissioner of Registration”

The reply card shall be addressed to the commissioner and shall bear substantially the following questions with appropriate spaces for answers:

“(1) Do you still reside at the address to which this notice has been mailed?

(2) If not, where do you now reside? (Stating street address and city or town to which you have moved.)

Signed.....”

The county board in counties not having a superintendent of elections may also, and in addition to the method hereinbefore provided, direct at any time an authorized clerk or clerks to make any personal investigation which the commissioner or county board may deem necessary to establish the fact of continued residence or of removal of any registrant.

The commissioner in counties having a superintendent of elections, and the county board in all other counties, shall, in addition to the method hereinbefore provided, at least once during every four years and as often as the commissioner in counties having a superintendent of elections or the county board in all other counties may deem necessary, cause the entire registry list to be investigated by house-to-house canvass to establish the fact of continued residence, removal, death, disqualification or improper registration.

In case of registrants who have been found to the satisfaction of the commissioner in counties having a superintendent of elections and to the county board in all other counties, to have moved from one address to another within the same county, the commissioner in counties having a superintendent of elections, and the county board in all other counties, shall cause the permanent registration forms of said registrants to be transferred to the proper registers, upon receipt of a change of residence notice duly executed by such registrants, as provided by law.

In case of registrants so found to have moved to any place outside the county or State, the commissioner in counties having a superintendent of elections, and the county board in all other counties, shall cause the permanent registration forms of such persons to be transferred to the inactive file. Such persons upon return to any municipality within the county shall be required to reregister before being allowed to vote.

In case of registrants so found to have died, been disqualified or improperly registered, the county board in counties not having a superintendent of elections shall cause the permanent registra-

tion forms of such persons to be transferred to the inactive or death file as the case may be.

The county board in counties not having a superintendent of elections before removing, for any reason whatsoever, the permanent registration forms of any registrant from the signature copy registers, or before transferring such forms to the inactive file shall cause to be published a notice setting forth the proposed action of the county board. This notice shall contain the list of the names and registered addresses of all registrants to be affected by the proposed action. Such notice and list shall be published at least two entire days prior to the removal of such names and shall be published in at least one, and if the county board deems necessary, two or more newspapers published within the county, one of which newspapers, at least, shall be published in the municipality affected, if there be one published therein; otherwise, one which shall have a circulation in said municipality. At least one of such newspapers shall be a daily newspaper, but if there be no daily newspapers published in the county then such notices shall be published as above provided in weekly papers. The notice and list shall in addition specify the reason or reasons for the contemplated removal or transfer of the permanent registration forms of the registrants affected. The notice and list shall be published in the manner above provided prior to the second Tuesday preceding any election.

Any person affected by any action of the county board in counties not having a superintendent of elections shall, during the two weeks immediately preceding any election and on election day, have the right to make application to any judge of the Superior Court in that county, for the purpose of obtaining an order entitling him to vote in the district in which he actually resides. The burden of proof shall be upon the applicant. The judge of the Superior Court if satisfied that the applicant is entitled, under the law, to vote at such election, and after determining the election district in which such person actually resides, may issue an order directing the district board of that district to permit such person to vote. Such person must reregister before voting at any subsequent election by court order or otherwise. If the applicant shall be refused the right to vote, due to inability of the district board or of the commissioner or of the county board to find the permanent registration forms of such applicant, then in addition such applicant shall establish by reference to the registry lists of former elections, that he was previously registered. Such evidence shall be deemed sufficient to establish the fact that the

applicant was formerly registered. If the order is directed to a district board, the district board shall certify and return the order at the close of the election to the commissioner.

In counties having a superintendent of elections, any registrant so found to have died, or been disqualified by conviction of a crime which would disfranchise a person under the laws of this State, or never has resided at the place of registry or is registered from some place other than his actual residence, or does not possess the qualifications to vote required by the Constitution of this State, or is otherwise not entitled to vote, the commissioner shall cause the permanent registration forms of such registrant to be transferred to the inactive or death file as the case may be.

The commissioner in counties having a superintendent of elections, before transferring such forms to the inactive file or death file, shall serve an order in writing, signed by him, upon the proper district board, ordering it to refuse to allow such person to vote at the next election.

The commissioner in counties having a superintendent of elections, before signing such order in writing to any district board, shall give notice of his proposed action to such registered person (1) personally, or (2) by leaving the same at the person's registered place of residence with a person above the age of fourteen years, if any such person can be found, and if not, by affixing the same to the outer door of such place of residence or to any other portion of such premises if no building be found thereon, or (3) by sending the same by mail addressed to the person at his registered place of residence at least two entire days before the issuance of the order; and the commissioner shall cause a list of the names of such persons, with their registry addresses, to be published at least two entire days before the issuance of the order in at least one, and if the commissioner deems necessary, two or more newspapers published within the county, at least one of which shall be a daily newspaper, if there be one published therein; otherwise, one which shall be published most frequently. Such published notice, in addition to containing the names and addresses of such persons, shall give notice to them of the proposed action of the commissioner. No such order in writing shall be signed by the commissioner subsequent to the Tuesday preceding an election.

In all counties when the transfer of any person's permanent registration form is to be made to the death file or is to be made to the inactive file because such person did not vote at any election during four consecutive years, or because the name of such

person has been ordered stricken from the register by the court, or because such person has changed his or her name by decree of court, or because such person is a woman who changed her name due to marriage or divorce and neglected to reregister in accordance with law, or because the information which forms the basis of such proposed action in making such transfer was received from such person directly, no notice of such proposed action need be given to such registered person and such person's name and registry address need not be published as required in this section.

The commissioner in counties having a superintendent of elections shall cause such order to be delivered to the district board at the same time as the challenge lists are delivered, which order shall be receipted for by the judge of the district board, who shall use the order in conjunction with the registry list, so that no person whose name appears upon the order shall be allowed to vote. Such order shall be signed and certified to by each member of the district board to the effect that no person whose name appears therein has been allowed to vote. The order shall be returned to the commissioner at the same time and together with the challenge lists. Upon receipt of such order the commissioner shall thereupon transfer the permanent registration forms of the person named in such order to the inactive, death or conviction file, as the case may be, and he shall not be permitted to vote at any subsequent election, by court order or otherwise, unless he has reregistered.

Any person affected by the action of the commissioner in counties having a superintendent of elections shall, during the week immediately preceding the election and on the election day, have the right to make application to a judge of the Superior Court in the county for the purpose of obtaining an order entitling him to vote in the district in which he actually resides. The burden of proof shall be upon the applicant. The judge of the Superior Court if satisfied that the applicant is entitled under the law to vote at such election and after determining the election district in which the person actually resides may issue an order directing the district board of that district to permit such person to vote. If the applicant shall be refused the right to vote, due to the inability of the district board or of the commissioner or of the county board to find the permanent registration forms of such applicant, then in addition such applicant shall establish by reference to the registry lists of former elections that he was previously registered. Such evidence shall be deemed sufficient to establish the fact that the applicant was formerly registered. The district board shall certify and return the

order to the commissioner at the close of the election, who thereupon shall restore the permanent registration forms of such person to the active file. Before the issuance of such order, the commissioner shall be heard personally, or by his chief deputy or assistants, as to the reasons why he has issued an order denying such person the right to vote. The commissioner or any one representing him shall have full power to cross-examine any witness. The judge of the Superior Court making such order shall cause a full record of the proceedings of the application to be taken stenographically, transcribed and filed in the office of the county clerk of the county, which record shall be open and public record. All costs and expenses of such proceedings shall be paid by the county.

In no event shall the permanent registration forms or voting record of any registrant be removed or transferred to the inactive file subsequent to the second Tuesday preceding any election, until after such election; nor shall the permanent registration forms or voting record of any registrant in counties not having a superintendent of elections be removed or transferred to the inactive file if the name of such registrant is not first published in the manner above described, except as herein otherwise provided.

Any commissioner who, after ascertaining that a person has died, been disqualified, moved out of the permanent registration area or has been improperly registered, and who willfully or fraudulently refuses to cause to transfer the permanent registration forms of such persons to the proper file shall be guilty of a misdemeanor.

250. R.S.19:31-19 is amended to read as follows:

Correction of records by commissioner.

19:31-19. The commissioner shall transfer to the inactive file the permanent registration and record of voting forms of such persons as a judge of the Superior Court may, as hereinafter provided, order stricken from the signature copy register.

The registrant shall be notified by the commissioner by registered mail of any transfer made pursuant to this section.

After the permanent registration form of any person has been placed in the inactive file for any reason whatsoever, the Commissioner of Registration shall stamp across the face of said registration form in red ink with a rubber stamp, in type at least one inch high, the word void and underneath said word, inactive, and thereafter, the said form shall not be restored, reinstated or re-transferred to the active file.

Any person whose permanent registration form has been transferred to the inactive file shall be required to reregister, in order to be eligible to vote.

In no event, shall any person's registration form number which has been transferred to the inactive file be again used as the registration number of that person or any other person.

251. Section 1 of P.L.1940, c.53 (C.19:31-27) is amended to read as follows:

C.19:31-27 Candidate may inspect registration binders.

1. Any candidate or his duly authorized attorney shall within twenty days after any election, upon application to the commissioner of registration, be permitted to inspect and examine the original and duplicate registration binders in the office of the commissioner and compare signatures thereon and if the commissioner shall refuse the right of examination and inspection, application may be made to any judge of the Superior Court assigned to the county, and such judge shall forthwith order the said commissioner to allow such person to make an examination and inspection, as aforesaid.

252. R.S.19:32-18 is amended to read as follows:

Application for order allowing voter to vote.

19:32-18. Any person affected by the action of the superintendent shall during the week immediately preceding the election and on the election day have the right to make application to a judge of the Superior Court in the county for the purpose of obtaining an order entitling him to vote in the district in which he actually resides. The burden of proof shall be upon the applicant.

A judge of the Superior Court, if satisfied that the applicant is entitled under the law to vote at such election and after determining the election district in which the person actually resides may issue an order directing the district board of that district to permit such person to vote. The district board shall certify and return the order to the commissioner at the close of the election, who thereupon shall restore the permanent registration forms of such person to the active file. Before the issuance of such order, the superintendent shall be heard personally, or by his chief deputy or assistants, as to the reasons why he has issued an order denying such person the right to vote. The superintendent or anyone representing him shall have full power to cross-examine any witness.

The judge of the Superior Court making such order shall cause a full record of the proceedings of the application to be taken stenographically, transcribed and filed in the office of the county clerk of the county, which record shall be an open and public record. All costs and expense of such proceedings shall be paid by the county.

Any person whose name shall appear on the peremptory order list and who shall not apply for and be granted an order to vote, during the week immediately preceding the election or on the election day immediately following the publication of his name as heretofore provided, shall not be permitted to vote by court order or otherwise until he shall have first reregistered.

253. R.S.19:32-19 is amended to read as follows:

Penalty for disobedience of order.

19:32-19. Any member of a district board who, after the receipt of an order from the superintendent denying any person the right to vote, unless the order of the superintendent has been revoked by a judge of the Superior Court in the county, as hereinabove provided, allows such person to vote, shall be guilty of a misdemeanor, shall forfeit his right to such office and be subject to imprisonment for a term not exceeding three years, or the payment of a fine of one thousand dollars (\$1,000.00), or both.

254. Section 16 of P.L.1947, c. 167 (C.19:32-41) is amended to read as follows:

C.19:32-41 Application for order allowing voter to vote.

16. Any person affected by the action of the superintendent shall during the week immediately preceding the election and on the election day have the right to make application to a judge of the Superior Court in the county for the purpose of obtaining an order entitling him to vote in the district in which he actually resides. The burden of proof shall be upon the applicant.

The judge of the Superior Court, if satisfied that the applicant is entitled under the law to vote at such election and after determining the election district in which the person actually resides may issue an order directing the district board of that district to permit such person to vote. The district board shall certify and return the order to the commissioner at the close of the election, who thereupon shall restore the permanent registration forms of such person to the active file. Before the issuance of such order, the superintendent shall be heard personally, or by his chief deputy or assistants,

as to the reasons why he has issued an order denying such person the right to vote. The superintendent or anyone representing him shall have full power to cross-examine any witness.

The judge of the Superior Court making such order shall cause a full record of the proceedings of the application to be taken stenographically, transcribed and filed in the office of the county clerk of the county, which record shall be an open and public record. All costs and expense of such proceedings shall be paid by the county.

255. Section 17 of P.L.1947, c.167 (C.19:32-42) is amended to read as follows:

C.19:32-42 Penalty for disobedience of order.

17. Any member of a district board who, after the receipt of an order from the superintendent denying any person the right to vote, unless the order of the superintendent has been revoked by a judge of the Superior Court, as hereinabove provided, allows such person to vote, shall be guilty of a misdemeanor, shall forfeit his right to such office and be subject to imprisonment for a term not exceeding three years, or the payment of a fine of one thousand dollars (\$1,000.00), or both.

256. R.S.19:33-1 is amended to read as follows:

Procedure for removing names from register.

19:33-1. A judge of the Superior Court shall order stricken from any register the name of any person who shall be shown to his satisfaction not to be entitled to vote at any election in the election district wherein he is registered, and the commissioner shall, upon such order, cause the name of such person to be stricken from the register.

Such judge shall hear an application to strike off in a summary manner at the time and day specified in the notice hereafter provided; but no name shall be stricken or ordered stricken from any such register in the absence of the person to be affected thereby, unless it shall appear to the judge by affidavit of the commissioner of registration or his deputy or assistant that notice by mail has been given such person, either personally or by leaving the same at his registered place of residence, or present actual residence, if known to the commissioner, at least five entire days before the day and time of hearing before such judge, that at such hearing application would be made to have the name of such registered person stricken from the register, and of the grounds on

which such application would be based. Such judge shall not order any name stricken subsequent to the sixth Tuesday preceding any election. The commissioner shall notify the judge, five days before the day and time specified, when the application will be made, and the judge shall hear the application at the time and day specified in the notice.

In addition to the notice by mail, the commissioner shall also publish in one or more newspapers within the county at least five entire days before the day and time of hearing before such judge, the names and registered addresses of such persons as shall be affected by this proceeding, giving notice through such publication of the time and place where the application is to be made for the removal of said names from the registry lists.

The judge shall cause a full record of the proceedings of such application, including the appearances and a statement of his findings of fact and law and of the order made pursuant thereto, to be taken stenographically, transcribed and filed in the office of the county clerk, which record shall be public. All costs and expenses of such proceedings shall be paid by the county. The commissioner of registration, after the hearing before the judge, shall transfer to the inactive file the permanent registration and record of voting forms of such persons as the judge shall have ordered stricken from the signature copy register pursuant to this section.

The registrant shall be immediately notified by the commissioner by mail of any transfer made pursuant to this section. In counties other than counties of the first class this notice by mail shall be sent in addition to the notice by publication.

257. Section 1 of P.L.1966, c.70 (C.19:34-38.5) is amended to read as follows:

C.19:34-38.5 Material distributed in violation of Act.

1. Any material held for distribution in violation of the act of which this act is a supplement may be seized by the Attorney General or the prosecutor of the county in which it is found and proceeded against by a summary action in rem in the Superior Court. If the court shall find that the material is held for distribution in violation of said act it shall order the Attorney General or prosecutor to destroy it. No compensation in respect of such material shall be paid to any person whatsoever, whether he be an owner, lienholder or otherwise have or claim an interest in such material. A habitual violator of this said act may be restrained from further violations at the suit of the Attorney General in the

Superior Court. The remedies provided by this act shall be in addition to other remedies provided by law.

258. R.S.19:34-56 is amended to read as follows:

Disobedience of subpoena, penalty.

19:34-56. Every person upon whom a subpoena issued under and by virtue of this Title shall have been served, and to whom the lawful fees shall have been paid or tendered, shall obey the command of such subpoena, under the penalty of fifty dollars (\$50.00), to be sued for and recovered, with costs, in a civil action, before any court of competent jurisdiction, by the person on whose application such subpoena shall have been issued; but no person shall in any case be required to attend any such examination as a witness out of the county in which he resides.

If any person so duly subpoenaed shall neglect or refuse to obey the command of such subpoena, any judge of the Superior Court may, on due proof by affidavit of the service of the subpoena on such witness, and of the payment of his legal fees and of his refusal or neglect to obey the command of the subpoena, issue an attachment against the person to bring him before such judge; and the judge shall have power to proceed against such witness as for a contempt of court.

259. R.S.19:34-57 is amended to read as follows:

Subpoena to issue, expenses.

19:34-57. If proof be made before any judge of the Superior Court or municipal court of facts constituting probable cause for believing that this Title has been violated, and that any person other than the accused has knowledge of the circumstances connected therewith, such judge shall issue process of subpoena for the appearance of such person before him, to be examined touching the same. The lawful expenses of such subpoena and examination shall be paid by the applicant therefor, and such evidence shall be filed with the clerk of the county, to be used before the grand jury. No such process of subpoena shall be issued or served nor any such examination held on the day of election.

260. Section 31 of P.L.1953, c.211 (C.19:57-31) is amended to read as follows:

C.19:57-31 Canvass of absentee ballots.

31. On the day of each election each county board of elections shall open in the presence of the commissioner of registration or his assistant or assistants the inner envelopes in which the absen-

tee ballots, returned to it, to be voted in such election, are contained, except those containing the ballots which the board or the Superior Court has rejected, and shall remove from said inner envelopes the absentee ballots and shall then proceed to count and canvass the votes cast on such absentee ballots, but no absentee ballot shall be counted in any primary election for the general election if the ballot of the political party marked for voting thereon differs from the designation of the political party in the primary election of which such ballot is intended to be voted as marked on said envelope by the county board of elections. Immediately after the canvass is completed, the respective county boards of election shall certify the result of such canvass to the county clerk or the municipal or district clerk or other appropriate officer as the case may be showing the result of the canvass by municipality and ward, and the votes so counted and canvassed shall be counted in determining the result of said election.

The county board of elections shall, immediately after the canvass is completed for a primary election, certify the results of the votes cast for members of the county committees to the respective municipal clerks, which votes shall be counted in determining the result of said election.

261. Section 33 of P.L.1953, c.211 (C.19:57-33) is amended to read as follows:

C.19:57-33 Absentee ballots and other papers kept for one year; authority to impound ballots.

33. The county board of elections shall keep, for a period of one year, all of the requests and applications for absentee ballots, all voted absentee ballots, and all of the certificates which have been detached or separated by them from said inner envelopes, and all inner envelopes together with their certificates, and together with their contents, which have not been opened because the county board or the Superior Court rejected them. Specific power is hereby granted to the superintendent of elections in counties having a superintendent of elections and the prosecutor in all other counties to impound all absentee ballots whenever he shall deem such action to be necessary.

262. Section 23 of P.L.1964, c.134 (C.19:58-23) is amended to read as follows:

C.19:58-23 Completed ballots; handling by county boards.

23. The county board of elections shall, promptly after receiving each Presidential ballot, remove the inner envelope, containing the

ballot, from the outer envelope and shall compare the signature and the information contained on the flap of the inner envelope with the signature and information contained in the application for the ballot together with the affidavit of residence, if any, accompanying the same. The county board shall reject any such ballot unless the board is satisfied as a result of such comparison and any other source of information available that the voter is legally entitled to vote such a ballot and that the ballot conforms with the requirements of this act. Disputes as to the qualifications of voters to vote Presidential ballots or as to whether or not or how such Presidential ballots shall be counted in such election shall be referred to the Superior Court of the county for determination.

After such investigation the county board of elections shall detach or separate the certificate from the inner envelope containing the Presidential ballots, unless it has been rejected by it or by the Superior Court, marking the envelope so as to identify the election district in which the ballot contained therein is to be voted as indicated by the voter's present or former address in this State on the certificate attached to or accompanying said inner envelope.

263. Section 30 of P.L.1964, c. 134 (C.19:58-30) is amended to read as follows:

C.19:58-30 Ballots and other papers to be kept one year; impounding.

30. The county board of elections shall keep, for a period of one year, all of the affidavits of residence and applications for Presidential ballots, together with all certificates accompanying the same, all voted Presidential ballots, and all of the certificates which have been detached or separated by said board from said inner envelopes, and all inner envelopes together with their certificates, and together with their contents, which have not been opened because the county board or the Superior Court rejected them. Specific power is hereby granted to the superintendent of elections in counties having a superintendent of elections and the prosecutor in all other counties to impound all such ballots whenever he shall deem such action to be necessary.

264. Section 13 of P.L.1960, c.55 (C.21:1A-140) is amended to read as follows:

C.21:1A-140 Violations; penalties; revocation of permits; nonconforming uses.

13. It shall be unlawful for any person, partnership, firm, association or corporation, and any officer, agent or employee thereof,

to violate or proximately contribute to the violation of any of the provisions of this act or of the regulations made hereunder. The violation of this act by an employee, acting within the scope of his authority, of any person, partnership, firm, association, or corporation shall be deemed also to be the violation of such person, partnership, firm, association or corporation. Violations of the provisions of this act or rules and regulations made hereunder shall be punishable for the first offense by a penalty of not less than \$25.00 nor more than \$500.00, for the second offense by a penalty of not less than \$150.00 nor more than \$500.00 and for the third and each succeeding offense by a penalty of not less than \$250.00 nor more than \$1,000.00. The penalties shall be collected by a civil action in the name of the commissioner, to be instituted in the Superior Court or in municipal court of the municipality where the offense was committed. Where the violation consists of a refusal to obey an order of the commissioner made under this act, each day during which the violation continues shall constitute a separate and distinct offense except during the time an appeal from said order may be taken or is pending.

A. The Commissioner of Labor, in his discretion, is hereby authorized and empowered to compromise and settle any claim for a penalty under this section for an amount that appears appropriate and equitable under all of the circumstances.

B. Permits to sell, transport, store or use explosives are revocable for cause by the commissioner. In any case where the commissioner revokes a permit, he shall notify the permittee of the revocation and shall provide, upon written request, for a hearing within 10 days of the date of the revocation. Within 30 days from the termination of the hearing, the commissioner shall issue an order approving, disapproving or modifying the revocation. Permits to manufacture are exempt from revocation, but the holders of such permits shall be subject in every other respect to the provisions of this act and the rules and regulations promulgated hereunder.

C. The requirements of this act concerning the distances of explosives manufacturing buildings and magazines from each other shall not be construed to apply to permanent buildings or magazines that exist at the time that this act becomes effective and which buildings and magazines have been used under authority of the laws formerly governing the manufacture and storage of explosives. This provision designating such explosives manufacturing buildings and magazines already existing at the effective date of this act as nonconforming uses shall not apply to any

explosives manufacturing buildings or magazines constructed subsequent to the passage of this act nor to extensions or additions to such buildings and magazines that are made subsequent to the passage of this act.

265. Section 5 of P.L.1950, c.139 (C.21:1B-5) is amended to read as follows:

C.21:1B-5 Violations, penalties.

5. It shall be unlawful for any person, firm, association, or corporation, on and after the effective date of this act to violate any of the provisions hereof or of the regulations made pursuant hereto. Any person, firm, association, or corporation violating any of the provisions of this act, or said regulations made hereunder shall be liable to a penalty of not less than \$50.00 nor more than \$500.00 to be collected in a summary proceeding in any municipal court or in the Superior Court. Each day during which any violation of this act or of said regulations continues shall constitute a separate and distinct offense.

The Superintendent of State Police and the Commissioner of Labor, according to their respective jurisdiction under section 2, are hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount, in the discretion of the Superintendent of State Police and the Commissioner of Labor, respectively, as may appear appropriate and equitable under all of the circumstances.

266. N.J.S.22A:1-1 is amended to read as follows:

Attendance and mileage of jurors.

22A:1-1. Every person summoned as a petit juror in the Superior Court shall receive, for each day's attendance at such court to be paid by the sheriff of the county in which the juror shall serve, at the expiration of each term of service or at such other time or times within such terms as the board of chosen freeholders of the county shall direct, the sum of five dollars (\$5.00). The board of chosen freeholders of any county may, in its discretion, by resolution reduce the aforesaid amount of five dollars (\$5.00) to such an amount as the board may determine.

Every person summoned as a petit juror shall receive, in addition to the above per diem allowance, for actual travel, while engaged in attending court, to and from the courthouse and his residence, mileage at the rate per mile of two cents (\$0.02). The

distance from the residence of the juror to the courthouse shall be computed by the most direct and usual route of travel between the two points and the first mile both ways from the courthouse shall be excluded from the computation.

The grand jurors and struck jurors in the several counties shall receive the same compensation, and shall be paid in the same manner as the petit jurors of the several counties.

267. N.J.S.22A:1-2 is amended to read as follows:

Computation of mileage of jurors in counties other than counties of the first class.

22A:1-2. In counties other than counties of the first class, the sheriff, with the approval of the assignment judge of the Superior Court, shall estimate and determine, in accordance with the provisions of section 22A:1-1 of this Title, the distances traveled by each juror and enter the same opposite the juror's name on a suitable list to be prepared for the purpose by the sheriff. The judge shall certify the same by his signature to the county clerk, who shall file the same in his office.

In a book suitably ruled, the county clerk shall, in said counties, record the names of jurors summoned, and the distance from their residences to the courthouse as certified by the judge, and opposite said amount as evidence of the receipt thereof the jurors shall write their names.

For each name so recorded the county clerk shall receive a fee of eight cents (\$0.08).

268. N.J.S.22A:2-37 is amended to read as follows:

Fees.

22A:2-37. In all civil actions and proceedings in the Superior Court, Law Division, Special Civil Part, the following fees shall be paid to the clerk:

Copy of proceedings or transcript of the same, per folio, \$0.20.

Instituting action without process where the amount claimed does not exceed \$500.00, \$8.00.

Instituting action without process where the amount claimed exceeds \$500.00, \$10.00.

Filing a pleading stating a counterclaim, where the amount claimed does not exceed \$500.00, \$7.00.

Filing a pleading stating a counterclaim, where the amount claimed exceeds \$500.00, \$9.00.

Execution, or an order in the nature of execution, on a judgment, or execution against the body, for one defendant, \$4.00.

Execution against the body, each additional defendant, \$1.00.

Copy of execution, or other order, in the nature of execution, \$0.50.

Mileage of constable in serving any summons, execution or warrant against the body, the distance to be computed by counting the number of miles, in and out, by the most direct route from the place where process is issued, for every mile, \$0.10.

Summons, one defendant, where the amount does not exceed \$500.00, \$9.60. For each additional defendant, \$1.40.

Summons, one defendant, where the amount exceeds \$500.00, \$12.00. For each additional defendant, \$1.40.

In tenancy, one defendant, \$7.10. For each additional defendant, \$0.40.

In replevin, for service of summons, one defendant, where the amount or value of goods does not exceed \$500.00, \$9.60. For each additional defendant, \$1.40.

In replevin, for service of summons, one defendant, where the amount or value of goods exceeds \$500.00, \$12.00. For each additional defendant, \$1.40.

In replevin, where writ is served with summons, one defendant, where the amount or value of goods does not exceed \$500.00, \$14.50. For each additional defendant, \$1.40.

In replevin, where writ is served with summons, one defendant, where the amount or value of goods exceeds \$500.00, \$17.00. For each additional defendant, \$1.40.

In replevin, where writ is issued subsequent to service of summons, \$10.50.

Summons in third party complaints, one defendant, where the amount does not exceed \$500.00, \$9.60. For each additional defendant, \$1.40.

Summons in third party complaints, one defendant, where the amount exceeds \$500.00, \$12.00. For each additional defendant, \$1.40.

Actions instituted by capias or warrant to arrest, one defendant, where the amount does not exceed \$500.00, \$17.65. For each additional defendant, \$11.00. Copy of warrant to arrest, \$0.50.

Actions instituted by capias or warrant to arrest, one defendant, where the amount exceeds \$500.00, \$20.00. For each additional defendant, \$11.00. Copy of warrant to arrest, \$0.50.

Certificate of judgment, \$1.00.

Jury of six, \$15.00.

Jury of 12, \$30.00.

Capias, warrant to arrest, or commitment, one defendant, \$13.35. For each additional defendant, \$11.00.

Warrant for possession in tenancy, \$9.00.

Writ of attachment, where the amount does not exceed \$500.00, \$11.85.

Writ of attachment, where the amount exceeds \$500.00, \$13.00.

Certifying statement of judgment for docketing in the Superior Court, \$1.00.

Certifying statement of judgment on mechanic's lien for docketing, \$1.00.

Restoring case marked not moved, \$1.00.

Vacating default, \$1.00.

Except as specifically provided for herein, there shall be no charge for any order up until the time of final judgment. After final judgment orders for warrants, orders to show cause, discovery or any other order not specifically provided for herein the clerk shall charge the sum of \$1.00.

For advertising property under execution or any order, \$5.00.

For selling property under execution or any order, \$10.00.

269. N.J.S.22A:2-38 is amended to read as follows:

Fees.

22A:2-38. From the fees mentioned in N.J.S.22A:2-37, the clerk of the Superior Court, Law Division, Special Civil Part shall pay to constables, sergeants-at-arms or other officers designated as process servers pursuant to the provisions of N.J.S.2A:18-5 the following fees:

Serving summons or notice on one defendant, \$2.00.

Serving summons on every additional defendant, \$1.00.

Warrant to arrest, capias, or commitment, for each defendant served, \$10.00.

Serving writ and summons in replevin, taking bond and any inventory, against one defendant, \$5.00. Against each additional defendant, \$1.00.

Serving writ in replevin when issued subsequent to service of summons, \$3.00.

Every execution, or any order in the nature of an execution on a judgment or execution against the body, for each defendant, \$1.50.

Writ of attachment and making inventory, \$3.00.

Warrant for possession, \$5.00.

For every mile of travel in serving any summons or capias against the body, execution, subpoena, notice or order, the distance to be computed by counting the number of miles in and out, by the most direct route from the place where process is issued, at the same rate per mile set by the county governing body for other county employees.

In addition to the foregoing, the following fees for constables and sergeants-at-arms shall be taxed in the costs and collected on execution, writ of attachment or order in the nature of an execution on any final judgment, or on a valid and subsisting levy of an execution or attachment which may be the effective cause in producing payment or settlement of a judgment or attachment.

For advertising property under execution or any order, \$3.00.

For selling property under execution or any order, \$5.00.

On every dollar of the first \$1,000.00 collected on execution, writ of attachment or any order, \$0.10, and on every dollar of any amount in excess thereof, \$0.05.

270. N.J.S.22A:2-41 is amended to read as follows:

Fees of witnesses and appraisers.

22A:2-41. For witnesses there shall be taxed in the costs in the Superior Court, Law Division, Special Civil Part, the fees prescribed by N.J.S.22A:1-4.

For each appraiser there shall be taxed in the costs in said court, a fee of one dollar (\$1.00) for making an inventory and appraisalment.

271. N.J.S.22A:2-42 is amended to read as follows:

Attorney's or counsel's fees.

22A:2-42. There shall be taxed by the clerk of the Superior Court, Law Division, Special Civil Part in the costs against the judgment debtor, a fee to the attorney of the prevailing party, of five per centum (5%) of the first five hundred dollars (\$500.00) of the judgment, and two per centum (2%) of any excess thereof.

In actions of replevin the court shall allow the attorney of the prevailing party a fee of not less than five dollars (\$5.00) nor more than ten dollars (\$10.00), to be taxed and collected as aforesaid.

Upon entry of any order adjudging a person in contempt for violation of any order of the court or upon any motion or application to the court made subsequent to the commencement of an action or proceeding in the Special Civil Part, the court, in its discretion, may award an attorney or counsel fee of not more than ten dollars (\$10.00) to be paid in such manner as the court shall direct.

272. N.J.S.22A:2-43 is amended to read as follows:

Fees in municipal courts.

22A:2-43. In civil causes, in municipal courts, all filing fees and other charges, all fees of constables, jurors, attorneys and appraisers, and all costs shall be the same as are provided by law for similar services in the Superior Court, Law Division, Special Civil Part.

273. N.J.S.22A:3-4 is amended to read as follows:

Fees for criminal proceedings.

22A:3-4. Fees for criminal proceedings.

The fees provided in the following schedule, and no other charges whatsoever, shall be allowed for court costs in any proceedings of a criminal nature in the municipal courts but no charge shall be made for the services of any salaried police officer of the State, county or municipal police.

COURT

For violations of Title 39 of the Revised Statutes, or of traffic ordinances, at the discretion of the court, up to but not exceeding \$25.00.

For all other cases, at the discretion of the court, up to but not exceeding \$25.00.

The provisions of this act shall not prohibit the taxing of additional costs when authorized by R.S.39:5-39.

For certificate of judgment \$4.00

For certified copy of paper filed with the court as a public record:

First page \$4.00

Each additional page or

part thereof \$1.00

For copy of paper filed with the court as a public record:

First page \$2.00

Each additional page or

part thereof \$1.00

In addition to any fine imposed, when a supplemental notice is sent for failure to appear on a return date the cost shall be \$10.00 per notice, unless satisfactory evidence is presented to the court that the notice was not received.

CONSTABLES OR OTHER OFFICERS

From the fees allowed for court costs in the foregoing schedule, the clerk of the court shall pay the following fees to constables or other officers:

Serving warrant or summons, \$1.50.
Serving every subpoena, \$0.70.
Serving every execution, \$1.50.
Advertising property under execution, \$0.70.
Sale of property under execution, \$1.00.
Serving every commitment, \$1.50.
Transport of defendant, actual cost.

Mileage, for every mile of travel in serving any warrant, summons, commitment, subpoena or other process, computed by counting the number of miles in and out, by the most direct route from the place where such process is returnable, exclusive of the first mile, \$0.20.

If defendant is found guilty of the charge laid against him, he shall pay the costs herein provided, but if, on appeal, the judgment is reversed, the costs shall be repaid to defendant. If defendant is found not guilty of the charge laid against him, the costs shall be paid by the prosecutor, except when the Director of the Division of Motor Vehicles, a peace officer, or a police officer shall have been prosecutor.

274. N.J.S.22A:4-6 is amended to read as follows:

Fee of county clerk for court attendance.

22A:4-6. For attending, by deputy or in person, the daily sessions of the Law Division of the Superior Court held in the county, the county clerk shall receive per day three dollars (\$3.00).

275. N.J.S.22A:4-8 is amended to read as follows:

Fees and mileage of sheriffs and other officers.

22A:4-8. For the services hereinafter enumerated sheriffs and other officers shall receive the following fees:

In addition to the mileage allowed by law, for serving every summons and complaint, attachment or any mesne process issuing out of the Superior Court, the sheriff or other officer serving such process shall, for the first defendant or party on whom such process is served, be allowed \$12.00 and, for service on the second defendant named therein, \$10.00, and for serving such process on any other defendant or defendants named therein, \$6.00 each, and no more. If a man and his wife be named in such process they shall be considered as one defendant, except where they are living separate and apart.

Serving summons and complaint in matrimonial actions, in addition to mileage, \$12.00.

Serving *capias ad respondendum*, *capias ad satisfaciendum*, warrant of commitment, writ of *ne exeat*, in addition to mileage, \$35.00.

Serving order to summon juries and return, \$1.75.

Serving every execution against goods or lands and making an inventory and return, in addition to mileage, \$35.00.

For returning every writ, \$1.00.

Executing every writ of possession and return, in addition to mileage, \$35.00.

Executing every writ of attachment, sequestration or *replevin* issuing out of any of the courts, in addition to mileage, \$35.00.

For serving each out-of-State paper, in addition to the mileage allowed by law, \$15.00 for the first defendant on whom such paper is served, \$10.00 for service on the second defendant named therein, and \$6.00 for serving such paper on any other defendant or defendants named therein. If a man and wife be named in such paper, they shall be considered as one defendant, except where they are living separate and apart.

For serving or executing any process or papers where mileage is allowed by law, the officer shall receive mileage actually traveled to and from the courthouse, at the rate per mile of \$0.16.

The sheriff shall be entitled to retain out of all moneys collected or received by him on a forfeited recognizance, whether before or after execution, or from amercements, or from fines and costs on conviction, on indictment or otherwise, whether such moneys are payable to the State or to the county treasurer of the county wherein conviction was had, 5%.

For transporting each offender to the State Prison, per mile, but not less than \$3.00 for each offender, to be certified by the keeper of the prison and the certificate to be delivered to the county treasurer of the county where the conviction was had, \$0.23.

EXECUTION SALES

When a sale is made by virtue of an execution the sheriff shall be entitled to charge the following fees: On all sums not exceeding \$5,000.00, 4%; on all sums exceeding \$5,000.00 on such excess, 2 1/2%; the minimum fee to be charged for a sale by virtue of an execution, \$20.00.

On an execution against wages, commissions and salaries, the sheriff shall charge the same percentage fees on all sums collected as those percentage fees applicable in cases wherein an execution sale is consummated.

When the execution is settled without actual sale and such settlement is made manifest to the officer, the officer shall receive 1/2 of the amount of percentage allowed herein in case of sale.

Making statement of execution, sales and execution fees, \$5.00.

Advertising the property for sale, provided the sheriff or deputy sheriff attend in pursuance of the advertisement, \$10.00.

Posting property for sale, \$7.00.

For the crier of the vendue, when the sheriff proceeds to sell, for every day he shall be actually employed in such sale, \$3.00.

Every adjournment of a sale, but no more than one adjournment shall be allowed, and if the sheriff shall have several executions against a defendant, he shall only be allowed for advertising, attending and adjourning, as if he had but one execution, \$20.00.

Drawing and making a deed to a purchaser of real property, \$35.00.

Drawing and making a bill of sale to the purchaser of personal property when such bill of sale is required or demanded, \$15.00.

When more than one execution shall be issued out of the Superior Court upon any judgment, each sheriff to whom such execution shall be directed and delivered shall be entitled to collect and receive from the defendant named in such execution the fees allowed by law for making a levy and return and statement thereon, or for such other services as may be actually performed by him, and the sheriff who shall collect the amount named in said execution or any part thereof, shall be entitled to the legal percentage upon whatever amount may be so collected by him, but in case any such judgment shall be settled between the parties and the amount due thereon shall not be collected by either sheriff, then the percentage on the amount collected which would be due the sheriff thereon in case only one execution had been issued shall be equally divided among the several sheriffs in whose hands an execution in the same cause may have been placed.

The sheriff shall file his taxed bill of costs with the clerk of the court out of which execution issued, within such time as the court shall direct by general rule or special order, or, in default thereof, he shall not be entitled to any costs. If any sheriff shall charge in such bill of costs for services not done, or allowed by law, or shall take any greater fee or reward for any services by him done than is or shall be allowed by law, he shall be liable for the damages sustained by the party aggrieved including a penalty of \$30.00, to be recovered in a summary manner, in the action or proceeding wherein the execution was issued or otherwise.

276. N.J.S.22A:4-17 is amended to read as follows:

Disposition of fees of county officers.

22A:4-17. All fees, costs, allowances, percentages and other perquisites of whatever kind which surrogates, county clerks in their several capacities, registers of deeds and mortgages, and sheriffs or persons employed in their offices are entitled to charge and receive for any official acts or services they may render shall be for the sole use of the county and shall be accounted for regularly to the county treasurer.

Such accounting shall be made on or before the fifteenth day of each month on form blanks supplied by the county treasurer. The statement of account shall clearly set forth all sums charged or taxed or which shall have accrued or become payable during the preceding month. Such statements shall be made under oath and filed in the office of the county treasurer as public records.

Such statements when received by the county treasurer shall be forthwith audited by the county auditor or other proper officer.

On or before the twentieth day of each month surrogates, county clerks, registers of deeds and mortgages, and sheriffs shall pay over the amount of such fees and moneys to the county treasurer and such officers shall be personally liable to the county for such fees and moneys.

The penalty for each day's neglect to file the required statement of account or to pay over such moneys shall be one hundred dollars (\$100.00) to be recovered in the name of the board of chosen freeholders of the county in a civil action in the Superior Court, and said officers may also be proceeded against by proceeding in lieu of prerogative writ.

277. N.J.S.22A:4-19 is amended to read as follows:

Collection of fees and costs in advance; deposits; accounts.

22A:4-19. Surrogates, registers of deeds and mortgages, county clerks, clerks of courts, sheriffs and the Secretary of State, for their own protection, may exact in advance of a service the fees and costs therefor.

For convenience, such officers may receive reasonable deposits in advance to meet the fees and costs of persons who may desire such services, except that sheriffs and the Clerk of the Superior Court shall be required so to do. Such officers shall account to depositors at least once in four months for the sums deposited, except that the Clerk of the Supreme Court, the Clerk of the

Superior Court, sheriffs, and the Secretary of State shall so account at least annually.

The Secretary of State shall provide for the establishment of accounts for persons making application therefor, under such terms and conditions as may be fixed by the Secretary of State.

278. Section 10 of P.L.1973, c.309 (C.23:2A-10) is amended to read as follows:

C.23:2A-10 Violations; penalties; enforcement.

10. a. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive 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 penalty of not less than \$100.00 and not more than \$3,000.00 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. Penalties recovered for violations hereof shall be remitted as provided in R.S.23:10-19. The Superior Court and municipal court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

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.

279. Section 73 of P.L.1979, c.199 (C.23:2B-14) is amended to read as follows:

C.23:2B-14 "Act" defined; penalties; enforcement.

73. For purposes of this section, the "act" means and includes all the new sections and amended sections contained herein, all the remaining sections of Title 50 of the Revised Statutes, sections 23:3-41, 23:3-46, 23:3-47, 23:3-48, 23:3-51, 23:3-52, 23:5-9, 23:5-16, 23:5-35, 23:9-114, 23:9-115 and 23:9-120 of Title 23 of the Revised Statutes, sections 1, 2, 3 and 7 of P.L.1938, c. 318 (C.23:5-5.1

through 23:5-5.3 and 23:5-5.7), P.L.1952, c.216 (C.23:5-5.1a), and sections 1, 2, and 3 of P.L.1941, c.211 (C.23:5-24.1 to 23:5-24.3).

The commissioner may utilize any or all of the following remedies for any violation of this act:

a. (1) Any person who violates the provisions of this act or of any rule, regulation, license or permit promulgated or issued pursuant to this act shall be liable to a penalty of not less than \$100.00 or more than \$3,000.00 for the first offense and not less than \$200.00 or more than \$5,000.00 for any subsequent offense, unless the commissioner has established an alternate penalty for a specific offense pursuant to subsection a. (2) of this section.

(2) The Commissioner of Environmental Protection, with the approval of the Marine Fisheries Council, may, by regulation, establish a penalty schedule for any specific violation of this act or of any rule or regulation promulgated pursuant to this act. No such penalty may be less than \$10.00 or more than \$100.00 on the first offense or less than \$20.00 or more than \$200.00 on any subsequent offense. Any penalty provided for by this act or by the fee schedule promulgated by the commissioner shall 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 or any municipal court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

b. Any person who violates the provisions of this act or any rule or regulation or any license or permit promulgated or issued pursuant to this act shall be liable to the revocation of any license which he holds pursuant to this act for such period of time as the court may choose.

c. If any person violates any of the provisions of this act, or any rule or regulation or any license or permit 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 relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

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.

d. In addition to the penalties prescribed by this section, a person violating the provisions of R.S.50:4-3 shall be subject to the forfeiture of any vessel or equipment used in the commission of the

violation. A designated enforcement officer of the Department of Environmental Protection, the marine police, or any other law enforcement officer may seize and secure any vessel or equipment used in the commission of such a violation. Upon the seizure of the vessel or equipment, the enforcement officer, member of the marine police, or other law enforcement officer shall immediately thereafter institute a civil action to determine if the forfeiture is warranted in the court in which the penalty action was filed pursuant to this section, which court shall have jurisdiction to adjudicate the forfeiture action. The owner or any person having a security interest in the vessel or equipment may secure a release of the same by depositing with the clerk of the court in which the action is pending a bond with good and sufficient sureties in an amount to be fixed by the court, conditioned upon the return of the vessel or equipment to the Department of Environmental Protection upon demand after completion of the court proceeding. The court may proceed in a summary manner and may direct the confiscation of the vessel or equipment by the department for its use or for disposal by sale or public auction. Moneys collected by the department through the sale or public auction of the vessel or equipment shall be used by the Division of Fish, Game and Wildlife for the enforcement of the provisions of this act.

280. R.S.23:5-28 is amended to read as follows:

Pollution of fresh or tidal waters; penalty.

23:5-28. No person shall put or place into, turn into, drain into, or place where it can run, flow, wash or be emptied into, or where it can find its way into any of the fresh or tidal waters within the jurisdiction of this State any petroleum products, debris, hazardous, deleterious, destructive or poisonous substances of any kind; provided, however, that the use of chemicals by any State, county or municipal government agency in any program of mosquito or other pest control or the use of chemicals by any person on agricultural, horticultural or forestry crops, or in connection with livestock, or aquatic weed control or structural pest and rodent control, in a manner approved by the State Department of Environmental Protection or discharges from facilities for the treatment, or the disposal of sewage or other wastes in a manner which conforms to rules and regulations promulgated by the State Department of Environmental Protection, shall not constitute a violation of this section. In case of pollution of said waters by any substances injurious to fish, birds or mammals, it shall not be necessary to show that the substances have

actually caused the death of any of these organisms. A person violating this section shall be liable to a penalty of not more than \$6,000 for each offense, to be collected in a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty arising under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances. The department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent any person from violating the provisions of this section and said court may proceed in the action in a summary manner.

281. R.S.23:7-2 is amended to read as follows:

Arrest of offender; trial; failure to show permit.

23:7-2. A person violating the provisions of R.S.23:7-1 may be arrested without warrant by the owner, occupant, lessee, or any police officer and taken for trial before any Superior Court or municipal court which shall have jurisdiction to try such offender.

In a prosecution in a court of competent jurisdiction for violation hereof, the failure of the defendant to produce written permission to hunt, fish, trap, or take wildlife, as the case may be, on the lands on which he is charged with trespassing, signed by the owner, occupant, or lessee thereof shall be prima facie proof that he was forbidden so to trespass.

282. R.S.23:10-2 is amended to read as follows:

Jurisdiction.

23:10-2. The Superior Court and municipal court, hereinafter in this chapter referred to as the "court," shall, except as otherwise specifically provided, have jurisdiction to try and punish any person violating any provision of this Title, any provision of any law supplementary thereto or any provision of the State Fish and Game Code, and every penalty prescribed for such violation may be enforced and recovered before such court in a summary proceeding in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) either in the county

or municipality where the offense is committed or where the offender is first apprehended or where he may reside.

283. R.S.23:10-21 is amended to read as follows:

Forfeiture of apparatus; procedure.

23:10-21. A person found using a seine, gill, drift, anchor or sink net, fixed net, trap, pot, pound, set line, fyke, weir or other apparatus for the taking of fish in any waters of this State in violation of this Title, or any provision of any law supplementary thereto, or any provision of the State Fish and Game Code shall, in addition to the penalties prescribed, forfeit the same.

All constables, sheriffs, fish and game wardens and the fish and game protector shall, and any other person may, seize and secure the same, and shall immediately thereafter institute a proceeding for the confiscation thereof in the Superior Court or in the municipal court within the jurisdiction of which, the seizure is made. The court may proceed in a summary manner and may make direct confiscation and forfeiture of the same to the division's use, which division may dispose thereof at its discretion.

284. R.S.24:4-2 is amended to read as follows:

Jurisdiction.

24:4-2. The Superior Court or municipal court having jurisdiction in the municipality, as the case may be, in which such food, drug, cosmetic or device is found shall have jurisdiction to hear and determine such proceeding.

285. R.S.24:17-5 is amended to read as follows:

Recovery of penalties; enforcement.

24:17-5. Except as otherwise specifically provided, any and all penalties prescribed by any provision of this subtitle shall be sued for and recovered in a civil action by and in the name of the State Department of Health, or by and in the name of the local board of health, as the case may be, as plaintiff.

Jurisdiction of proceedings to collect such penalties is vested in the Superior Court and the municipal court in any municipality where the defendant may be apprehended or where he may reside. Process shall be either a summons or warrant and shall be prosecuted in a summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

286. Section 7 of P.L.1975, c.305 (C.26:2B-13) is amended to read as follows:

C.26:2B-13 Powers of department.

7. The department is hereby authorized, empowered and directed under this act to:

- a. Plan, construct, cause to be established, and maintain such facilities as may be necessary or desirable for the conduct of its program;
- b. Acquire, hold, and dispose of real property;
- c. Acquire by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain in accordance with the provisions of Title 20 of the Revised Statutes, and lease, hold and dispose of, real property or any interest therein, for the purposes of this act;
- d. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act; including, but not limited to, contracts with government departments and public and private agencies and facilities to pay them for services actually rendered or furnished to alcoholics or intoxicated persons, at rates to be established pursuant to law;
- e. Solicit and accept for use in relation to the purposes of this act any gift of money or property made by will or otherwise, and any grant or loan of money, services or property from the federal government, the State or any political subdivision thereof, or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in connection with the application for any such grant or loan; provided, however, that any money received under this subsection shall be deposited with the State Treasurer to be kept in a separate fund in the treasury for expenditure by the department in accordance with the conditions of the gift, loan or grant without specific appropriation;
- f. Develop, encourage and foster Statewide, regional and local plans and programs for the prevention, detection, and treatment of alcoholism in cooperation with interested public agencies and private organizations and individuals and provide technical assistance and consultation services for these purposes;
- g. Coordinate the efforts and enlist the assistance of all public agencies and private organizations and individuals interested in the prevention, detection, and treatment of alcoholism;
- h. Cooperate with the Department of Human Services in establishing and conducting a program for the prevention and treatment of alcoholism in penal institutions;

i. Cooperate with police academies, nursing and medical schools, public agencies and private organizations and individuals in establishing programs for the prevention and treatment of intoxication and alcoholism among juveniles and young adults;

j. Prepare, publish and disseminate educational materials dealing with the prevention, nature and effects of alcoholism and the benefits of treatment;

k. Develop and implement an ongoing system of collecting, analyzing and distributing statistics on the incidence and prevalence of alcoholism, alcohol-related problems and alcohol consumption among the citizens of New Jersey, with special emphasis on youth. This system shall include, but is not limited to, studies, surveys, random samplings and assessments, and use as its sources the variety of public agencies and private organizations concerned and connected with the subject, including the Division of Motor Vehicles, the Superior Court, Chancery Division, Family Part, the youth bureaus, alcohol treatment programs, hospitals and mental health centers, the schools, the police departments, and the Division of Alcoholic Beverage Control. Special attention shall be given to the relationship of alcohol to automobile accidents, crime, delinquency and other social problems;

l. Encourage alcoholism prevention, detection, and treatment programs in government and industry;

m. Organize and foster training programs for professional and para-professional workers in the treatment of intoxicated persons and alcoholics;

n. Approve and license public and private facilities in accordance with section 8;

o. Promulgate rules and regulations for the exercise of its powers and the performance of its duties under this act;

p. Do all other acts and things necessary or convenient to carry out the powers expressly granted in this act.

287. Section 17 of P.L.1975, c.305 (C.26:2B-23) is amended to read as follows:

C.26:2B-23 Program of education; services of division.

17. The division shall establish and maintain, in cooperation with the office of the Attorney General, the State, municipal and local police, the courts, the Department of Corrections, the Department of Public Welfare, and other public and private agencies, a program for the education of police officers, prosecuting

attorneys, court personnel, judges of the Superior Court, probation and parole officers, correctional personnel, other law enforcement personnel, and State welfare and vocational rehabilitation personnel, with respect to the causes, effects, and treatment of intoxication and alcoholism.

The division shall serve in a consulting capacity to such public and private agencies and shall foster and coordinate a full range of services which will be available for diagnosis, counseling and treatment for alcoholism.

288. Section 4 of P.L.1977, c.237 (C.26:2H-35) is amended to read as follows:

C.26:2H-35 Violations; penalty; recovery.

4. Any person, firm, association, partnership or corporation who fails to file a statement as required by this act or willfully files a false statement shall be liable to a penalty of not less than \$10.00 nor more than \$100.00 for each day that such failure continues or such false statement remains uncorrected. The penalties prescribed and authorized by this act shall be recovered in a summary civil proceeding brought in the name of the State in the Superior Court pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

289. Section 4 of P.L.1980, c.170 (C.26:3-31.7) is amended to read as follows:

C.26:3-31.7 Liability of landlord or agent due to negligence; penalty enforcement.

4. Any landlord or his agent whose negligence or failure to act results in municipal action pursuant to section 2 of this act shall be liable to a civil penalty of not more than \$300.00 for each affected dwelling unit in the residential property. Such penalty shall be recoverable by the municipality in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Any action to collect or enforce any such penalty shall be brought in the Superior Court or municipal court. The amount of such penalty shall be paid to the municipality to be used for general municipal purposes.

290. R.S.26:3-59 is amended to read as follows:

Search warrants.

26:3-59. The Superior Court or any municipal court may issue a warrant to search for any nuisance affecting health. Such warrant

may be issued according to the practice of the court, upon the information and belief of any officer or agent of the State Department of Health, or of any local board of health that there is in any dwelling house, store, stable or any building of any kind whatsoever any nuisance affecting health or any person sick of any contagious or infectious disease, or any condition of contagion or infection which may have been caused by anyone recently sick of any such disease in any such dwelling house or other place. The warrant shall be directed to the sheriff of the county within which the search is to be made, or to any constable, marshal, police officer, or officer or agent of the local board having jurisdiction within the place where such search is to be made.

291. R.S.26:4-37 is amended to read as follows:

Quarantine, restrictions, proceedings, report.

26:4-37. In establishing quarantine for venereal disease, the licensed health officer or the State Commissioner of Health, or the authorized representative of either shall by notice in writing define the restriction of the actions, behavior and movements of the person or the place and the limits of the area within which the person is to be quarantined. Such person while so quarantined shall observe and obey said notice restricting his actions, behavior and movements or remain within the place and area defined by said health officer, director or representative in said notice. The custodian, if any, of such person shall safely keep and confine said person and said notice shall be sufficient warrant and authorization therefor.

Whenever a licensed health officer or the State Commissioner of Health or the authorized representative of either shall quarantine any person for venereal disease under authority of this article, he may also order the removal of such person to the place and area within which the person is to be quarantined for venereal disease, and the person shall proceed to such place at the time and in the manner specified.

A licensed health officer or the State Commissioner of Health or the authorized representative of either one of them may file a complaint with any municipal court in the county or with the Superior Court against the following persons:

a. Any person, who while quarantined for venereal disease fails, refuses or neglects to observe and obey said notice restricting his actions, behavior and movements, or to remain within the place and area defined by said health officer, director or represen-

tative or to proceed to a place for quarantine for venereal disease at the time and in the manner specified by said health officer, director or representative.

b. Any person who fails, refuses or neglects to submit to, observe or obey the conditions of any commitment or to comply with any order made by any court under authority of this article.

c. Any of the persons included in section 26:4-36 of this article.

If a warrant issues, it shall be directed to the sheriff or any constable in the county, or any police officer.

The court shall determine the matter without a jury. If the court finds that the person is one of those listed in this section against whom a complaint may be filed, it may commit such person to a State, county, or municipal hospital which will receive the person, or to any other place or institution suitable for and willing to receive the person for detention, examination, care and treatment, whether the hospital, place or institution be located within or without the county, or to the county jail or may make any order for the examination, care or treatment of said person which may be deemed proper under the circumstances.

The complaint, commitment, and all other papers relating to the case shall be impounded and shall not be open to public inspection, and hearings shall not be open to the public.

Any person committed under the provisions of this statute shall be held in the place to which committed until discharged by the court which heard the case or by the Superior Court or by order of the Commissioner of the State Department of Health.

The local health officer having jurisdiction shall report to the State department any person quarantined for venereal disease, or upon whom a summons is served or against whom a warrant is issued under authority of this article except where the action is initiated by the State Commissioner of Health or his authorized representative.

292. Section 1 of P.L.1945, c.101 (C.26:4-49.7) is amended to read as follows:

C.26:4-49.7 Examination and treatment by order of court.

1. When it appears to the Superior Court or to any municipal court, from the evidence or otherwise, that any person coming before such court on any charge, may have a venereal disease in an infectious stage, it shall be the duty of such court to order the person to submit to a medical examination for venereal diseases, in a jail or at a hospital or clinic or by such physician as may be selected or appointed for the

purpose, and if found to have a venereal disease in an infectious stage to submit to treatment in such jail, hospital or clinic or by such officer or to other treatment permitted under the medical practice act.

293. R.S.26:4-51 is amended to read as follows:

Application to court for compulsory examination.

26:4-51. Whenever any person shall refuse to submit to an examination, or to furnish such specimens, the commissioner or the local board may apply to the Superior Court for an order requiring that he shall submit to examination and furnish the required specimens. The application shall set forth the particular infective agent with which the person is suspected to be infected, and the reasons why the examination is desired.

294. R.S.26:4-52 is amended to read as follows:

Proceedings instituted.

26:4-52. If it shall be found that any person is the carrier of the infective agent of any such disease, and that he is unable or unwilling to conduct himself in such a manner as not to expose the public to danger of infection, the State Department or local board shall institute a proceeding of a criminal nature against the person in the Superior Court.

295. R.S.26:4-57 is amended to read as follows:

Penalty.

26:4-57. Any person who shall disobey any order or judgment of the Superior Court made pursuant to this article shall be liable to a penalty of not more than one hundred dollars (\$100.00).

296. R.S.26:6-21 is amended to read as follows:

Emergency burial or removal permit.

26:6-21. If through the absence of the local registrar, or for other sufficient reason, it is impossible to obtain from the registrar a burial or removal permit in time for burial or removal, a judge of the Superior Court or of a municipal court in the county in which the death occurred, if he is satisfied that the death certificate is genuine, and that no permit can be obtained in time for burial or removal, shall issue an emergency burial or removal permit.

297. R.S.26:6-22 is amended to read as follows:

Form of emergency permit.

26:6-22. The emergency burial or removal permit shall be issued in the following form:

"It being impossible to obtain a burial or removal permit from the registrar of vital statistics on account of (state here the reason), I, a judge of the Superior Court (or a judge of a municipal court of the of), do hereby grant this emergency permit for the burial or removal of , whose death has been duly certified to me."

The permit shall be dated and signed by the judge and shall be given to the person delivering the certificate of death. The judge shall, within five days thereafter, transmit the certificate to the State registrar. The judge shall be entitled to \$1.00 for the issuance of an emergency permit.

298. Section 11 of P.L.1950, c.256 (C.26:7-21) is amended to read as follows:

C.26:7-21 Enforcement.

11. 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 of any act amendatory thereof and supplementary thereto, and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a penalty for a violation under the provisions of this act:

- (a) The following courts shall have jurisdiction of such proceeding in addition to those prescribed in said law, namely: the Superior Court and municipal courts;
- (b) The complaint in such proceeding may be made on information and belief by any employee of the State Department of Health;
- (c) A warrant may issue in lieu of summons in such proceeding;
- (d) The hearing in such proceeding shall be without a jury;
- (e) If the defendant in such proceeding shall fail to pay forthwith the amount of any money judgment rendered against him, the said defendant may be committed as provided in said law;
- (f) Such proceeding may be instituted on any day of the week or on a Sunday or a holiday;
- (g) Any sums received in payment of a money judgment entered in such proceeding shall be remitted to the State Department of Health;

(h) An appeal from any judgment entered in such proceeding may be taken in the manner provided by law.

299. R.S.26:8-38 is amended to read as follows:

Recording unrecorded births; penalty for false certificate.

26:8-38. The birth of any child which has occurred or which may hereafter occur and which is not recorded with the State registrar as required by this chapter, may be recorded by filing a certificate with the State registrar.

a. Over the signature of the physician or midwife who attended the birth or over the signature of the father or mother of the child, or

b. When it is impossible to secure the signature of any of the persons named, the certificate may be signed by any person who has definite knowledge of the facts concerning the birth or by the person whose birth is being reported; provided, substantiating documentary proof is submitted and noted upon the certificate by the person before whom the affidavit is taken.

In every case the certificate shall be accompanied by an affidavit attesting the correctness of the information given therein, which affidavit shall be a part of the record of the birth. A copy of the affidavit shall accompany each certified copy of any record of the birth issued by the State registrar.

The affidavit (1) if taken in New Jersey, shall be taken before a Superior Court judge, the State registrar or assistant State registrar of vital statistics, an attorney at law, a county clerk or a deputy county clerk of the county where the birth occurred or where the person making the affidavit resides, or (2) if taken in some other state of the United States or territory thereof or in the District of Columbia shall be taken before a judge of any of the United States courts, a judge of any court of record having jurisdiction in the place where the affidavit is taken or any attorney at law of New Jersey, or (3) if taken in any foreign kingdom, state, nation or colony shall be taken before a public ambassador, minister, consul, vice-consul, consular agent, charge d'affaires or other representative of the United States for the time being, to or at any such foreign kingdom, state, nation or colony or any attorney at law of New Jersey; provided, however, that the affidavit may be taken in New Jersey by any employee of the Superior Court, if prior thereto, the Superior Court judge shall have filed with the State registrar of vital statistics a certificate setting forth that such employee has been designated by him to take such affidavits, and all oaths, affirma-

tions and affidavits required to be made or taken by this section or necessary or proper to be made or taken by this section may be made and taken before any such employee when so designated.

The State registrar or any local registrar may require proof of the correctness of the information in a certificate and may refuse to accept a certificate if said proof is not submitted.

Any person knowingly submitting a certificate pursuant to this section containing incorrect particulars regarding a birth shall be subject to a penalty of not more than \$500.00 to be recovered with costs in a summary proceeding in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) in the name of the State department.

300. Section 3 of P.L.1942, c.95 (C.26:8-40.4) is amended to read as follows:

C.26:8-40.4 Application; determination of probable date of birth; presumption.

3. Upon application by or on behalf of any such person and, if he is of the supposed age of 12 years or over, upon notice to the United States Attorney for the District of New Jersey, the Superior Court shall, if the person has not been guilty of any of the acts set forth in section 4 of this act, determine the probable date of the birth of the person and the place of his birth as the place where he was found in this State. Thereafter such person shall be presumed to have been born in this State at the time and the place so determined, until he shall be shown not to have been born in this State.

301. R.S.26:8-69 is amended to read as follows:

Penalties; recovery.

26:8-69. Except as otherwise specifically provided in this chapter and chapter 1 of Title 37 of the Revised Statutes, any person who shall:

- a. Fail or refuse to furnish correctly any information in his possession; or
- b. Willfully and knowingly furnish false information affecting any certificate or record required by this chapter; or
- c. Willfully alter, otherwise than is provided by article 6 of this chapter (Sec. 26:8-48 et seq.), or willfully or knowingly falsify, any certificate or record established by this chapter; or
- d. Fail to fill out and transmit any certificate or record in the manner required by this chapter; or
- e. Being a local registrar, deputy registrar or subregistrar, shall fail to perform his duty as required by this chapter and by the directions of the State registrar thereunder; or

f. Violate any of the provisions of this chapter or fail to discharge any duty required by this chapter-

Shall be subject to a penalty of not less than \$5.00 nor more than \$50.00 for each first offense and not less than \$10.00 nor more than \$100.00 for each subsequent offense.

Such penalties shall be recovered in a civil action in the name of the State department or local board in any court of competent jurisdiction.

The Superior Court or municipal court shall have jurisdiction over proceedings to enforce and collect any such penalty, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

302. R.S.26:10-18 is amended to read as follows:

Penalties, recovery.

26:10-18. Any person violating any of the provisions of this article shall be liable to a penalty of not more than one hundred dollars (\$100.00) for each offense, to be recovered in a civil action before the Superior Court or a municipal court; provided, the violation occurs within the territorial jurisdiction of the court.

303. Section 18 of P.L.1952, c.16 (C.27:12B-18) is amended to read as follows:

C.27:12B-18 Tolls; traffic regulations; violations; prosecutions.

18. (a) No vehicle shall be permitted to make use of any project except upon the payment of such tolls as may from time to time be prescribed by the Authority.

It is hereby declared to be unlawful for any person to refuse to pay, or to evade or to attempt to evade the payment of such tolls.

(b) No vehicle shall be operated on any project carelessly or recklessly, or in disregard of the rights or safety of others, or without due caution or prudence, or in a manner so as to endanger unreasonably or to be likely to endanger unreasonably persons or property, or while the operator thereof is under the influence of intoxicating liquors or any narcotic or habit-forming drug, nor shall any vehicle be so constructed, equipped, lacking in equipment, loaded or operated in such a condition of disrepair as to endanger unreasonably or to be likely to endanger unreasonably persons or property.

(c) A person operating a vehicle on any project shall operate it at a careful and prudent speed, having due regard to the rights and safety of others and to the traffic, surface and width of the high-

way, and any other conditions then existing; and no person shall operate a vehicle on any project at such a speed as to endanger life, limb or property; provided, however, that it shall be prima facie lawful for a driver of a vehicle to operate it at a speed not exceeding a speed limit which is designated by the Authority as a reasonable and safe speed limit, when appropriate signs giving notice of such speed limit are erected at the roadside or otherwise posted for the information of operators of vehicles.

(d) No person shall operate a vehicle on any project at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation thereof.

(e) No person shall operate a vehicle on any project in violation of any speed limit designated by regulation adopted by the Authority as hereinafter provided.

(f) All persons operating vehicles upon any project must at all times comply with any lawful order, signal or direction by voice or hand of any police officer engaged in the direction of traffic upon such project. When traffic on a project is controlled by traffic lights, signs or by mechanical or electrical signals, such lights, signs and signals shall be obeyed unless a police officer directs otherwise.

(g) All persons operating vehicles upon any project, or seeking to do so, must at all times comply with regulations, not inconsistent with the other sections of this act, adopted by the Authority concerning types, weights and sizes of vehicles permitted to use such project, and with regulations adopted by the Authority for or prohibiting the parking of vehicles, concerning the making of turns and the use of particular traffic lanes, together with any and all other regulations adopted by the Authority to control traffic and prohibit acts hazardous in their nature or tending to impede or block the normal and reasonable flow of traffic upon such project; provided, however, that prior to the adoption of any regulation for the control of traffic on any such project, including the designation of any speed limits, the Authority shall investigate and consider the need for and desirability of such regulation for the safety of persons and property, including the Authority's property, and the contribution which any such regulation would make toward the efficient and safe handling of traffic and use of such project, and shall determine that such regulation is necessary or desirable to accomplish such purposes or one or some of them, and that upon or prior to the effective date of any such regulation and during its continuance, notice thereof shall be given to the

drivers of vehicles by appropriate signs erected at the roadside or otherwise posted. The Authority is hereby authorized and empowered to make, adopt and promulgate regulations referred to in this section in accordance with the provisions hereof. Regulations adopted by the Authority pursuant to the provisions of this section shall insofar as practicable, having due regard to the features of the project and the characteristics of traffic thereon, be consistent with the provisions of Title 39 of the Revised Statutes applicable to similar subjects. The Authority shall have power to amend, supplement or repeal any regulation adopted by it under the provisions of this section. No regulation and no amendment or supplement thereto or repealer thereof adopted by the Authority shall take effect until it is filed with the Secretary of State, by the filing of a copy thereof certified by the secretary of the Authority.

(h) The operator of any vehicle upon a project involved in an accident resulting in injury or death to any person or damage to any property shall immediately stop such vehicle at the scene of the accident, render such assistance as may be needed, and give his name, address, and operator's license and registration number to the person injured and to any officer or witness of the injury and shall make a report of such accident in accordance with law.

(i) No person shall transport in or upon any project, any dynamite, nitroglycerin, black powder, fireworks, blasting caps or other explosives, gasoline, alcohol, ether, liquid shellac, kerosene, turpentine, formaldehyde or other inflammable or combustible liquids, ammonium nitrate, sodium chlorate, wet hemp, powdered metallic magnesium, nitro-cellulose film, peroxides or other readily inflammable solids or oxidizing materials, hydrochloric acid, sulfuric acid, or other corrosive liquids, prussic acid, phosgene, arsenic, carbolic acid, potassium cyanide, tear gas, lewisite or any other poisonous substances, liquids or gases, or any compressed gas, or any radioactive article, substance or material, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably persons or property.

(j) If the violation of any provision of this section or the violation of any regulation adopted by the Authority under the provisions of this section, would have been a violation of law or ordinance if committed on any public road, street or highway in the municipality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed in such municipality.

(k) Notwithstanding the provisions of paragraph (j) of this section, if the violation within the State of the provisions of paragraph (i) of this section shall result in injury or death to a person or persons or damage to property in excess of the value of five thousand dollars (\$5,000.00), such violation shall constitute a high misdemeanor.

(l) Except as provided in paragraph (j) or (k) of this section, any violation of any of the provisions of this section, including but not limited to those regarding the payment of tolls, and any violation of any regulation adopted by the Authority under the provisions of this section shall be punishable by a fine not exceeding two hundred dollars (\$200.00) or by imprisonment not exceeding thirty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court or municipal court where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week. When imposing any penalty under the provisions of this paragraph the court having jurisdiction shall be guided by the appropriate provisions of any statute fixing uniform penalties for violation of provisions of the motor vehicle and traffic laws contained in Title 39 of the Revised Statutes.

(m) In any prosecution for violating a regulation of the Authority adopted pursuant to the provisions of this section copies of any such regulation when authenticated under the seal of the Authority by its secretary or assistant secretary shall be evidence in like manner and equal effect as the original.

(n) No resolution or ordinance heretofore or hereafter adopted by the governing body of any county or municipality for the control and regulation of traffic shall be applicable to vehicles while upon any project operated by the Authority.

(o) In addition to any punishment or penalty provided by other paragraphs of this section, every registration certificate and every license certificate to drive motor vehicles may be suspended or revoked and any person may be prohibited from obtaining a driver's license or a registration certificate and the reciprocity privileges of a nonresident may be suspended or revoked by the Director of the Division of Motor Vehicles for a violation of any of the provisions

of this section, after due notice in writing of such proposed suspension, revocation or prohibition and the ground thereof, and otherwise in accordance with the powers, practice and procedure established by those provisions of Title 39 of the Revised Statutes applicable to such suspension, revocation or prohibition.

(p) Except as otherwise provided by this section or by any regulation of the Authority made in accordance with the provisions hereof, the requirements of Title 39 of the Revised Statutes applicable to persons using, driving or operating vehicles on the public highways of this State and to vehicles so used, driven or operated shall be applicable to persons using, driving or operating vehicles on any project and to vehicles so used, driven or operated.

304. Section 37 of P.L.1962, c.10 (C.27:12C-37) is amended to read as follows:

C.27:12C-37 Operation of vehicles; conditions; violations; penalties.

37. (A) Except as otherwise provided in section 26 of this act, no vehicle shall be permitted to make use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority. It is hereby declared to be unlawful for any person to refuse to pay, or to evade or to attempt to evade the payment of such tolls.

(B) No vehicle shall be operated on any project carelessly or recklessly, or in disregard of the rights or safety of others, or without due caution or prudence, or in a manner so as to endanger unreasonably or to be likely to endanger unreasonably persons or property, or while the operator thereof is under the influence of intoxicating liquors or any narcotic or habit-forming drug, nor shall any vehicle be so constructed, equipped, lacking in equipment, loaded or operated in such a condition of disrepair as to endanger unreasonably or to be likely to endanger unreasonably persons or property.

(C) A person operating a vehicle on any project shall operate it at a careful and prudent speed, having due regard to the rights and safety of others and to the traffic, surface and width of the highway, and any other conditions then existing; and no person shall operate a vehicle on any project at such a speed as to endanger life, limb or property; provided, however, that it shall be prima facie lawful for a driver of a vehicle to operate it at a speed not exceeding a speed limit which is designated by the authority as a reasonable and safe speed limit, when appropriate signs giving notice of such speed limit are erected at the roadside or otherwise posted for the information of operators of vehicles.

(D) No person shall operate a vehicle on any project at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation thereof.

(E) No person shall operate a vehicle on any project in violation of any speed limit designated by regulation adopted by the authority as hereinafter provided.

(F) All persons operating vehicles upon any project must at all times comply with any lawful order, signal or direction by voice or hand of any police officer engaged in the direction of traffic upon such project. When traffic on a project is controlled by traffic lights, signs or by mechanical or electrical signals, such lights, signs and signals shall be obeyed unless a police officer directs otherwise.

(G) All persons operating vehicles upon any project, or seeking to do so, must at all times comply with regulations, not inconsistent with the other sections of this act, adopted by the authority concerning types, weights and sizes of vehicles permitted to use such project, and with regulations adopted by the authority for or prohibiting the parking of vehicles, concerning the making of turns and the use of particular traffic lanes, together with any and all other regulations adopted by the authority to control traffic and prohibit acts hazardous in their nature or tending to impede or block the normal and reasonable flow of traffic upon such project; provided, however, that prior to the adoption of any regulation for the control of traffic on any such project, including the designation of any speed limits, the authority shall investigate and consider the need for and desirability of such regulation for the safety of persons and property, including the authority's property, and the contribution which any such regulation would make toward the efficient and safe handling of traffic and use of such project, and shall determine that such regulation is necessary or desirable to accomplish such purposes or one or some of them, and that upon or prior to the effective date of any such regulation and during its continuance, notice thereof shall be given to the drivers of vehicles by appropriate signs erected at the roadside or otherwise posted. The authority is hereby authorized and empowered to make, adopt and promulgate regulations referred to in this section in accordance with the provisions hereof. Regulations adopted by the authority pursuant to the provisions of this section shall insofar as practicable, having due regard to the features of the project and the characteristics of traffic thereon and except as to maximum or minimum speed limits, be consistent with the pro-

visions of Title 39 of the Revised Statutes applicable to similar subjects. The authority shall have power to amend, supplement or repeal any regulation adopted by it under the provisions of this section. No regulation and no amendment or supplement thereto or repealer thereof adopted by the authority shall take effect until it is filed with the Secretary of State, by the filing of a copy thereof certified by the secretary of the authority.

(H) The operator of any vehicle upon a project involved in an incident resulting in injury or death to any person or damage to any property shall immediately stop such vehicle at the scene of the incident, render such assistance as may be needed, and give his name, address, and operator's license and motor vehicle registration number to the person injured and to any officer or witness of the injury and shall make a report of such incident in accordance with law.

(I) No person shall transport in or upon any project, any dynamite, nitroglycerin, black powder, fireworks, blasting caps or other explosives, gasoline, alcohol, ether, liquid shellac, kerosene, turpentine, formaldehyde or other inflammable or combustible liquids, ammonium nitrate, sodium chlorate, wet hemp, powdered metallic magnesium, nitro-cellulose film, peroxides or other readily inflammable solids or oxidizing materials, hydrochloric acid, sulfuric acid, or other corrosive liquids, prussic acid, phosgene, arsenic, carbolic acid, potassium cyanide, tear gas, lewisite or any other poisonous substances, liquids or gases, or any compressed gas, or any radioactive article, substance or material, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably persons or property.

(J) If the violation of any provision of this section or the violation of any regulation adopted by the authority under the provisions of this section would have been a violation of law or ordinance if committed on any public road, street or highway in the municipality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed in such municipality.

(K) Notwithstanding the provisions of paragraph (J) of this section, if the violation of the provisions of paragraph (I) of this section shall result in injury or death to a person or persons or damage to property in excess of the value of \$5,000.00, such violation shall constitute a high misdemeanor.

(L) Except as provided in paragraph (J) or (K) of this section, any violation of any of the provisions of this section, including but not limited to those regarding the payment of tolls, and any violation of any regulation adopted by the authority under the

provisions of this section shall be punishable by a fine not exceeding \$200.00 or by imprisonment not exceeding 30 days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court or any municipal court where the offense was committed. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week. When imposing any penalty under the provisions of this paragraph the court having jurisdiction shall be guided by the appropriate provisions of any statute fixing uniform penalties for violation of provisions of the motor vehicle and traffic laws contained in Title 39 of the Revised Statutes.

(M) In any prosecution for violating a regulation of the authority adopted pursuant to the provisions of this section copies of any such regulation when authenticated under the seal of the authority by its secretary or assistant secretary shall be evidence in like manner and equal effect as the original.

(N) No resolution or ordinance heretofore or hereafter adopted by the governing body of any county or municipality for the control and regulation of traffic shall be applicable to vehicles while upon any project operated by the authority.

(O) In addition to any punishment or penalty provided by other paragraphs of this section, every registration certificate and every license certificate to drive motor vehicles may be suspended or revoked and any person may be prohibited from obtaining a driver's license or a registration certificate and the reciprocity privileges of a nonresident may be suspended or revoked by the Director of the Division of Motor Vehicles for a violation of any of the provisions of this section, after due notice in writing of such proposed suspension, revocation or prohibition and the ground thereof, and otherwise in accordance with the powers, practice and procedure established by the provisions of Title 39 of the Revised Statutes applicable to such suspension, revocation or prohibition.

(P) Except as otherwise provided by this section or by any regulation of the authority made in accordance with the provisions hereof, the requirements of Title 39 of the Revised Statutes applicable to persons using, driving or operating vehicles on the public highways of this State and to vehicles so used, driven or operated

shall be applicable to persons using, driving or operating vehicles on any project and to vehicles so used, driven or operated.

305. R.S.27:17-4 is amended to read as follows:

Oath and bond filed.

27:17-4. Before entering upon the duties of his office each commissioner shall take an oath to perform well and truly the duties of his office to the best of his skill and ability, and shall give a bond to the county, conditioned upon the faithful performance of his duties, the amount of which shall be fixed and the bond approved by a judge of the Superior Court. The oath and bond shall be filed in the office of the county clerk.

306. Section 10 of P.L.1951, c.264 (C.27:23-34) is amended to read as follows:

C.27:23-34 Penalties; enforcement.

10. Except as provided in sections eight and nine of this act, any violation of any of the provisions hereof, including but not limited to those regarding the payment of tolls, and any violation of any regulation adopted by the Authority under the provisions of this act shall be punishable by a fine not exceeding two hundred dollars (\$200.00) or by imprisonment not exceeding thirty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court or any municipal court where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week.

When imposing any penalty under the provisions of this section the court having jurisdiction shall be guided by the appropriate provisions of any statute adopted at the current session of the Legislature, or hereafter, fixing uniform penalties for violation of certain provisions of the motor vehicle and traffic laws contained in Title 39 of the Revised Statutes.

307. R.S.29:3-12 is amended to read as follows:

Revocation of registration by court.

29:3-12. Revocation of registration by Superior Court.

A person aggrieved by the registration of a hotel name or designation by another person may bring an action in Superior Court against such other person, and the court may direct the revocation of such registration, if it be determined that such other person has not the right to the use of such name or designation because of the prior use thereof by another.

308. R.S.29:3-19 is amended to read as follows:

Jurisdiction of action for penalty.

29:3-19. Civil actions for penalties for violations of this chapter may be brought in the Superior Court or the municipal court of the municipality wherein the violations occurred, both of which courts are given jurisdiction to hear and determine such actions.

309. Section 4 of P.L.1967, c.95 (C.29:4-8) is amended to read as follows:

C.29:4-8 Penalties; enforcement.

4. Any person, organization or corporation violating any of the provisions of this act shall be liable to a penalty of not less than \$50.00 or more than \$100.00 for the first offense, and not less than \$100.00 or more than \$250.00 for the second and each subsequent offense.

The Superior Court and municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of this act. The penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State upon the complaint of any person.

310. R.S.30:1-17 is amended to read as follows:

Action against officials in charge of institutions; notice; county prosecutor's duties.

30:1-17. The rights and powers conferred upon the State board and the commissioner by sections 30:1-14, 30:1-15 and 30:1-16 of this Title, so far as they relate to the investigation of the institutions and noninstitutional agencies enumerated therein may be enforced by a civil action against the officer or board having charge of the institution, brought in the Superior Court. The court may proceed in the action in a summary manner or otherwise.

If, in the opinion of the commissioner or the State board, any matter with regard to the management or affairs of any such insti-

tution or any inmate or person in any way connected with either required legal investigation or action of any kind, notice thereof may be given by the commissioner or the State board to the county prosecutor of the county, and he shall thereupon make inquiry and take such proceedings in the premises as he may deem necessary and proper. It shall be the duty of the county prosecutor when so required to furnish such legal assistance, counsel or advice as the commissioner or the State board may require in the discharge of his or its duties.

311. Section 13 of P.L.1965, c.59 (C.30:4-25.1) is amended to read as follows:

C.30:4-25.1 Definitions; classes for application for admission to functional services.

13. a. For the purpose of Title 30 of the Revised Statutes:

(1) "Eligible mentally retarded person" means a person who has been declared eligible for admission to functional services of the department.

(2) "Evaluation services" means those services and procedures in the department by which eligibility for functional services for the mentally retarded is determined and those services provided by the department for the purpose of advising the court concerning the need for guardianship of individuals over the age of 18 who appear to be mentally deficient.

(3) "Functional services" means those services and programs in the department available to provide the mentally retarded with education, training, rehabilitation, adjustment, treatment, care and protection.

(4) "Mental deficiency" or "mentally deficient" means that state of mental retardation in which the reduction of social competence is so marked that persistent social dependency requiring guardianship of the person shall have been demonstrated or be anticipated.

(5) "Mental retardation" or "mentally retarded" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which are manifested during the development period.

(6) "Residential services" means observation, examination, care, training, treatment, rehabilitation and related services, including community care, provided by the department to patients who have been admitted or transferred to, but not discharged from any residential functional service for the mentally retarded.

b. Application for admission of an eligible mentally retarded person to functional services of the department may be made under any of the following classes:

Class F. Application to the commissioner by the parent, guardian or person or agency having care and custody of the person of a minor or by the guardian of the person of a mentally deficient adult;

Class G. Application to the commissioner by a mentally retarded person over 18 years of age on his own behalf;

Class H. Application to the commissioner by a Superior Court, Chancery Division, Family Part having jurisdiction over an eligible mentally retarded minor;

Class I. Application to the commissioner with an order of commitment to the custody of the commissioner issued by a court of competent jurisdiction during or following criminal process involving the eligible mentally deficient person.

Application shall be made on such forms and accompanied by such relevant information as may be specified from time to time by the commissioner.

312. Section 14 of P.L.1965, c.59 (C.30:4-25.2) is amended to read as follows:

C.30:4-25.2 Application for determination of eligibility.

14. Application for determination of eligibility for functional services for a person under the age of 21 years who is believed to be mentally retarded may be made to the commissioner by:

1. his parent or guardian;
2. a child-caring agency, hospital, clinic, or other appropriate agency, public or private, or by a physician having care of the minor, provided the written consent of the parent or guardian or the Division of Youth and Family Services, under its care and custody program, has been obtained; or
3. a Superior Court, Chancery Division, Family Part having jurisdiction over the minor.

Application for determination of eligibility for any person over 18 years of age for functional services may be made by:

- a. a mentally retarded individual over 18 years of age on his own behalf;
- b. the guardian of the person of an adjudicated mentally incompetent adult; or
- c. any court of competent jurisdiction in which the issue of mental deficiency may have arisen and which finds that it is in the interest of the alleged mentally deficient person to determine such eligibility.

313. Section 17 of P.L.1965, c.59 (C.30:4-25.5) is amended to read as follows:

C.30:4-25.5 Court order for care and custody of eligible minors.

17. Whenever an eligible mentally retarded minor is found to be neglected or delinquent under any of the statutes of this State pertaining to juvenile delinquency or to abandonment, abuse, cruelty, or neglect of children, the Superior Court, Chancery Division, Family Part having jurisdiction may accompany its application under Class H for admission of the mentally retarded minor to functional services of the department with an order placing the aforesaid minor under the care and custody of the commissioner.

314. R.S.30:4-65 is amended to read as follows:

Guardian of estate, bond, discharge.

30:4-65. Where, on final hearing, it appears that the patient is possessed of real or personal property and no arrangements have been made for the payment of his maintenance, and no action has been instituted for the appointment of a guardian of his estate, an action may be brought in the Superior Court of the county in which the proceeding for commitment is brought, and such court shall have power to appoint some competent person, resident of this State, guardian of the estate during such commitment.

A guardian so appointed shall conserve the estate for the purpose of maintaining the patient in the institution in which he may be lawfully confined, and is authorized to pay such maintenance under the direction of the Superior Court. He shall furnish a bond as guardian in double the amount of the estate, conditioned for the faithful performance of his duties as guardian. If the chief executive officer of the institution, or the county treasurer of the county in which the institution is located, is appointed guardian, he shall not be required to furnish bond and the Superior Court is authorized to make necessary directions for payment for maintenance. The guardian shall be discharged after accounting, without advertising, upon the death or discharge of the patient from confinement.

315. Section 3 of P.L.1938, c.239 (C.30:4-80.3) is amended to read as follows:

C.30:4-80.3 Filing of lien; effect.

3. The lien shall be filed with the clerk of the county or register of deeds and mortgages, as the case may be, and shall immediately attach to and become binding upon all real property

in the ownership of the patient or other persons chargeable under said lien in the county wherein said lien is filed.

If it is believed that the patient or other persons chargeable under said lien are the owners of real property within the State, but the exact location of same is not known, then said liens may be filed with the clerk of the Superior Court and shall become binding upon all real property of the patient or other persons chargeable under said lien wherever situate within the State.

316. Section 2 of P.L.1946, c.306 (C.30:4-80.7) is amended to read as follows:

C.30:4-80.7 Review of validity of lien; discharge.

2. Any person affected in any manner, whether directly or indirectly, by any lien filed hereunder, and desiring to examine into the validity thereof or the facts and circumstances surrounding the entry thereof, may do so in an action brought in the court wherein the judgment of commitment of the patient was made. In the case of a voluntary patient, an action may be brought in the Superior Court. The action shall be brought against the institution claiming the lien, and the court may proceed in the action in a summary manner or otherwise and enter such judgment as it may deem appropriate.

Any person desiring to secure immediate discharge of any lien may deposit with the court cash in sufficient amount to cover the amount of the lien or post a bond in an amount and with sureties to be approved by said court. Upon proper notice of this fact being given to the institution claiming the lien, a satisfaction of said lien shall be filed forthwith with the county clerk or register of deeds and mortgages as the case may be.

317. Section 1 of P.L.1953, c.268 (C.30:4-80.8) is amended to read as follows:

C.30:4-80.8 Application for relief.

1. Any person who has been, or shall be, committed, by order of any court or by voluntary commitment, to any institution or facility providing mental health services and who was, or shall be, discharged from such institution or facility as recovered, or whose illness upon discharge, or subsequent thereto, is substantially improved or in substantial remission, may apply to the court by which such commitment was made, or, if voluntarily committed, to the Superior Court by verified petition setting forth the facts and praying for the relief provided for in this act.

318. Section 1 of P.L.1979, c.441 (C.30:4-123.45) is amended to read as follows:

C.30:4-123.45 Short title; definitions.

1. a. This act shall be known and may be cited as the "Parole Act of 1979."

b. In this act, unless a different meaning is plainly required:

(1) "Adult inmate" means any person sentenced as an adult to a term of incarceration.

(2) "Juvenile inmate" means any person under commitment as a juvenile delinquent pursuant to section 24 of P.L.1982, c.77 (C.2A:4A-44).

(3) "Parole release date" means that date certified by a member of the board for release of an inmate after a review of the inmate's case pursuant to section 11, 13 or 14 of this act.

(4) "Primary parole eligibility date" means that date established for parole eligibility for adult inmates pursuant to section 7 or 20 of this act.

(5) "Public notice" shall consist of lists including names of all inmates being considered for parole, the county from which he was committed and the crime for which he was incarcerated. At least 30 days prior to parole consideration such lists shall be forwarded to the prosecutor's office of each county, the sentencing court, the office of the Attorney General, any other criminal justice agencies whose information and comment may be relevant, and news organizations.

(6) Removal for "cause" means such substantial cause as is plainly sufficient under the law and sound public policy touching upon qualifications appropriate to a member of the parole board or the administration of said board such that the public interest precludes the member's continuance in office. Such cause includes, but is not limited to, misconduct in office, incapacity, inefficiency and nonfeasance.

319. R.S.30:4-131 is amended to read as follows:

Contempt.

30:4-131. A person refusing or failing to obey a summons issued pursuant to section 30:4-129 of this Title may, if application be made to the Superior Court, be brought before such court and after summary hearing may in the discretion of the court be held in contempt of court for refusal or willful neglect to obey the summons. Such contempt may be purged on such terms as the court may impose.

320. R.S.30:4-157.5 is amended to read as follows:

Fees allowable.

30:4-157.5. For making copies of a complaint and commitment under sections 30:4-157.1 and 30:4-157.2 of this Title, the court or the clerk thereof shall be entitled to the same fees as are allowed by law for the original complaint and commitment.

The fee for serving process shall be the same and shall be paid in the same manner as for like services in criminal cases.

The sheriff, constable or officer executing a warrant of commitment shall be entitled to a fee of five dollars (\$5.00) besides the necessary traveling expenses for himself and the boy.

Other fees shall be the same as are allowed for similar services in the Superior Court, and all such fees shall be paid as other fees are paid in criminal causes.

321. Section 89 of P.L.1965, c.59 (C.30:4-165.6) is amended to read as follows:

C.30:4-165.6 Mentally retarded minors receiving residential functional services under order of commitment.

89. Any mentally retarded person under the age of 18 years who, on the effective date of this act, is receiving residential functional services under order of commitment of any court shall continue to receive residential care as if admitted under Class F of this act, unless within 30 days of the effective date of this act the commissioner shall apply to the Superior Court, Chancery Division, Family Part for an order of commitment to care and custody as provided herein. Persons over the age of 18 for whom a guardian of the person has been appointed and who are receiving residential functional services shall be considered to have been admitted under Class F of this act. Where no guardian has been appointed for a person who is over the age of 18 who is receiving residential functional services on the effective date of this act, the last prior order issued with respect to him shall continue in force and effect for one year following the effective date of this act, unless prior to that time either (1) the mentally retarded person has been discharged or (2) a guardian of his person has been appointed, or (3) application has been made by a court of competent jurisdiction for his admission to care under Class I as provided herein.

Any order for payment of maintenance issued under prior provisions of Title 30 in effect on the effective date of this act shall remain in force and effect.

322. Section 2 of P.L.1957, c.90 (C.30:4-177.32) is amended to read as follows:

C.30:4-177.32 Establishment, equipment and maintenance.

2. The Department of Human Services therefore is authorized to establish, equip and maintain facilities in various parts of the State for receiving and treating juvenile delinquent probationers under circumstances where the Superior Court, Chancery Division, Family Part has directed, as a condition of probation of such offender that he voluntarily submit to treatment and supervision, for a period not to exceed four months, in a facility under direction, control and supervision of said department.

323. Section 4 of P.L.1946, c.118 (C.30:4A-4) is amended to read as follows:

C.30:4A-4 Use of center by other agencies, persons admitted.

4. Any court or any agency of the State, or of any county or municipal government, desiring to utilize the services of the diagnostic center prior to the disposition of the case of any individual, may do so upon application as herein provided. Any person requiring diagnostic services, whether male, female, adult or minor, may be admitted to the center under the terms of this act.

324. Section 7 of P.L.1946, c.118 (C.30:4A-7) is amended to read as follows:

C.30:4A-7 Admission of unconfined persons, procedure.

7. If the person for whom the diagnosis is sought by any court or agency of the State, or of a county or municipal government, desiring to utilize the services of the diagnostic center is not under confinement or process of any nature whatsoever, then admission to the diagnostic center shall be secured upon application to the Superior Court upon forms to be provided by the Department of Human Services. The county adjuster shall be the official in the county charged with the responsibility of assisting with processing of such applications and shall perform functions similar to those set forth in Title 30, Revised Statutes. In connection with each such application, the court shall order a hearing to be held, which may be in camera at the discretion of the court. At

least ten days' notice of the time, date and place of such hearing shall be served upon the person, and if he be a minor or incompetent, upon the parent, guardian, person standing in loco parentis or person having custody and control of such minor or incompetent. At such hearing, the court shall determine whether the services of the diagnostic center shall be made available to the said person and may order the confinement of such person in the center for a period not to exceed ninety days and shall cause a copy of said order of confinement to accompany the said person to the center.

325. Section 8 of P.L.1946, c.118 (C.30:4A-8) is amended to read as follows:

C.30:4A-8 Minors.

8. If the person for whom the diagnosis is sought is a minor under the age of eighteen years and is within the jurisdiction of the Superior Court, Chancery Division, Family Part, the said court may make an order placing the said minor in the care and custody of the diagnostic center for a period required for a complete diagnosis and study, not in excess, however, of ninety days and shall cause a copy of said order to accompany said minor to the center. In such case no final commitment or disposition shall be made until the coming in of the report of the diagnostic center. Such report and any recommendation thereon shall not be binding upon the said court but shall be for its guidance in the final disposition of the matter consistent with the best interests of the welfare of the said minor and the community.

326. Section 12 of P.L.1951, s.138 (C.30:4C-12) is amended to read as follows:

C.30:4C-12 Filing complaint; investigation; application to court for an order; hearing.

12. Whenever it shall appear that the parent or parents, guardian, or person having custody and control of any child within this State is grossly immoral or unfit to be entrusted with the care and education of such child, or shall fail to provide such child with proper protection, maintenance and education, or is of such vicious, careless or dissolute habits as to endanger the welfare of such child, a written or oral complaint may be filed with the Division of Youth and Family Services by any person or by any public or private agency or institution interested in such child. When such a complaint is filed by a public or private agency or institu-

tion, it shall be accompanied by a summary setting forth the reason for such complaint and other social history of the child and his situation which justifies such complaint; or, if this is not feasible, such summary shall be made available to the Division of Youth and Family Services as soon thereafter as possible.

Upon receipt of a complaint as provided in this section, the Division of Youth and Family Services shall investigate, or shall cause to be investigated, the statements set forth in such complaint. If the circumstances so warrant, the parent, parents, guardian, or person having custody and control of the child shall be afforded an opportunity to file an application for care, as provided in section 11 of this act. If the parent, parents, guardian, or person having custody and control of the child shall refuse to permit or shall in any way impede investigation, and the division determines that further investigation is necessary in the best interests of the child, the division may thereupon apply to the Superior Court, Chancery Division, Family Part, for an order directing the parent, parents, guardian, or person having custody and control of the child to permit immediate investigation. The court, upon such application, may proceed to hear the matter in a summary manner and if satisfied that the best interests of the child so require may issue an order as requested.

If, after such investigation has been completed, it appears that the child requires care and supervision by the Division of Youth and Family Services but the parent, parents, guardian, or person having custody and control of the child continue to refuse to apply for care in the manner provided in section 11, the division may apply to the Superior Court, Chancery Division, Family Part for an order making the child a ward of the court and placing such child under the care and supervision of the Division of Youth and Family Services.

The court, at a summary hearing held upon notice to the Division of Youth and Family Services, and to the parent, parents, guardian, or person having custody and control of the child, if satisfied that the best interests of the child so require, may issue an order as requested, which order shall have the same force and effect as the acceptance of a child for care by the division as provided in section 11 of this act; provided, however, that such order shall not be effective beyond a period of six months from the date of entry unless the court, upon application by the Division of Youth and Family Services, at a summary hearing held upon notice to the parent, parents, guardian, or person having custody of the child, extends the time of the order.

327. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to read as follows:

C.30:4C-15 Guardianship; petition.

15. Whenever (a) it appears that a court wherein a complaint has been proffered as provided in chapter 6 of Title 9 of the Revised Statutes, has entered a conviction against the parent or parents, guardian, or person having custody and control of any child because of abuse, abandonment, neglect of or cruelty to such child; or (b) it appears that any child has been adjudged delinquent by a court of proper jurisdiction in this State; or (c) it appears that the best interests of any child under the care or custody of the Division of Youth and Family Services require that he be placed under guardianship; or (d) it appears that a parent or guardian of a child, following the acceptance of such child by the Division of Youth and Family Services pursuant to sections 11 or 12 of this act, or following the placement or commitment of such child in the care of an authorized agency, whether in an institution or in a foster home, and notwithstanding the diligent efforts of such agency to encourage and strengthen the parental relationship, has failed substantially and continuously or repeatedly for a period of more than one year to maintain contact with and plan for the future of the child, although physically and financially able to do so; a petition, setting forth the facts in the case, may be filed with the Superior Court, Chancery Division, Family Part. A petition as provided in this section may be filed by any person or any association or agency, interested in such child, or by the Division of Youth and Family Services in the circumstances set forth in items (c) and (d) hereof.

328. Section 1 of P.L.1950, c.19 (C.30:8-15.1) is amended to read as follows:

C.30:8-15.1 Tenure for warden.

1. Any person now holding the office, position or employment of warden of a county penitentiary or jail in a county of the first class having more than 800,000 inhabitants, who has been appointed for a full term of three years and after serving such full term has been reappointed to such office, position or employment, shall, if the board of chosen freeholders of the county, by resolution, so determines, continue to hold such office, position or employment during good behavior and efficiency and shall not be removed therefrom, except for good cause shown, after a fair and impartial hearing before the board of chosen freeholders of the

county, upon written charges of the cause of complaint preferred against him, signed by the person making the same and filed in the office of the clerk of the board of chosen freeholders of the county, and copies whereof have been served upon him, at least 30 days before said hearing, at which hearing he shall be entitled to be represented by counsel, to produce witnesses and testify in his own behalf, and shall be entitled to, and the board of chosen freeholders shall be empowered to issue, writs of subpoena to compel the attendance of witnesses, and from the decision in any such hearing such person shall be entitled to appeal to the Superior Court, which court shall hear the cause de novo and may order such person reinstated in his said office, position or employment, if it shall decide that such order is proper and just under the circumstances.

329. Section 1 of P.L.1968, c.269 (C.30:8-24.1a) is amended to read as follows:

C.30:8-24.1a Compensation of jail keepers in second-class counties.

1. Notwithstanding the provisions of section 30:8-17.1 of the Revised Statutes or chapter 278 of the laws of 1947, or any other law, the compensation paid to jailkeepers employed in counties of the second class shall not be less than and may be more than the compensation paid to court attendants attending the Superior Court of such county.

330. Section 9 of P.L.1947, c.34 (C.30:9-12.9) is amended to read as follows:

C.30:9-12.9 Investigation of patient.

9. The board of managers shall designate an officer or employee of the institution who shall be charged with the duty, upon the admission of a patient, of investigating the patient's circumstances and his ability to pay. If upon such investigation it appears that the patient or legally responsible relatives are able to pay for his care and maintenance, an order shall be made by such officer or employee that payment shall be made to the custodian of funds, of a specified charge in proportion to the financial ability of the patient or such relative. Such designated officer or employee shall have the same power to collect the charge specified from the estate of the patient or his relatives as is possessed by an overseer of the poor or director of welfare in like circumstances, including, but not limited to the right to create a lien against the real estate of such patient or his relatives. If the inves-

tigation shall disclose that the patient or his relatives are unable to pay, the cost shall become a charge upon the county. Should there be a dispute as to ability to pay or doubt in the mind of such officer or employee, the Superior Court may hear the matter and make such order as is deemed to be proper.

331. Section 5 of P.L.1956, c.213 (C.30:9-12.20) is amended to read as follows:

C.30:9-12.20 Admission or commitment by order of court in criminal cases.

5. Admission to said institution or the use of the said facilities shall also be provided by the board of managers when ordered by a Superior Court judge or by a judge of a municipal court situated in the county where such judge shall have jurisdiction of the person to be admitted or provided with the use of said facilities by reason of the pendency before him of a criminal charge against such person and where said judge shall be satisfied that the person suffers from acute alcoholism. Any such order so made by a judge may provide for the commitment, of the person so charged, to the said institution as a part or the whole of a sentence imposed. In the event of any such commitment, the said board of managers shall detain the person committed for the term prescribed in accordance with the terms and conditions of such order. Unless otherwise provided by the State Department of Human Services or by the rules of court the said board of managers shall provide the necessary forms for use in connection with commitments to the said institution.

332. R.S.30:9-57 is amended to read as follows:

Commitment for failure to observe rules.

30:9-57. A person with communicable tuberculosis who fails to obey the rules or regulations promulgated in accordance with R.S.26:4-70 by the State Department of Health for the care of tubercular persons and for the prevention of the spread of tuberculosis, or who is an actual menace to the community or to members of his household, may be committed to a hospital or institution, designated by the State Commissioner of Health with the approval of the Commissioner of Human Services, for the care and custody of such person or persons, by the Superior Court, upon proof of service upon him of the rules and regulations and proof of violation thereafter, or upon proof by the health officer of the municipality in which the person resides, or

by the State Commissioner of Health or his authorized representative, that he is suffering from tuberculosis, and is an actual menace to the community, or to members of his household. Two days' notice of the time and place of hearing shall in all cases be served upon the person to be committed. Proof of such service shall be made at the hearing. The court may also make such order for the payment for care and treatment as may be proper. The superintendent or person in charge of said hospital or institution to which such person has been committed shall detain said person until the State Commissioner of Health shall be satisfied that the person has recovered to the extent that he will not be a menace to the community or to members of his household or that the person will so conduct himself that he will not constitute such a menace.

333. R.S.30:9-65 is amended to read as follows:

Executive officer; duties.

30:9-65. The superintendent shall be the chief executive officer of the hospital and subject to the rules and regulations and to the powers of the board of managers:

Shall have general supervision and control of the records, accounts and buildings of the hospital and its internal affairs, and maintain discipline and enforce all rules and regulations and make such further rules and regulations as he may deem necessary not inconsistent with law or the rules, regulations and directions of the board of managers;

Shall with the consent of the board of managers appoint such resident officers and such employees as he may think proper and necessary for the efficient performance of the business of the hospital, and prescribe their duties, and for cause stated in writing after opportunity to be heard, discharge or suspend any officer or employee, subject to formal investigation by the board of managers;

Shall cause proper accounts and records to be kept regularly from day to day in books and on records provided for that purpose and cause such accounts and records to be correctly made up for the annual report to the board of freeholders and presented to the board of managers;

Shall receive into the hospital under the general direction of the board of managers, in the order of application any person suffering from a communicable disease who has a legal settlement in the county or who has been an actual resident and inhabitant of the county for a

period of at least one year prior to his application for admission or who may be committed to the hospital by order of the Superior Court;

Shall cause to be kept proper accounts and records of the admission of each patient, his name, age, sex, color, marital condition, residence, occupation, and place of last employment;

Shall cause a careful examination to be made of the physical condition of all persons admitted and provide for the treatment of each patient according to his need; and shall cause a record to be kept of each patient when admitted and from time to time thereafter;

Shall temporarily discharge any patient who shall willfully or habitually violate the rules, or who is found not to have a communicable disease, or who is found to have recovered, or who for any other reason is no longer a suitable patient for hospital treatment, and shall make full report thereof at the next meeting of the board of managers, who shall make such final disposition of the case as they may think proper;

Shall collect and receive all moneys due to the hospital, keep an accurate account of the same, report the same at a monthly meeting of the board of managers and transmit the same to the county treasurer within ten days after such meeting;

Shall before entering upon the discharge of his duties, give a bond in such sum as the board of managers may determine to secure the faithful performance of his duties.

334. R.S.30:9-66 is amended to read as follows:

Applications for admission; legal settlement; maintenance; disciplining patients; discharge.

30:9-66. A resident of the county desiring treatment in the county hospital established under section 30:9-61 of this Title may apply for examination to a reputable physician. Such physician if he finds that the applicant is suffering from a communicable disease in any form, may apply to the superintendent for his admission.

All applications shall state whether in the judgment of the physician, the patient is able to pay in whole or in part for his care and treatment. Each application shall be filed and recorded in a book kept for that purpose in the order of its receipt.

The determination of legal settlement and liability for costs of care and maintenance of all patients shall be insofar as practicable in accordance with R.S.30:4-24 to R.S.30:4-105 and R.S.30:9-57.

No discrimination shall be made in the accommodation, care or treatment of any patient because of any payment of maintenance and no officer or employee shall accept from a patient any fee, payment or gratuity for services.

When in the judgment of the board of managers the further detention of a patient is for his benefit or the benefit of the community, he may be so detained. No patient shall be discharged without first obtaining permission of the superintendent or board of managers.

The superintendent, if he shall be a physician and if not then such member of the medical staff as shall be so designated by the board of managers, shall have the custody and control of the patients and within the regulations of the board of managers may restrain and discipline a patient in such manner as in his opinion the welfare of the patient requires. He shall discharge a patient whenever cured or whenever further detention would not benefit the patient or the community.

A patient to whom discharge is refused, or any person as his guardian ad litem, may apply to the Superior Court in a summary manner for such discharge.

335. R.S.30:9-68 is amended to read as follows:

Investigation of patients' ability to pay.

30:9-68. Whenever a patient is admitted from the county in which the hospital is situated the superintendent shall cause inquiry to be made as to his circumstances. If he finds that the patient or legally responsible relatives are able to pay for his care and maintenance in whole or in part he shall order payment to the treasurer of the hospital of a specified sum per week in proportion to the financial ability of the patient or such relative, but such sum shall not exceed the actual per capita cost of maintenance. The superintendent shall have the same power to collect such sum from the estate of the patient or relatives as is possessed by an overseer of the poor or a director of welfare in like circumstances. If the superintendent finds that the patient or his relatives are unable to pay, the cost shall become a charge upon the county. Should there be a dispute as to ability to pay or doubt in the mind of the superintendent the Superior Court may hear the matter in a summary manner and make such order as may be proper.

336. R.S.30:11-4 is amended to read as follows:

Violations; penalties; civil action; injunction.

30:11-4. (a) Any person, firm, partnership, corporation or association who shall operate or conduct a private mental hospital,

convalescent home, private nursing home or private hospital without first obtaining the license required by this chapter, or who shall operate such private nursing home, convalescent home or private hospital after revocation or suspension of license shall be liable to a penalty of \$25.00 for each day of operation in violation hereof for the first offense and for any subsequent offense shall be liable to a penalty of \$50.00 for each day of operation in violation hereof. Any person, firm, partnership, corporation or association who shall be found guilty of violating any rule or regulation adopted in accordance with this chapter as the same pertains to the care of patients and neglects to rectify the same within seven days after receiving notice from the department of such violation or who neglects to commence, within seven days, such repairs to his licensed establishment after receiving notice from the department that a hazardous or unsafe condition exists in or upon the structure in which the licensed premises is maintained shall be subject to a penalty of not less than \$10.00 or more than \$25.00 for each day that he is in violation of such rule or regulation. If, within 1 year after such violation such person, firm, partnership, corporation or association is found guilty of the same violation such penalties as hereinbefore set forth shall be doubled, and if there be a third violation within such time, such penalties shall be tripled. In addition thereto the board may, in its discretion, suspend the license for such time as it may deem proper.

Any person, firm, partnership, corporation or association who shall, except in cases of an emergency, maintain more patients in his premises than he is licensed so to do, shall be subject to a penalty in an amount equal to the charge collected from such patient or patients plus \$10.00 for each extra patient so maintained.

The State Board of Human Services, with the approval of the Attorney General, is hereby authorized and empowered to compromise and settle claims for money penalties in appropriate circumstances where it appears to the satisfaction of the board that payment of the full penalty will work severe hardship on any individual not having sufficient financial ability to pay the full penalty but in no case shall the penalty be compromised for a sum less than \$250.00 for the first offense and \$500.00 for the second and each subsequent offense; provided however, that any penalty of less than \$250.00 or \$500.00, as the case may be, may be compromised for a lesser sum.

The penalties authorized by this section shall be recovered in a civil action, brought in the name of the State of New Jersey in the

Superior Court, which court shall have jurisdiction of all actions to recover such penalties. No money penalties provided for herein shall be required to be paid until the appellate procedures provided for in the courts shall have been exhausted and then only if on appeal it is determined that the licensee was in violation of the provisions hereof or the rules and regulations of the Board of Human Services establishing minimum standards of operation. No penalties shall be assessed for the period of time following the filing of an appeal with the appropriate appellate court from a determination adverse to the licensee rendered by the department and until such appellate court or courts shall have rendered a final decision, and any penalties assessed prior thereto shall be recoverable only to the extent that the appellate court or courts affirms the decision of the department in the first instance. Money penalties, when recovered, shall be payable to the General State Fund.

The department may, in the manner provided by law, maintain an action in the name of the State of New Jersey for injunction against any person, firm, partnership, association or corporation continuing to conduct, manage or operate a private nursing home, convalescent home or private hospital without a license, or after suspension or revocation of license.

The practice and procedure in actions instituted under authority of this section shall conform to the practice and procedure in the court in which the action is instituted.

(b) Whenever a boarding home for sheltered care, boarding house or rest home or facility or institution of like character, not licensed hereunder, by public or private advertising or by other means holds out to the public that it is equipped to provide post-operative or convalescent care for persons mentally ill or mentally retarded or who are suffering or recovering from illness or injury, or who are chronically ill, or whenever there is reason to believe that any such facility or institution, not licensed hereunder, is violating any of the provisions of this chapter, then, and in such case, the department shall be permitted reasonable inspection of such premises for the purpose of ascertaining whether there is any violation of the provisions hereof.

Any person, firm, association, partnership or corporation, not licensed hereunder, but who holds out to the public by advertising or other means that the medical and nursing care contemplated by this chapter will be furnished to persons seeking admission as patients shall cease and desist from such practice and shall be liable to a penalty of \$100.00 for the first offense and \$200.00 for

each subsequent offense, such penalty to be recovered as provided for herein. If any such boarding home for sheltered care, boarding house, rest home or other facility or institution shall operate as a private mental hospital, convalescent home, private nursing home or private hospital in violation of the provisions of this act and any supplements thereto then the same shall be liable to the penalties which are prescribed and capable of being assessed against hospitals or nursing homes pursuant to subsection (a) of this section.

337. Section 2 of P.L.1953, c.170 (C.32:1-146.5) is amended to read as follows:

C.32:1-146.5 Violations, penalties, trial procedure.

2. Any violation within the State of the rule and regulation set forth in section one hereof shall be punishable, for a first offense, by a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than thirty days or by both such fine and imprisonment; for a second offense, by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisonment for not more than sixty days or by both such fine and imprisonment; for a third or any other subsequent offense, by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) or by imprisonment for not more than sixty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court or municipal court where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week.

338. Section 2 of P.L.1953, c.171 (C.32:1-146.7) is amended to read as follows:

C.32:1-146.7 Violations; penalties; procedure.

2. Any violation within the State of these rules and regulations set forth in section one hereof shall be punishable by a fine not exceeding ten dollars (\$10.00) or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court or municipi-

pal court where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week.

339. Section 2 of P.L.1964, c.64 (C.32:1-146.9) is amended to read as follows:

C.32:1-146.9 Violations; penalties.

2. Any violation in the State of the rules and regulations set forth in section 1 of this act shall be punishable by a fine of not more than \$50.00 or imprisonment for not more than 30 days or both. The Superior and municipal court shall have jurisdiction to enforce and collect in summary proceedings any such penalty if the violation occurs within the territorial jurisdiction of the court.

The rules of the Supreme Court shall govern the practice and procedure in such proceedings. The institution of a proceeding on Sunday or a holiday shall be no bar to the successful prosecution of the same and any process issued or served on Sunday or a holiday shall be as valid as if issued or served on any other day.

340. Section 16 of P.L.1950, c.192 (C.32:1-154.16) is amended to read as follows:

C.32:1-154.16 Violations; penalties; trial; procedure.

16. Except as provided in sections fourteen and fifteen hereof, any violation within the State of any of the rules and regulations set forth in sections two through eight, inclusive, hereof, including but not limited to those regarding the payment of tolls, shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding sixty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court, Law Division or municipal court where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any

process served on a Sunday or a holiday shall be as valid as if served on any other day of the week.

341. Section 4 of P.L.1951, c.239 (C.32:1-154.21) is amended to read as follows:

C.32:1-154.21 Violations; penalties; trial; proceedings.

4. Except as provided in sections two and three hereof, any violation within the State of any of the rules and regulations set forth in section one hereof, shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding sixty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the Superior Court or municipal court of the municipality in which the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week.

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

Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

or transportation of alcoholic beverages in violation of this chapter, or the aiding or abetting of another in any of the foregoing activities.

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

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

aa. "Limousine." A vehicle with a carrying capacity of not more than nine passengers, not including the driver, used in the business of carrying passengers for hire which is hired by charter or for a particular contract, or by the day or hour or other fixed period, or to transport passengers to a specified place, or which charges a fare or price agreed upon in advance between the operator and the passenger or which is furnished as an accommodation for a patron in connection with other business purposes. This shall not include taxicabs, hotel or airport shuttles and buses, or buses employed solely in transporting schoolchildren or teachers to and from school, or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

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

343. R.S.34:1-70 is amended to read as follows:

Recovery of penalties, procedure.

34:1-70. Except as otherwise in this Title specifically provided, a proceeding for the recovery of a penalty for the violation of any provision of this Title shall be by a civil action in the name of the

commissioner, to be instituted in the Superior Court or a municipal court of the municipality, where the offense was committed.

If a corporation violates the provisions of this Title and if, according to the practice of the court in which the action is brought, service of process cannot be made upon it in the county where the offense was committed, then such service may be made upon the manager, superintendent, foreman or person in charge of the business where such offense was committed. If an individual violating the provisions of this Title is the owner or operator of the business wherein the offense was committed, and if he does not reside in the county where such offense was committed, service of process against him may be made upon the manager, superintendent, foreman or person in charge of the business.

If an individual is committed under execution against his body, he shall not be discharged under the insolvent debtors law of the State, but shall only be discharged by the court issuing the execution, or by the Superior Court, when it is satisfied that further confinement will not result in the payment of the judgment and costs.

344.R.S.34:4-5 is amended to read as follows:

Action for penalty; jurisdiction.

34:4-5. All proceedings brought under the provisions of this chapter shall be by a civil action in the name of the commissioner or building inspector, to be instituted in the Superior Court or municipal court of the municipality, where the offense occurs.

345. Section 33 of P.L.1983, c.315 (C.34:5A-31) is amended to read as follows:

C.34:5A-31 Remedies.

33. a. Whenever, on the basis of information available to him, the Commissioner 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 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 Environmental Protection, or the Commissioner 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 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 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 Environmental Protection or the Commissioner 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 Environmental Protection or the Commissioner 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 Environmental Protection or the Commissioner 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 subsection 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 shall have jurisdiction to enforce "the penalty enforcement law."

346. Section 6 of P.L.1966, c.112, (C.34:6-119.6) is amended to read as follows:

C.34:6-119.6 Violation of act; penalty.

6. Any company, the officers and agents thereof, and any other person who shall violate any of the provisions of this act or of any order made by the Commissioner of Labor pursuant to this act, shall be liable to a penalty of \$50.00 for the first violation and \$100.00 for each subsequent violation. In the case of a continuing violation, the violation on each day shall be deemed to be a separate violation. Any such penalty shall be enforced and collected in accordance with "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). Any such penalty may be collected or enforced by summary proceedings or in a summary manner. Any action to collect or enforce any such penalty shall be brought in the name of the Commissioner of Labor in the Superior Court. All penalties recovered under this act shall be paid into the treasury of this State.

347. R.S.34:6-136 is amended to read as follows:

Recovery of penalties; disposition.

34:6-136. Any penalty for a violation of this article shall be recovered in a civil action brought in the name of the commissioner in the Superior Court or municipal court of the municipality, where the offense is committed.

A penalty recovered shall be transmitted by the clerk of the court to the commissioner and by him paid into the treasury of this State.

348. Section 16 of P.L.1941, c.308 (C.34:6-136.16) is amended to read as follows:

C.34:6-136.16 Enforcement.

16. Enforcement, administration, oath, affidavits, subpoenas, witnesses. (a) The commissioner shall enforce and administer the provisions of this act and the commissioner is directed to make all inspections and investigations necessary for proper enforcement and administration thereof.

(b) In the administration of this act the commissioner shall have the power to administer oaths, take affidavits and the depositions of witnesses and issue subpoenas for and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records, testimony and other evidence of whatever description. In the case of failure of any person to comply with any order of the commissioner or subpoena, lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be

the duty of the Superior Court, or the judge thereof, upon application by the commissioner to compel obedience by proceedings for contempt, as in the case of disobedience of a subpoena issued for such court or a refusal to testify therein.

(c) Notwithstanding the provisions of any other general, local or special law, all fees and other moneys derived from the operation of this act shall be remitted to the State Treasurer and by him deposited in the General State Fund and the cost of administration of this act shall be included in the annual appropriation law.

349. Section 17 of P.L.1983, c.516 (C.34:6A-41) is amended to read as follows:

C.34:6A-41 Violations; penalties; enforcement.

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 this 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 or a municipal court, 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 accor-

dance 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.

350. R.S.34:7-7 is amended to read as follows:

Jurisdiction.

34:7-7. The Superior Court and municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation of any provision of this article. The proceedings shall be summary and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) and may be brought in the municipality where the offense was committed, or where the offender may be summoned or arrested, or where he resides.

351. R.S.34:7-9 is amended to read as follows:

Service of process.

34:7-9. Any process under the provisions of this article shall be served by the commissioner or a member of the engineers' and firemen's license bureau or by any officer authorized to serve process in the Superior Court, Law Division, Special Civil Part, or municipal courts.

352. Section 4 of P.L.1971, c.193 (C.34:9A-40) is amended to read as follows:

C.34:9A-40 Violations; penalties; collection; defenses.

4. Any farm operator who violates any of the provisions of this act or the rules and regulations promulgated hereunder shall be subject to a penalty of not less than \$50.00 nor more than \$500.00 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 or a municipal court, which shall have jurisdiction to enforce said 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.

It shall be a complete defense to any action for a penalty pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp; provided, that proof of such fact shall not alter any duty to correct or terminate said violation as ordered by the commissioner.

353. Section 9 of P.L.1965, c.173 (C.34:11-4.9) is amended to read as follows:

C.34:11-4.9 Enforcement.

9. a. The commissioner shall enforce and administer the provisions of this act and the commissioner or his authorized representatives are empowered to hold hearings and otherwise to investigate charges of violations of this act and to institute actions for penalties hereunder.

b. The commissioner or his authorized representatives are empowered to enter and inspect such places, question such employees and investigate such facts, conditions or matters as they may deem appropriate to determine whether any person has violated any provision of this act or any rule or regulation issued hereunder or which may aid in the enforcement of the provisions of this act.

c. The commissioner or his authorized representatives shall have power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony, and to take depositions and affidavits in any proceeding before said commissioner.

d. In case of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, it shall be the duty of the Superior Court, on application by the commissioner, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

354. R.S.34:11-63 is amended to read as follows:

Appeals, procedure.

34:11-63. From any judgment which may be obtained in the wage collection division, except such as shall be given by confession, either party may, upon filing a notice of appeal with the wage collection division within twenty days after judgment shall be given, appeal to the Superior Court. The appellant shall give a bond in every case, except where the judgment appealed from is partially in his favor and no set-off against his demand has been allowed by the division, or where the court otherwise orders. The bond shall be secured by one sufficient surety, either a freeholder in the county or a surety company authorized to do business in New Jersey, and shall be in double the amount of such judgment or of any off-set allowed by the division, conditioned that the appellant shall prosecute his appeal in the Superior Court, stand to and abide the judgment of the court, and pay such costs as shall be taxed against him if the judgment be affirmed. The wage collection division shall then prepare a transcript of the record to be filed in the Superior Court.

355. R.S.34:11-66 is amended to read as follows:

Jury trial, procedure.

34:11-66. Nothing in this article shall prevent the claimant from instituting an action for his claim in any court of competent jurisdiction or be construed to deny or limit the right of the plaintiff or defendant to a trial by jury. Where either party demands a trial by jury, he shall pay, at least two days before the return date or the adjourned date of hearing of his cause, the statutory jury fee to the wage collection division and thereupon the wage collection division of the department shall file the entire record, in the cause, in the Superior Court, for trial by jury of the issues presented by the claimant and defendant. The jury fee so received shall be paid to the court wherein the cause is to be tried by the judge and jury. The judgment shall be docketed in the Superior Court as are other judgments of the wage collection division.

356. R.S.34:11-67 is amended to read as follows:

Fees and costs.

34:11-67. No filing fee shall be charged by the wage collection division, for accepting a wage claim, and no advance fees shall be charged by constables making service of process on wage claims of the wage collection division, nor shall any fee be charged by

any county clerk for filing of any award or determination of the wage collection division or sheriff for execution and levy but the collection of any wage claim either by execution or otherwise shall carry taxed costs of service, filing, recording fees, executions, and similar items, in accordance with the schedule of costs as prescribed for the Superior Court, Law Division, Special Civil Part. All moneys received by way of taxed costs shall be retained by the wage collection division and at the end of each calendar year shall be paid into the State treasury for the use of the State.

357. R.S.34:15-6 is amended to read as follows:

Liens for legal services.

34:15-6. No claim for legal services or disbursements pertaining to any demand or suit under this chapter shall be an enforceable lien against the amount paid as compensation, unless approved in writing by the court in which the claim is sued upon, or in case of settlement without trial, by the Superior Court, unless notice in writing be given the defendant of such claim, in which event the same shall be a lien against the amount paid as compensation, subject to determination of the amount and approval hereinbefore provided.

358. R.S.34:15-25 is amended to read as follows:

Commutation of award.

34:15-25. Compensation may be commuted by the bureau at its present value, when discounted at five per centum (5%) simple interest, upon application of either party, with due notice to the other, if it appears that such commutation will be for the best interest of the employees or the dependents of the deceased employee, or that it will avoid undue expense or undue hardship to either party, or that the employee or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the greater part of his business or assets.

Unless so approved, no compensation payments shall be commuted.

In determining whether commutation will be for the best interest of the employee or the dependents of the deceased employee, or that it will avoid undue expense or undue hardship to either party, the bureau and the Superior Court will regard the intention of this chapter that compensation payments are in lieu of wages, and are to be received by the injured employee or his dependents in the same manner in which wages are ordinarily paid. Commu-

tation is to be allowed only when it clearly appears that an unusual circumstance warrants a departure from the normal manner of payment and not to enable the injured employee or dependents of a deceased employee to satisfy a debt, or to make payment to physicians, lawyers or others.

359. R.S.34:15-26 is amended to read as follows:

Counsel fees.

34:15-26. When any proceedings have been taken under the provisions of article two of this chapter, the bureau or the Superior Court shall, as a part of the determination and order, either for payment or for commutation of payment, settle and determine the amount of compensation to be paid by the injured employee or his dependents, on behalf of whom such proceedings are instituted, to his legal advisers, and it shall be unlawful for any lawyer, or other person acting in that behalf, to ask for, contract for or receive any larger sum than the amount so fixed. In the order determining weekly payments where no commutation is made, the bureau or the court shall also determine the amount to be paid per week from the compensation payment on account of the legal fee thus awarded, and it shall be unlawful for the legal adviser, or other person acting in that behalf, to ask for, contract for or receive a larger sum per week than the allowance thus determined.

360. R.S.34:15-45 is amended to read as follows:

Guardian's powers.

34:15-45. In any case where a person under the age of twenty-one years shall be entitled to receive any compensation or distributive share under this chapter any duly authorized guardian of the person and property of such person appointed by the surrogate or by the Superior Court, shall be authorized and empowered to act for such person to the same extent as a duly appointed guardian ad litem appointed by any court of this State and shall have the right and authority to compromise and make composition in behalf of such person of any disputed claim for compensation arising under this chapter; provided the terms of such compromise or composition shall be approved by an order of the Division of Workers' Compensation upon presentation of the facts and terms thereof to the division, before the same shall become effective.

361. R.S.34:15-46 is amended to read as follows:

Parent to act as guardian.

34:15-46. In case a person under the age of twenty-one years shall be entitled to receive a sum or sums amounting, in the aggregate, to not more than two hundred fifty dollars (\$250.00) as compensation for injuries, or as a distributive share under this chapter, the father, mother or natural guardian upon whom said person shall be dependent for support shall be authorized and empowered to receive and receipt for such moneys to the same extent as a guardian of the person and property of such person duly appointed by the surrogate of the county in which such person resides or by the Superior Court. The release or discharge of such father, mother or natural guardian shall be a full and complete discharge of all claims or demands of the said person thereunder.

362. R.S.34:15-58 is amended to read as follows:

Judgment and settlement filed, receipts, bar of judgment.

34:15-58. A statement containing the date and place of hearing, together with the decision, award, determination and rule for judgment or the order approving settlement, shall be legibly written in ink or typewritten and filed in the office of the secretary at Trenton, by the officer hearing such cause, which statement, together with the petition and answer, shall constitute the record of the cause. A copy of the decision, award, determination and rule for judgment or order approving settlement, if same results in an award to the petitioner, shall, as soon as practicable after the same is rendered, be filed in the office of the clerk of the county in which the hearing was held, and when so filed, shall have the same effect and may be collected and docketed in the same manner as judgments rendered in causes tried in the Superior Court. The employer may once every month file receipt of payment, verified by affidavit that the receipts are accurate and true, with the clerk of the court, which shall be entered in satisfaction of the award, determination and rule for judgment or order approving settlement, to the extent of such payments. The official conducting the hearing shall, within fifteen days after the rendering of the award, determination and rule for judgment or order approving settlement, mail to each of the parties a statement of the substance of the award, determination and rule for judgment or order approving settlement, or a copy of such award, determination and rule for judgment or order approving settlement. The decision, award, determination and rule for judgment or order approving settlement

shall be final and conclusive between the parties and shall bar any subsequent action or proceeding, unless reopened by the Division of Workers' Compensation or appealed as hereinafter provided.

363. R.S.34:15-60 is amended to read as follows:

Subpoenas, fees, contempt.

34:15-60. The director, each deputy director and each of the referees shall have the same power as the Superior Court to issue subpoenas to compel the attendance of witnesses and the production of books and papers. The fees for the attendance of witnesses shall be such as are now provided for the attendance of witnesses in other civil cases, and shall be paid by the party arranging for the attendance of such witnesses. The subpoenas shall be authenticated by the seal of the department, and either party to any such proceeding may, without charge, secure subpoenas from the director, a deputy director or any referee. Misconduct on the part of any person attending a hearing, or the failure of any witness, when duly subpoenaed to attend or give testimony shall be punishable by the director, each deputy director and each of the referees, in the same manner as such failure is punishable by the Superior Court in a case therein pending.

364. Section 2 of P.L.1956, c.209 (C.34:15-69.2) is amended to read as follows:

C.34:15-69.2 Order; filing; effect.

2. Such order shall by its terms discharge the employer from any and all claims, demands or liabilities whatsoever for or on account of such an award or the claim or claims upon which it is based and shall substitute such third party as the respondent, obligor and debtor of and on account of such award, the claim or claims upon which it is based and any and all claims, demands or liabilities whatsoever arising therefrom. The employee or the dependents of the employee or the personal representatives thereof shall have no further recourse whatsoever against such employer, but shall have and retain all their rights against such third party as though he were the employer against whom the award was originally entered. Such order shall be filed in the office of the secretary in Trenton in accordance with section 34:15-58 of this Title, and shall constitute part of the record in the cause, and a copy of such order shall be filed in the office of the clerk of the county in which the original award was filed,

shall be indexed and cross-indexed by said clerk to said original award and, when so filed and indexed and cross-indexed to such award, shall have the same effect as to such third party and may be collected and docketed in the same manner as judgments rendered in causes tried in the Superior Court.

365. R.S.34:15-84 is amended to read as follows:

Enforcement of provisions.

34:15-84. Every such contract shall further provide, or be construed to provide, that any injured employee or his dependents may enforce the provisions thereof to his or their benefit, either by agreement with the employer and the insurance carrier, in event that compensation be settled by agreement, or by joining the insurance carrier with the employer in his petition filed for the purpose of enforcing his claim for compensation, or by subsequent application to the Superior Court, upon the failure of the employer, for any reason, to make adequate and continuous compensation payments.

366. R.S.37:1-4 is amended to read as follows:

Issuance of license, emergencies, validity.

37:1-4. Except as provided in sections 37:1-5 and 37:1-6 of this Title, the license shall not be issued by a licensing officer sooner than 72 hours after the application therefor has been made; provided, however, that the Superior Court may, by order, waive all or any part of said 72-hour period in cases of emergency, upon satisfactory proof being shown to it. Said order shall be filed with the licensing officer and attached to the application for the license.

A license, when properly issued as provided in this article, shall be good and valid only for 30 days after the date of the issuance thereof.

367. R.S.37:1-6 is amended to read as follows:

Consent for minors; requirements.

37:1-6. A marriage license shall not be issued to a minor under the age of 18 years, unless the parents or guardian of the minor, if there be any, first certify under their hands and seals, in the presence of two reputable witnesses, their consent thereto, which consent shall be delivered to the licensing officer issuing the license. If the parents, or either of them, or guardian of any such minor shall be of unsound mind, the consent of such parent or guardian to the proposed marriage shall not be required.

When a minor is under the age of 16 years, the consent required by this section must be approved in writing by any judge of the Superior Court, Chancery Division, Family Part. Said approval shall be filed with the licensing officer.

The licensing officer shall transmit to the State Bureau of Vital Statistics all such consents, orders, and approvals so received by him in the same manner and subject to the same penalty as in the case of certificates of marriage and marriage licenses.

If any such male applicant for a license to marry shall be a minor under the age of 18 years, and shall have been arrested on the charge of sexual intercourse with a single, widowed or divorced female of good repute for chastity who has thereby become pregnant, a license to marry the female may be immediately issued by any licensing officer to the minor upon his application therefor, without the consent or approval required by this section.

368. Section 20 of P.L.1979, c.317 (C.38:23C-20) is amended to read as follows:

C.38:23C-20 Reemployment of persons after completion of military service.

20. a. In the case of any person who, in order to perform military service, has left or leaves a position, other than a temporary position, in the employ of any employer, and who:

(1) Receives a certificate of completion of military service duly executed by an officer of the applicable force of the Armed Forces of the United States or by an officer of the applicable force of the organized militia;

(2) Is still qualified to perform the duties of such position; and

(3) Makes application for reemployment within 90 days after he is relieved from such service, if such position was in the employ of a private employer, such employer shall restore such person to such position, or to a position of like seniority, status and pay, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

b. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who, in order to participate in assemblies or annual training or in order to attend service schools conducted by the Armed Forces of the United States for a period or periods up to and including three months, temporarily leaves or has left his position, other than a temporary position, in the employ of any employer and who, being qualified to perform the duties of such

position, makes application for reemployment within 10 days after completion of such temporary period of service; provided that no such person shall be entitled to the said benefits, rights and privileges for such attendance at any service school or schools exceeding a total of three months during any four-year period.

c. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who is or becomes a member of the organized militia or of a reserve component of the Armed Forces of the United States and who, because of such membership is discharged by his employer or whose employment is suspended by his employer because of such membership and who, being qualified to perform the duties of such position, makes application for reemployment or termination of the period of his suspension within 10 days after such discharge or suspension.

d. Any person who is restored to a position in accordance with the provision of this section shall be considered as having been on furlough or leave of absence during his period of military service, temporary service under paragraph b. hereof, or of discharge or suspension under paragraph c. hereof, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person entered the military service or commenced such temporary service or was so discharged or suspended and shall not be discharged from such position without cause, within one year after such restoration.

e. In case any private employer fails or refuses to comply with the provisions of this section the Superior Court shall have the power, upon the filing of a complaint, by the person entitled to the benefits of such provisions, to specifically require such employer to comply with such provisions, and may, as an incident thereto, compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case, and shall advance it on the calendar. Any person claiming to be entitled to the benefits of the provisions of this section may appear and be represented by counsel, or, upon application to the Attorney General of the State, may request that the Attorney General appear and act on his behalf. If the Attorney General is reasonably satisfied that the person so applying is entitled to such benefits, he shall appear and act as attorney for such person in the amicable adjustment of

the claim, or in the filing of any complaint and the prosecution thereof. In the hearing and determination of such applications under this section no fees or court costs shall be assessed against a person so applying for such benefits.

369. N.J.S.38A:11-8 is amended to read as follows:

Action before Superior Court.

38A:11-8. Any officer of the militia charged with the care and responsibility of public property may bring an action in the Superior Court against any person who detains any arm, article of clothing or equipment, or any military supplies, being the property of the United States or of this State. The court may proceed in the action in a summary manner or otherwise, with a jury if a jury be demanded by the defendant. The court may require the defendant to deliver up such property to the plaintiff.

370. Section 6 of P.L.1975, c.328 (C.39:4-14.9) is amended to read as follows:

C.39:4-14.9 Enforcement of act; jurisdiction of proceedings to collect fine.

6. The enforcement of this act shall be vested in the Director of the Division of Consumer Affairs of the Department of Law and Public Safety, the inspectors appointed under his authority, and the police or peace officers of, or inspectors duly appointed for that purpose by, any municipality or county or by the State. Jurisdiction of proceedings to collect the penalties prescribed by this act is vested in the Superior Court and the municipal court in any municipality where the defendant may be apprehended or where he may reside. Process shall be either a summons or warrant and shall be prosecuted in a summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

371. R.S.39:5-2 is amended to read as follows:

Judicial powers of director.

39:5-2. The director shall have the same powers as are conferred by this subtitle on a magistrate.

In considering violations of this subtitle, the director may hold court in any municipality in the State, upon five days' notice given to the defendants summoned to appear before him and shall conduct the proceedings in compliance with, insofar as they are applicable, the rules of the Supreme Court governing municipal courts. The fees and costs shall be the same as in a municipal court. Appeals from a

court held by the director shall, in the manner provided for an appeal from a municipal court, be taken to the Superior Court.

372. R.S.39:5-11 is amended to read as follows:

Appeal to Superior Court; procedure.

39:5-11. If the defendant appeals to the Superior Court, the appeal shall operate as a consent to an amendment of the complaint in that court so as to substitute a new or different charge growing out of the act or acts complained of or the circumstances surrounding such acts; and any provision of law limiting the time within which any such charge may be brought or proceedings taken in the prosecution thereof shall not operate and shall be deemed to have been waived by the appeal.

373. R.S.39:7-2 is amended to read as follows:

Director as agent for service of process; effect of service.

39:7-2. (a) Any person, not being a resident of this State, who shall drive a motor vehicle in this State, whether or not such person shall be licensed to do so in accordance with the laws of this State or of any other state or otherwise; and

(b) Any person or persons, not being a resident or residents of this State or any corporation or association, not incorporated under the laws of this State and not duly authorized to transact business in this State, who by his, their or its agent or servant, shall cause to be driven in this State, any motor vehicle which is not registered in this State to be driven upon the public highways thereof, pursuant to the laws thereof, whether or not the driver thereof shall be licensed to drive a motor vehicle upon the public highways of this State; shall, by the operation of such motor vehicle, or by causing the same to be operated, within this State, make and constitute the Director of the Division of Motor Vehicles in the Department of Law and Public Safety, his or their agent for the acceptance of process in any civil action or proceeding, issuing out of the Superior Court, or other court of civil jurisdiction, against any such person or persons, corporation or association arising out of or by reason of any accident or collision occurring within this State in which any such motor vehicle, so driven or caused to be driven within this State is involved.

The agreement that the Director of the Division of Motor Vehicles in the Department of Law and Public Safety shall be constituted the agent, of a nonresident operator or owner of a motor

vehicle, which is involved in any accident in this State, for the acceptance of process in any such action or proceeding, shall be irrevocable and binding upon the executor or administrator of such operator or owner, and service of process shall be made upon the executor or administrator of any such operator or owner dying prior to the commencement of such action or proceeding in the same manner and on the same notice as herein provided for service of process upon such operator or owner, and any such action or proceeding, duly commenced by service upon such an operator or owner under the provisions of this chapter, who shall die thereafter during the pendency of such action or proceeding, shall be continued against his executor or administrator by the court in which the same is pending, upon such application and notice as the court shall prescribe. The operating or causing to be operated of any such motor vehicle within this State shall be the signification of the agreement of such nonresident person operating the same, or of such person or persons or corporation or association for whom such motor vehicle is operated, of his, their or its agreement that any such process against him, or them, or it, or against his or their executors or administrators, which is so served shall be of the same legal force and validity as if served upon him or them personally or upon it in accordance with law within this State.

374. Section 1 of P.L.1954, c.61 (C.39:7-2.1) is amended to read as follows:

C.39:7-2.1 Director as agent for service of process of residents who become nonresidents; effect of service.

1. Any resident of this State who shall drive a motor vehicle, or cause a motor vehicle to be driven in this State, whether or not such motor vehicle is registered under the laws of this State and whether or not such person or the driver of such motor vehicle is licensed to drive a motor vehicle upon the highways of this State, shall by the operation of such motor vehicle, or by causing the same to be operated, within this State, make and constitute the Director of the Division of Motor Vehicles in the Department of Law and Public Safety his agent for the acceptance of process, in any civil action or proceeding, issuing out of the Superior Court or other court of civil jurisdiction of this State against him by reason of an accident or collision in this State in which such motor vehicle, while so driven or caused to be driven, shall be involved if, and in case, such person shall cease to be a resident of this State and service of such process

upon him within this State cannot be made by reason of his nonresidence. The operating or causing to be operated of any such motor vehicle within this State shall be his signification of the agreement of such person operating the same or the person for whom such motor vehicle is operated of his agreement that any such process against him which is so served after he becomes a nonresident of this State shall be of the same legal force and validity as if served upon him personally in accordance with law within this State. The agreement that the Director of the Division of Motor Vehicles in the Department of Law and Public Safety shall be constituted the agent, of a resident operator or owner of a motor vehicle who becomes a nonresident, which is involved in any accident in this State, for the acceptance of process in any such action or proceeding, shall be irrevocable and binding upon the executor or administrator of such operator or owner, whether appointed within or without the State, and service of process shall be made upon the said executor or administrator of any such operator or owner dying prior to the commencement of such action or proceeding in the same manner and on the same notice as herein provided for service of process upon such operator or owner, and any such action or proceeding, duly commenced by service upon such an operator or owner under the provisions of this act, who shall die thereafter during the pendency of such action or proceeding, shall be continued against his said executor or administrator by the court in which the same is pending, upon such application and notice as the court shall prescribe.

375. R.S.39:7-3 is amended to read as follows:

Methods of service; notice to defendant; fees and expenses.

39:7-3. Service of process upon the director shall be made by leaving the original and a copy of the summons and two copies of the complaint, with a fee of \$10.00, in the hands of the director, or someone designated by him in his office, or, in an action commenced in any county other than Mercer county, then the sheriff or other authorized person may serve the director by mailing such papers to him by registered mail, with the said fee. Such service shall be sufficient service upon the nonresident chauffeur, operator or owner, if

- a. Notice of such service and a copy of the summons with a copy of the complaint are forthwith sent by registered mail to the defendant by the director, or someone designated by him in his office; and
- b. Defendant's return receipt and the affidavit of the director, or such person in his office acting for him, of the compliance here-

with, including a statement of the date of such mailing and of the receipt of the return card, are appended to the original of the summons and the other copy of the complaint and filed in the office of the clerk of the court wherein the action may be pending; or

c. Notice of such service with a copy thereof and the original and a copy of the summons and two copies of the complaint are forthwith sent by registered mail by the director, or the person in his office acting for him, to the sheriff or other process server in the jurisdiction in which the defendant resides, with directions that such sheriff or process server, or someone acting for such sheriff or process server, shall serve the same upon the defendant in the same manner that service is legally effected in that jurisdiction, and the return of such sheriff or process server, or the person acting for such sheriff or process server in such jurisdiction, shall be appended to or endorsed upon the original summons and a copy of the complaint and returned to the director, and thereafter filed in the office of the clerk of the court wherein the action may be pending in this State; or

d. Notice of such service and a copy of the summons and complaint may be served on the defendant personally by any official or private individual, wherever such service may be made, and, upon service being so made, an affidavit shall be made by the person effecting such service, showing the person served and the time and place of such service, which affidavit shall be appended to the original summons and one copy of the complaint and returned to the director, and be thereafter filed in the office of the clerk of the court wherein the action may be pending in this State; or

e. Notice of such service and a copy of the summons and complaint may be served on the defendant in any other manner that the court in which the cause is pending shall deem sufficient and expedient.

If, by direction of plaintiff, notice of service is given as provided by paragraph c. of this section, plaintiff shall, in addition to the fee of \$10.00 required by the first paragraph of this section, deposit with the director sufficient money to effectuate the same.

Upon giving notice to the defendant of the service of process as required by this chapter, where service of process is made upon the director, he shall file with the clerk of the court his certificate of the notice given.

If notice of service is given as provided by paragraph d. of this section, plaintiff shall pay the cost thereof.

376. Section 2 of P.L.1971, c.311 (C.39:10-9.2) is amended to read as follows:

C.39:10-9.2 Penalty.

2. Any person who transfers or attempts to transfer a motor vehicle in violation of this act shall be subject to a fine of \$150.00 for a first offense and \$250.00 for each subsequent offense. Such offense shall be prosecuted in the Superior Court or in the municipal court.

377. R.S.40:20-10 is amended to read as follows:

Superior Court judge to resolve doubt on right to vote.

40:20-10. If any voter is not entitled or doubts his right to vote under sections 40:20-2 to 40:20-19 of this Title he may apply to a judge of the Superior Court for a certificate entitling him to vote.

The judge shall hear the matter in a summary manner and if he finds that the applicant is a legal voter of the county, he shall issue a certificate under his hand, addressed to the board of registry and election of the election district in which the voter resides, directing it to permit the applicant to vote hereunder.

The certificate shall be returned by the board with its other returns.

378. R.S.40:20-75 is amended to read as follows:

Annual meetings.

40:20-75. The stated annual meeting of the boards of chosen freeholders shall be held at the place of holding the Superior Court in the respective counties at 12 noon on either the first or second day of January or on some other hour on any day during the first week in January, annually, as the board, by resolution passed before said meeting, may determine. If the date so fixed shall fall upon a Sunday the meeting shall be held the following day, unless said resolution authorizes the meeting to be held on a Sunday.

379. R.S.40:24-9 is amended to read as follows:

Court defined; jurisdiction.

40:24-9. The word "court" as used in this chapter means and includes the Superior Court, municipal court and any judge having the powers of a committing magistrate; and jurisdiction for the purpose mentioned herein is hereby conferred upon said courts and judges respectively.

380. R.S.40:33-14 is amended to read as follows:

Law library; maintenance; purchase of books; annual expenditures limited.

40:33-14. The board of chosen freeholders may maintain at the courthouse a law library for the use of the courts held in the county, and for that purpose shall purchase such reports and statutes of the United States, the State of New Jersey and other states and countries and such textbooks as may be designated by the assignment judge of the Superior Court. The amount so expended shall not exceed the sum fixed annually by the board of chosen freeholders.

381. R.S.40:37-153 is amended to read as follows:

Enforcement of rules and regulations; jurisdiction.

40:37-153. The rules and regulations provided for in section 40:37-152 of this Title shall be enforced in the same manner as municipal ordinances, in a municipal court of any municipality in the county. On the conviction of the offender, in default of the payment of the penalty imposed, the court may commit him to the county jail for a term not exceeding ten days.

382. R.S.40:37-156 is amended to read as follows:

Park police; removal; trial; proceedings.

40:37-156. No member or officer of the police force or police department shall be removed except after trial and conviction by the park commission, or a member or members thereof, of the violation of proper rules and regulations for the appointment, control and management of members of such force or department and for the securing of proper discipline and efficiency among the members thereof.

The park commission, or the member or members thereof before whom such trial is to be had, shall have and are hereby given the power to issue writs of subpoena under the seal of the park commission and signed by the secretary or by one of the members of the park commission, to compel the attendance of witnesses in this State and the production of papers in support of the charges. Upon the request of the person to be tried, like writs of subpoena shall be issued in his behalf. The fees for witnesses for attendance and travel shall be the same as allowed witnesses before the Superior Court.

Every person, who neglects or refuses to obey the command of such writ and who shall have been paid the proper witness fees, shall be liable to a penalty of fifty dollars (\$50.00), to be sued for in the name of the park commission in any court of competent

jurisdiction and the penalty, when collected, shall be paid into the maintenance fund of the park commission.

383. R.S.40:37-156a is amended to read as follows:

Review of conviction.

40:37-156a. Any member or officer of any such police force or police department not operating under the provisions of subtitle three of Title 11 of the Revised Statutes who has been convicted of any violation of any of the rules or regulations of such department by the official or board empowered to try members of such police department may obtain a review of such conviction in the Superior Court. Such review shall be obtained by giving written notice of an application for review to the officer or board convicting the member of such department within ten days after notice of such conviction is given to the member convicted. The officer or board making such conviction shall send to the court a copy of the record of such conviction, including the rule or regulation violated and the charge or charges upon which the applicant was tried. Such court shall retry such charge or charges de novo and either affirm or reverse such conviction. The court may order or adjudge that the applicant be returned to any office or position from which he may have been removed under such conviction and that he be restored to all things he may have lost thereby, and may make such other order or judgment as it shall deem proper under the circumstances.

384. R.S.40:43-21 is amended to read as follows:

Commissioners appointed where no agreement reached.

40:43-21. If the joint committee shall be unable to agree upon a division of the assets or debts of said municipalities, or in case any of the municipalities desires to have such allotment and division made by commissioners, the governing body of any of the municipalities may apply to a judge of the Superior Court for the appointment of three disinterested persons as commissioners, who shall make the above appraisal and apportionment in the manner hereinbefore provided; and their determination in writing, signed by any two of them, shall be binding and conclusive upon each of the municipalities. The commissioners shall receive such compensation for their services as the judge shall by order determine, to be paid by the municipalities equally.

385. Section 1 of P.L.1978, c.113 (C.40:48-1.1) is amended to read as follows:

C.40:48-1.1 Removal or demolition of hazardous buildings; recovery of costs.

1. Whenever any municipality, pursuant to law or pursuant to any ordinance, code, rule or regulation adopted pursuant to law, undertakes the removal or demolition of any building or structure which is dangerous to human life or the public welfare or which constitutes a fire hazard, the governing body of the municipality, in addition to assessing the cost of such removal or demolition as a municipal lien against the premises, may enforce the payment of such assessment, together with interest, as a debt of the owner of the premises and may authorize the institution of an action at law for the collection thereof. The Superior Court shall have jurisdiction of any such action.

386. Section 36 of P.L.1970, c.326 (C.40:48C-36) is amended to read as follows:

C.40:48C-36 Issuance of certificate of indebtedness.

36. As an additional remedy, the chief fiscal officer of the municipality adopting any ordinance hereunder may issue a certificate to the clerk of the Superior Court that any person is indebted under such ordinance in an amount as shall be stated in the certificate. Thereupon, the clerk to whom such certificate shall have been issued shall immediately enter upon his record of documented judgments the name of such person, the address of the place of business where such tax liability was incurred, the amount of the debt so certified and the date of making such entry. The making of the entries shall have the same force and effect as the entry of a documented judgment in the office of such clerk, and said fiscal officer shall have all the remedies and may take all the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the taxpayer's right of appeal.

387. R.S.40:63-65 is amended to read as follows:

Negligence of adjoining municipality; appointment of committee to investigate.

40:63-65. If any land, or any public street, road or highway in any municipality shall be injured by a flow of water occasioned by the neglect or refusal of the proper officers of an adjoining municipality to open and keep open therein, cleanse, or keep in repair, gutters, drains or ditches, properly to dispose of such flow of water, the owner of the land injured, or the governing body of the municipality wherein the

street, road or highway so injured is situated, may present to the Superior Court an application setting forth the facts. The court, thereupon, shall appoint three freeholders of the county, not residents of either municipality, who, having first taken an oath faithfully and impartially to act in the premises, shall proceed to inquire into the alleged injury on their own view, or by the testimony of witnesses.

388. R.S.40:63-67 is amended to read as follows:

Review of committee's report.

40:63-67. Any person or persons or municipality may, within sixty days after the filing of said report, have the decision of said freeholders reviewed by the Superior Court. Such review may be taken in the proceeding wherein said freeholders were appointed or in an action, and the court shall finally determine the matter. Reasonable costs and expenses, including proper fees for said freeholders, against the municipality originally in default in the premises may be allowed.

389. R.S.40:68-15 is amended to read as follows:

Persons aggrieved may petition court; procedure.

40:68-15. Any person aggrieved by any decision of the governing body, either granting or refusing in whole or in part application for a license as provided in section 40:68-12 of this Title, may, within thirty days thereafter, obtain a review thereof by instituting an action in the Superior Court, joining as parties defendant all persons legally interested therein. The court shall proceed in the action in a summary manner or otherwise. The judgment of the court thereon shall be final and conclusive.

390. R.S.40:75-39 is amended to read as follows:

Adding names to registry list; no primary election.

40:75-39. A judge of the Superior Court shall sit in a public place in the municipality where the recall election is to be held on at least one day in the week prior to the day of the election. He may by order grant transfers and place upon the registry books the names of legal voters whose names were not upon the registry books of the last general election, but who would be entitled to be registered if the recall election was in fact a general election. There shall be no other registration day nor shall there be any primary election for the nomination of candidates, before the recall election.

391. R.S.40:151-53 is amended to read as follows:

Commissioners appointed where no agreement reached.

40:151-53. If the joint committee herein provided for should be unable to agree upon a division of the assets or debts of said fire districts, or if either of said fire districts desires to have such allotment and division made by commissioners appointed by the Superior Court, then the commissioners of either of said fire districts may apply to the Superior Court for the appointment of three disinterested persons as commissioners, who shall make the above appraisal and apportionment in the manner hereinbefore provided. Their determination in writing, signed by any two of them, shall be binding and conclusive upon each of said districts. Such commissioners shall receive for their services such compensation as the court may think proper, to be paid for by said fire districts equally.

392. N.J.S.40A:5-37 is amended to read as follows:

Condition of bond broken.

40A:5-37. Upon application to the Superior Court by a citizen and taxpayer thereof, alleging that the condition of the bond of any officer, member of committee or employee of the local unit has been broken, the court shall make such investigation regarding the truth of the allegations as it shall deem proper, and in its discretion may order an action to be brought upon the bond in the name of the local unit, or otherwise, for the benefit of the local unit or any officer, board or department thereof.

393. N.J.S.40A:9-50 is amended to read as follows:

Court orders pertaining to disinterment of dead bodies and duties of officials therewith.

40A:9-50. The Superior Court, upon the application of a proper party, may order the disinterment of any dead body, where an investigation of the cause of death is authorized, under the supervision and direction of the county medical examiner and authorize said official to remove the body to a public morgue for the purpose of examination or autopsy. The court shall direct the giving of or dispensing with notice.

394. N.J.S.40A:9-63 is amended to read as follows:

County clerk; bond.

40A:9-63. Every person who shall be elected clerk of a county, before entering into his office shall give his bond to the State of

New Jersey and the county as their interest may appear, with sufficient corporate surety, to be approved by the assignment judge of the Superior Court in the sum of \$15,000.00 or in such greater sum not exceeding \$50,000.00 as the judge may order.

The bond shall be conditioned that he will well and truly execute the office of clerk of the county of (insert name of county) and faithfully, impartially and justly perform and execute all of the duties pertaining to such office, with respect to the State of New Jersey, the said county and all persons concerned.

The bond approved by the judge together with the oath of office, shall be filed in the office of the Secretary of State of New Jersey and duplicates with the clerk of the board of chosen freeholders of the county.

395. N.J.S.40A:9-68 is amended to read as follows:

Duties of county clerk for the courts.

40A:9-68. The county clerk shall perform for the Superior Court the duties pertaining thereto in their respective counties as prescribed by law and applicable to the Supreme Court rules for the administration of the courts.

The county clerk, either in person or by deputy, shall attend the sessions of the Superior Court held in the county and keep the minutes of the proceedings of said courts. The clerk and his deputy shall be under the supervision of the assignment judge of the Superior Court for the county. The minutes of said courts shall be open to the public at all proper and reasonable hours.

396. N.J.S.40A:9-72 is amended to read as follows:

Transfer of records and moneys of county clerk to successor in office.

40A:9-72. The county clerk, at the expiration of his term of office or other termination thereof, or his executor or administrator, if said county clerk shall die during said term, shall, in the presence of a Superior Court judge, transfer the official records, documents, books, papers or writings and all moneys deposited or held by or for him as such official to his successor in office. Upon said transfer the successor in office shall sign and acknowledge a receipt therefor. The Superior Court judge shall certify to such transfer and the certificate together with the receipt shall forthwith be filed in the office of the Secretary of State under the direction of the judge.

397. N.J.S.40A:9-74 is amended to read as follows:

Personnel in office of county clerk.

40A:9-74. Every county clerk may appoint a deputy clerk to hold office during the pleasure of the county clerk and upon occurrence of a vacancy in the office of a county clerk by expiration of term, death, resignation or otherwise, the deputy clerk shall have the same powers and perform all the duties of the office of county clerk until the vacancy is filled as provided by law.

During the absence or disability of the county clerk the deputy clerk shall have the powers of the county clerk and perform the duties of the office.

The county clerk may appoint from among the employees in his office special deputy clerks to serve during his pleasure and prescribe their duties. No additional compensation shall be paid for such designation.

During the absence or disability of both the county clerk and deputy clerk, the senior special deputy clerk shall have the powers of the county clerk and perform the duties of the office.

The county clerk shall select and employ necessary clerks and other employees. Every deputy clerk and special deputy clerk shall take and subscribe before a judge of the Superior Court an oath of office in like form and character as that required to be taken by the county clerk. Appointments and oaths of office shall be filed in the office of the county clerk.

398. N.J.S.40A:9-84 is amended to read as follows:

Register of deeds and mortgages; bond.

40A:9-84. Every person who shall be elected register of deeds and mortgages of a county, before entering into his office shall give his bond to the State of New Jersey and the county as their interest may appear, with sufficient corporate surety, to be approved by the assignment judge of the Superior Court in the sum of \$15,000, or in such greater sum not exceeding \$50,000, as the judge may order.

The bond shall be conditioned that he will well and truly execute the office of register of deeds and mortgages of the county of (insert name of county) and faithfully, impartially and justly perform and execute all of the duties pertaining to such office, with respect to the State of New Jersey, the said county and all persons concerned.

The bond approved by the judge together with the oath of office shall be filed in the office of the Secretary of State of New Jersey and duplicates with the clerk of the board of chosen freeholders of the county.

399. N.J.S.40A:9-91 is amended to read as follows:

Personnel in the office of register of deeds and mortgages.

40A:9-91. Every register of deeds and mortgages may appoint a deputy register of deeds and mortgages to hold office during the pleasure of the said register and upon the occurrence of a vacancy in the office of the register by expiration of term, death, resignation or otherwise, the deputy register shall have the same powers and perform all the duties of the office of the register of deeds and mortgages until the vacancy is filled as provided by law.

During the absence or disability of the register of deeds and mortgages the deputy register shall have the powers of the register and perform the duties of the office. At the register's request and under his supervision, the deputy register shall have full power to perform the duties of the office of register of deeds and mortgages including the signing of the name of the register of deeds and mortgages upon any or all documents left for recording or filing in said office to the same extent as the register of deeds and mortgages himself might sign. The said register may appoint from among the employees in his office special deputy registers to serve during his pleasure and prescribe their duties. During the absence or disability of both the register and the deputy register the senior special deputy register shall have the powers of the register and perform the duties of the office. The register shall select and employ the necessary clerks and other personnel. Every deputy register shall take and subscribe before a judge of the Superior Court an oath of office in like form and character as that required to be taken by the register. The oath of office of the deputy shall be filed in the office of the Secretary of State.

400. N.J.S.40A:9-95 is amended to read as follows:

Sheriff's bond.

40A:9-95. Every sheriff shall enter into bond to the State of New Jersey and the county wherein he is sheriff, with sufficient corporate surety to be approved by the assignment judge of the Superior Court in the sum of \$15,000.00, or in such greater sum not exceeding \$50,000.00, as the said judge may order.

The bond shall be conditioned that he will well and truly execute the office of sheriff of the county of (insert name of county) and faithfully, impartially and justly perform all of the duties pertaining to such office, with respect to the State of New Jersey, the said county and all persons concerned.

The bond approved by the judge together with the oath of office, shall be filed in the office of the Secretary of State of New

Jersey and duplicates with the clerk of the board of chosen freeholders of the county.

401. N.J.S.40A:9-97 is amended to read as follows:

Certificate for commission.

40A:9-97. The taking of the oath of office and the execution of the required bond by a newly elected sheriff shall be certified by a Superior Court judge to the Governor in connection with the issuance of the sheriff's commission.

402. N.J.S.40A:9-111 is amended to read as follows:

Bonds taken by sheriffs.

40A:9-111. All bonds required by law to be taken by the sheriff shall be recorded in the office of the county clerk in a book to be provided for that purpose, and upon being so recorded, shall have the force and effect of a recognizance. A copy of the bond duly certified by the county clerk shall be evidential in any court and have the same effect as if the original bond were produced and proven. Where the condition of any such bond shall have been fully complied with, the sheriff shall execute a warrant to cancel the bond and the record thereof. Any such bond may be cancelled and discharged by such warrant or by the Superior Court and a notation of said discharge shall be entered in the said book.

403. N.J.S.40A:9-115 is amended to read as follows:

Undersheriffs; appointments; oaths.

40A:9-115. The appointment of an undersheriff shall be by writing under the hand and seal of the sheriff. Every undersheriff, before he assumes his office, shall take and subscribe before a judge of the Superior Court, an oath that he will well and faithfully, impartially and justly execute the office of undersheriff, according to the best of his ability and judgment. His appointment, with the certificate of his oath indorsed thereon and attested by the judge, shall be filed in the office of the county clerk. Nothing in this section shall prevent the sheriff at his pleasure from removing an undersheriff.

404. N.J.S.40A:9-126 is amended to read as follows:

Actions on constable's bond.

40A:9-126. Actions on a constable's bond may be prosecuted in the Superior Court in like manner as in the case of actions on a

sheriff's bond. Applications incidental to such actions may be made to the Superior Court in similar manner as in the case of applications incidental to actions and proceedings on official bonds as provided in Title 2A of the New Jersey Statutes. In any such action or proceeding any party in interest shall be entitled on demand to a jury trial. In any such action or proceeding a municipality shall not be liable for costs unless otherwise provided by the rules of the court.

If any person shall sustain loss by the neglect or default of any constable in the discharge of his official duties such person shall have an action in his own right upon the constable's bond.

405. N.J.S.40A:9-127 is amended to read as follows:

Actions for money payable to or by constables; jurisdiction of courts.

40A:9-127. The Superior Court shall have jurisdiction over actions or proceedings involving money payable to or by a constable and may make appropriate orders and judgments, in a summary manner, in the case of absconding, insolvent, incapacitated or deceased constables.

406. R.S.41:2-13 is amended to read as follows:

Judge to act in absence of county clerk.

41:2-13. If the county clerk be absent, removed or dead, then any judge of the Superior Court may administer the oaths of office and allegiance to the persons, or any of them, required to take the same in and by section 41:2-11 of this Title. The judge shall report the name of the person to whom said oaths were administered, and the date thereof, to the said clerk or his successor, who shall enroll the same and transmit a copy of such enrollment to the Secretary of State, as is directed by section 41:2-12 of this Title.

407. R.S.41:2-14 is amended to read as follows:

Oaths of office of notaries, etc.

41:2-14. In case of the absence, removal, death, or any other disability of the county clerk of any county, any judge of the Superior Court may administer the oaths of office and allegiance to commissioners of deeds, notaries public or other persons required to take the same before such clerk, and any official's oath so administered shall be as effectual in law as if taken in the manner prescribed by law.

408. R.S.41:2-15 is amended to read as follows:

Oath of office and of allegiance of county clerk.

41:2-15. Any judge of the Superior Court or any commissioned officer of the United States Army, Navy or Marine Corps may administer the oaths of office and allegiance to the person who shall be elected or appointed county clerk; and the clerk shall thereupon enroll his own name and the time of his being sworn into office, and transmit a copy of such enrollment to the Secretary of State to be by him filed in his office; provided, that when said oaths of office and allegiance have been administered by a commissioned officer there shall be a recital that he is such commissioned officer including a recital of his rank and official designation as such and that the person taking such oath is in the military or naval service of the United States.

409. R.S.42:3-11 is amended to read as follows:

Interests deemed personal, transfer.

42:3-11. Interests in a limited partnership association shall be personal estate, and may be transferred under such rules and regulations as the association may prescribe. No transferee of any interest, or the representative of any decedent member or of any insolvent member shall be entitled thereafter to any participation in the subsequent business of the association, unless he be elected thereto by a vote of the majority of the members in number and value of their interests. Any change of ownership in the property of the association, whether by sale, death, bankruptcy or otherwise, which shall not be followed by election to the association, shall entitle the owner only to his interest in the association at a price and upon terms to be mutually agreed upon, and in default of such agreement the price and terms shall be fixed by an appraiser appointed by the Superior Court subject to the approval of the court.

410. Section 4 of P.L.1963, c.141 (C.42:3-13.4) is amended to read as follows:

C.42:3-13.4 Dissatisfied member entitled to his interests; procedure.

4. If any member of any such limited partnership association shall be dissatisfied with or object to any such renewal or continuance, then the member shall be entitled only to his interest in the association at a price and upon terms to be mutually agreed upon, and in default of such agreement, the price and terms shall be

fixed by an appraiser appointed by the Superior Court, subject to the approval of the said court, and upon the payment of the interest as aforesaid, the said member shall transfer his interest to said association, to be disposed of by the managers, or be retained by them for the benefit of the remaining members.

411. Section 3 of P.L.1973, c.140 (C.43:6A-3) is amended to read as follows:

C.43:6A-3 Definitions.

3. As used in this act:

a. "Accumulated deductions" means the sum of all 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 saving fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this amendatory and supplementary act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity computed on the basis of such mortality tables recommended by the actuary as the State House Commission adopts with regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Child" means a deceased member's or retirant's unmarried child who is either (a) under the age of 18; (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; or (c) under the age of 21 and is attending school full time.

f. "Compensation" means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State 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 schedule.

g. "Final salary" means the annual salary received by the member at the time of his retirement or death.

h. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

i. "Medical board" means the board of physicians provided for in section 29 of this act.

j. "Member" means the Chief Justice and associate justices of the Supreme Court, judges of the Superior Court and tax court of the State of New Jersey required to be enrolled in the retirement system established by this act.

For purposes of this act, the person holding the office of standing master by appointment pursuant to N.J.S.2A:1-7 shall have the same privileges and obligations under this act as a judge of a Superior Court.

k. "Parent" means 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.

l. "Pension" means payment for life derived from contributions by the State.

m. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the State House Commission with regular interest.

n. "Regular interest" means 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.

o. "Retirant" means any former member receiving a pension or retirement allowance as provided by this act.

p. "Retirement allowance" means the pension plus the annuity.

q. "Retirement system" herein refers to the "Judicial Retirement System of New Jersey," which is the corporate name of the arrangement for the payment of pensions, retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name, all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Service" means public service rendered for which credit is allowed on the basis of contributions made by the State.

s. "Several courts" means the Supreme, Superior, and tax courts.

t. "Widow" means the woman to whom a member or a retirant was married at least four years before the date of his death and to whom he continued to be married until the date of his death. The eligibility of such a widow to receive a survivor's benefit will be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death. In the event of accidental death the four-year qualification shall be waived. When used in this act, the term "widow" shall mean and include "widower" as may be necessary and appropriate to the particular situation.

u. "Widower" means the man to whom a member or a retirant was married at least four years before the date of her death and to whom she continued to be married until the date of her death. The eligibility of such a widower to receive a survivor's benefit will be considered terminated by the marriage of the widower subsequent to the member's or retirant's death. In the event of accidental death the four-year qualification shall be waived.

412. Section 5 of P.L.1973, c.140 (C.43:6A-5) is amended to read as follows:

C.43:6A-5 Membership.

5. The membership of the retirement system shall include:

- a. The Chief Justice and the associate justices of the Supreme Court.
- b. Any judge of the Superior Court.
- c. (Deleted by amendment, P.L.1991, c.91).
- d. (Deleted by amendment, P.L.1991, c.91).
- e. (Deleted by amendment, P.L.1991, c.91).

Membership in the retirement system is a condition for judicial service for the members of the Judiciary herein listed.

Membership in the retirement system shall cease upon retirement, death or resignation.

413. R.S.43:10-46 is amended to read as follows:

"County probation officers" defined.

43:10-46. The words "county probation officers" as used in this article shall mean and include the chief probation officer; and persons permanently appointed to act as probation officers, which appointments are made by the assignment judge of the Superior Court, as provided for in N.J.S.2A:168-5.

414. R.S.43:10-48 is amended to read as follows:

Retirement for service and age.

43:10-48. The county probation officers in the counties of this State now or hereafter having within their territorial limits a population of over eighty-three thousand, who have served as such county probation officers for a continuous period of twenty years and have reached the age of sixty years shall, upon application in writing to the assignment judge of the Superior Court of their respective counties, be retired upon one-half pay.

415. R.S.43:10-50 is amended to read as follows:

Retirement when physically or mentally unfit.

43:10-50. Any county probation officer who shall have served as such for a continuous period of twenty years, whether he has reached the age of sixty years or not, who shall be found to be physically or mentally unfit for further service shall, upon application in writing to the assignment judge of the Superior Court of his county, be retired upon one-half pay.

416. R.S.43:10-51 is amended to read as follows:

Determination of permanent incapacity.

43:10-51. Permanent incapacity for further duty of any county probation officer shall, for all purposes of this article, be established and determined by a board of three physicians, who shall be designated for that purpose by the assignment judge of the Superior Court in such county. The three physicians so designated shall examine such county probation officer and if they, or a majority of them, find that such county probation officer is permanently incapacitated for further duty, they or a majority of them, shall make and sign a certificate to that effect and file the same with the assignment judge of the Superior Court, the chief probation officer and the county treasurer, and thereupon the applicant shall be retired upon one-half pay.

417. Section 2 of P.L.1938, c.330 (C.43:10-94) is amended to read as follows:

C.43:10-94 Retirement for service and age.

2. In second-class counties of this State, now or hereafter having court interpreters, any court interpreter who shall have served

as such for a continuous period of thirty years, and shall have reached the age of sixty years, shall, upon application in writing to the assignment judge of the Superior Court in their respective counties, be retired upon one-half pay.

418. Section 4 of P.L.1938, c.330 (C.43:10-96) is amended to read as follows:

C.43:10-96 Retirement when physically unfit.

4. Any court interpreter who shall have served as such for a continuous period of thirty years, whether he has reached the age of sixty years or not, who shall be found as hereinafter provided, to be physically unfit for further services, shall, upon application in writing to the assignment judge of the Superior Court in his county, be retired upon one-half pay.

419. Section 6 of P.L.1938, c.330 (C.43:10-98) is amended to read as follows:

C.43:10-98 Determination of physical unfitness.

6. Physical unfitness or incapacity for further duty of any court interpreter shall, for all purposes of this act, be established and determined by a board of three physicians who shall be designated for that purpose by the assignment judge of the Superior Court in such county. The three physicians so designated shall examine the court interpreter applying for retirement upon one-half pay because of physical unfitness or incapacity for further duty, and if they, or a majority of them, find him physically unfit or incapacitated for further duty, they, or a majority of them, shall make and sign a certificate to that effect and file the same with the county treasurer, and thereupon the applicant shall be retired upon one-half pay.

420. Section 9 of P.L.1954, c.218 (C.43:13-22.11) is amended to read as follows:

C.43:13-22.11 Power of subpoena, witness fees, administering oaths, contempt.

9. The commission shall have the power to issue subpoenas to compel witnesses to attend and testify before it upon any matter concerning the retirement system and allow fees not in excess of \$3.00 to any such witness for such attendance upon any one day; provided, however, that any city employee called as a witness shall not be paid any witness fee but shall not suffer the loss of any salary. The

chairman and other members of said commission are empowered to administer oaths to such witnesses. Contempt of the commission may be punished by summary proceedings before a judge of the Superior Court. All retirements shall be made and pensions allowed by the commission in accordance with the provisions of this act and the rules and regulations of the commission.

421. Section 50 of P.L.1971, c.213 (C.43:15A-134) is amended to read as follows:

C.43:15A-134 Appointment of retirement system member to Judiciary; options.

50. a. As stipulated in subsections b., c. and d. of this section, eligibility of a member of the Judiciary for the retirement benefits of the retirement system shall not be terminated on account of his being appointed to the Supreme or Superior Courts of New Jersey until such judge shall become eligible for the benefits of the pension plan established for such members of the Judiciary, but in no event shall any judge, his dependent or his beneficiary be eligible to receive both the benefits of the retirement system established by chapter 84 of the laws of 1954 and those provided by the pension plan established for such members of the Judiciary.

b. Any such judge shall, upon his request, receive a refund of his accumulated deductions as of the date of his appointment to the Supreme or Superior Courts. Such refund of contributions shall serve as a waiver of all benefits payable to the judge, his dependent or his beneficiary by the retirement system.

c. If any such judge shall be eligible for retirement benefits as of the date of his appointment to the Supreme or Superior Courts, he may elect to receive the annuity portion of his retirement allowance while serving as such judge, provided, however, that if any such judge shall subsequently elect to receive the benefits of the pension plan established for members of the Supreme or Superior Courts, all rights to retirement and death benefits of the retirement system shall thereby be waived, except as hereinafter provided by subsection d. of this section.

d. If any such judge elects to receive the benefits of the pension plan established for members of the Supreme or Superior Courts after having received retirement benefits from the retirement system, such judge shall be entitled to receive the value of his accumulated deductions reduced by the total amount of the benefits received from the system.

If any such judge dies in service after his appointment to the Supreme, or Superior Courts and after having received retirement benefits from the retirement system, his beneficiary may elect to receive the survivor benefits available upon the death of such retired member or the death benefits provided by the pension plan established for members of the Supreme, or Superior Courts. In the event of the election of the latter, such election shall constitute a waiver of all rights to survivor benefits payable by the Public Employees' Retirement System and his beneficiary shall be entitled to receive the value of the judge's accumulated deductions reduced by the amount of the benefits received by the judge from the system.

422. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to read as follows:

C.43:21-55 Penalties.

31. Penalties. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense, to obtain or increase any benefit under the State plan or an approved private plan, or for a disability during unemployment, either for himself or for any other person, shall be liable to a fine of twenty dollars (\$20.00) to be paid to the Division of Employment Security. Upon refusal to pay such fine, the same shall be recovered in a civil action by the division in the name of the State of New Jersey. If in any case liability for the payment of a fine as aforesaid shall be determined, any person who shall have received any benefits hereunder by reason of the making of such false statements or representations or failure to disclose a material fact, shall pay to the division, the employer or insurer, as the case may be, an amount equal to the sum of any benefits hereunder received from the division, employer or insurer by reason thereof, and such person shall not be entitled to any benefits under this act for any disability occurring prior to the time he shall have discharged his liability hereunder to pay such fine, and to reimburse the division, employer or insurer.

(b) Any employer or any officer or agent of any employer or any other person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to prevent or reduce the benefits to any person entitled thereto, or to avoid becoming or remaining subject hereto or to

avoid or reduce any contribution or other payment required from an employer under this act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be liable to a fine of twenty dollars (\$20.00) to be paid to the division. Upon refusal to pay such fine, the same shall be recovered in a civil action by the division in the name of the State of New Jersey.

(c) Any person who shall willfully violate any provision hereof or any rule or regulation made hereunder, for which a fine is neither prescribed herein nor provided by any other applicable statute, shall be liable to a fine of fifty dollars (\$50.00) to be paid to the division. Upon the refusal to pay such fine, the same shall be recovered in a civil action by the division in the name of the State of New Jersey.

(d) Any person, employing unit, employer or entity violating any of the provisions of the above subsections with intent to defraud the Division of Employment Security of the State of New Jersey shall in addition to the penalties hereinbefore described, be liable for each offense upon conviction before the Superior Court or any municipal court to a fine not to exceed two hundred fifty dollars (\$250.00) or by imprisonment for a term not to exceed ninety days, or both, at the discretion of the court. The fine upon conviction shall be payable to the State disability benefits fund of the Division of Employment Security. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

423. R.S.44:1-80 is amended to read as follows:

Removal of director of welfare from duties in adjoining municipality.

44:1-80. A director of welfare acting in contiguous or adjoining municipalities, as provided in section 44:1-79 of this Title, may be removed from his responsibilities and duties in the municipality other than that of his appointment, for cause or by reason of his inability to properly perform his authorized and required functions due to the size or population of the territory in an action by the governing body of either municipality against the other municipality, in the Superior Court. The court may proceed therein in a summary manner.

The court by its judgment may terminate the contract and relieve the director of such duties and responsibilities and the additional salary theretofore agreed to be paid to him. Upon the

removal of the director, the municipality may appoint one to act therein for the full term as provided in this chapter.

424. R.S.44:1-86 is amended to read as follows:

Determination by director of relief to be granted.

44:1-86. The director of welfare in the municipality shall determine who are to be relieved by him, subject to an application by any person, on at least five days' notice, to the Superior Court, Chancery Division, Family Part, by complaint, in writing, applying for a summary review and determination by the court of the action of the director as to the extent and amount of relief, if any, to be rendered.

425. R.S.44:1-95 is amended to read as follows:

Expenses recoverable, procedure.

44:1-95. If it is ascertained at any time that a person who has been assisted by or has received support from a municipality or county has real or personal property over and above that necessary for his maintenance in whole or in part, if such poor person is maintained by the municipality or county at home, or over and above that sufficient for his family, or if any such person shall die, leaving real or personal property, an action may be maintained in the Superior Court by the director of welfare of the municipality who has furnished or provided such assistance or support, or any part thereof, against such person or his estate, to recover the sums of money which have been expended by the municipality or county in the assistance and support of the person during the period for which support was furnished. If a person shall die having received relief or maintenance as a poor person and having insurance upon his life, the proceeds of the insurance after payment of the expense of the last illness and the funeral expenses of the person, if the terms of the policy so permit, shall be first applied to the reimbursement of the county, municipality or district for the cost of the support and maintenance of the person. But no action shall lie, nor shall any appropriation of insurance be made against an estate when it shall be shown to the satisfaction of the court that the proceeds thereof, or the estate, are needed to prevent the widow or minor children of the poor person from becoming dependent upon the public.

426. R.S.44:1-121 is amended to read as follows:

Contest; how made.

44:1-121. The contest shall be made by notice to the officer giving the original notice, of a time and place when the contesting

director of welfare will apply to the Superior Court in the county in which the poor person may be and from which he is to be removed, and the court shall hear and determine the controversy. The hearing shall be not less than ten nor more than thirty days from the time of giving the original notice.

427. R.S.44:1-122 is amended to read as follows:

Failure to resist removal, review.

44:1-122. On failure to resist the removal the receiving director of welfare may not decline to receive the poor person but shall receive him and provide such relief as is lawful; except that for good cause shown for the failure to contest the removal the receiving director may, within thirty days after the receipt of the poor person in the municipality, apply to the Superior Court in the county from whence the person was removed to review the proceeding and make such revised order and disposition for the care and relief of the poor person and his removal, if lawful, as may be proper and necessary.

428. R.S.44:1-123 is amended to read as follows:

Liability of municipality, recovery.

44:1-123. If a director of welfare of a municipality shall neglect to receive or remove a poor person as provided in this chapter after the determination of the matter by the Superior Court having jurisdiction, the municipality where the neglect occurs shall be liable for the expense of the support and relief of the poor person. The expense shall be recoverable from time to time with costs of suit by the director of welfare incurring the cost of relief and support in a civil action in any court of competent jurisdiction in the name of the municipality against the municipality liable therefor.

429. R.S.44:1-129 is amended to read as follows:

Petition for relief.

44:1-129. The director of welfare of a municipality shall by petition to the Superior Court, setting forth the necessary facts, apply for the person's relief in that manner, whereupon the court shall fix a date for hearing the petition within not less than ten days from the filing of the petition.

430. R.S.44:1-141 is amended to read as follows:

Compelling support by relatives.

44:1-141. If any of the relatives mentioned in section 44:1-140 of this Title shall fail to perform the order or directions of the director of welfare of a municipality with regard to the support of the poor person, or if the poor person is supported at public expense, the Superior Court in the county wherein the poor person has a legal settlement, or the municipal court of the municipality wherein the person has a legal settlement, upon the complaint of the director of welfare or two residents of the municipality or county may summon the persons chargeable before it as in other actions, summon witnesses, and adjudge that the able relatives pay such sum for each poor person as the circumstances may require in the discretion of the court, and as will maintain him or them and relieve the public of that burden. However, where it shall appear that the person or persons sought to be held were the child or children of the poor person and were abandoned and deserted by the poor person who failed to support and maintain them during minority, the aforementioned Superior Court or municipal court may revoke the order of the director of welfare or reduce the amount of said order against such child or children, in proportion to the actual support and maintenance rendered by said poor person to the child or children sought to be held. Any child now under an order to support a poor person may apply to the court which issued said order for the revocation or reduction of said order in accordance with the terms of this proviso. Violation of any such order shall constitute a contempt of court.

The county through its governing body may also bring appropriate action in any court of competent jurisdiction to recover any money due for the relief, support and maintenance of a poor person against a person chargeable by law therefor.

431. R.S.44:1-143 is amended to read as follows:

Compelling support by husband or wife.

44:1-143. When a husband or father shall desert his wife, child or children or a woman shall desert her child or children and leave them or any of them as public charges, the director of welfare of a municipality may apply to the Superior Court, Chancery Division, Family Part; and the court may order and adjudge suitable support and maintenance to be paid and provided by the husband or wife, or either of them, to be made out of his property, and for such time as the nature of the case and circumstances of the parties render suitable and proper in the opinion of the court,

and may compel the defendant to give reasonable security for such maintenance and support, and from time to time make such further orders and judgments touching the matter as shall be just, and enforce such orders and judgments.

432. R.S.44:1-144 is amended to read as follows:

Sequestration of estate.

44:1-144. The Superior Court, Chancery Division, Family Part may:

- a. Issue process for the immediate sequestration of the personal estate and the rents and profits of the real estate of the person charged as provided in section 44:1-143 of this Title;
- b. Appoint the director of welfare of a municipality or another person receiver thereof; and
- c. Cause the personal estate and the rents and profits of the real estate, or so much thereof as is necessary, to be applied toward the maintenance and support as to the court shall from time to time seem reasonable and just.

433. R.S.44:1-146 is amended to read as follows:

Recovery of expenses of support.

44:1-146. The director of welfare of a municipality may bring a civil action from time to time in the Superior Court, Chancery Division, Family Part for the amount necessary to pay any expense incurred or unpaid. Upon recovery of judgment and the sale of any real or personal property of the defendant, the proceeds therefrom shall as in other civil actions be paid to the director and be applied by him to the support and maintenance of the deserted persons, or to the reimbursement of the municipality, county or board to the extent of the expenditures made by it for that support and maintenance.

The sum realized on execution sale and not immediately used shall be kept by the director in a separate account in a national or State bank in the place where the deserted wife or children, or any of them, are placed or maintained. Surplus proceeds not expended for that purpose shall be the property of and payable to the defendant.

434. R.S.44:4-40 is amended to read as follows:

Determination by director of relief to be granted.

44:4-40. The county director of welfare, under the direction, and subject to the approval of the county welfare board shall determine who are to be relieved by him, subject to an application

by any person on at least five days' notice, to the Superior Court, Chancery Division, Family Part, by complaint, in writing, applying for a summary review and determination by the court of the action of the director of welfare as to the extent and amount of relief, if any, to be given or rendered.

435. R.S.44:4-72 is amended to read as follows:

Removal of poor person to place of legal settlement; procedure.

44:4-72. When the removal of a poor person from the place of his domicile or where he is found to the place of his settlement in the same county is lawful and necessary, it shall be made by means of a written notice signed by the director of welfare of the county to the governing body having jurisdiction in the place to which such person is to be removed, that on a day certain, not less than ten nor more than twelve days after the date and mailing of the notice, an order will be made by the director of welfare that the poor person be removed to the place of his settlement, stating the reasons therefor, the place of his settlement or the place where he became poor prior to his becoming an inhabitant of the municipality from whence he is to be removed.

On the day named in the notice, the order for removal shall be made by the director of welfare of the county, and thereafter the poor person shall forthwith be removed by the director of welfare to the place indicated in the notice upon the making of an order that the poor person has no settlement in the municipality in which he is a resident or is found, and has a settlement or became poor in the other municipality in the same county prior to his becoming a resident and inhabitant or being found in the municipality from whence he is to be removed, unless within ten days after the mailing of the written notice the governing body to whom it shall have been mailed shall proceed to contest the allegation of the settlement of the poor person or of the right to remove him to the municipality in which it has jurisdiction.

The contest shall be made by notice to the director of welfare giving the original notice, fixing a time and place when the governing body shall apply to the Superior Court, when and where the court shall hear and determine the controversy, which time and place shall not be less than ten or more than thirty days from the time of giving the original notice thereof.

On failure to resist the removal by the receiving municipality the receiving municipality may not contest receiving the poor per-

son, and he shall be removed by the county welfare director at the cost and expense of the municipality from which he is removed, out of the appropriation made by the municipality for the relief of the temporary or outdoor poor of the municipality, but for good cause shown for the failure to contest the removal the receiving municipality may, within thirty days after the receipt of the poor person in its municipality, apply to the Superior Court to review the proceeding and to make such revised order and disposition for the care and relief of the poor person and his removal, if lawful, as may be proper and necessary.

436. R.S.44:4-76 is amended to read as follows:

Contest; how made.

44:4-76. Such contest shall be made by notice to the officer giving the original notice, fixing a time and place when the contesting county welfare board, through the director of welfare, or the overseer or county adjuster as the case may be will apply to the Superior Court when and where the court shall hear and determine the controversy, which time and place shall not be less than ten or more than thirty days from the time of giving the original notice.

437. R.S.44:4-78 is amended to read as follows:

Liability of county or municipality failing to receive or remove poor person.

44:4-78. If any director of welfare under direction of the county welfare board or any overseer or county adjuster as the case may be shall neglect to receive or remove a poor person, as provided in this chapter, after the determination of the matter by any court having jurisdiction, the county or municipality as the case may be where the neglect occurs shall be liable for the expense of the support and relief of the poor person.

The expense shall be recoverable from time to time, with costs, by the county welfare board or overseer incurring the cost of the relief and support, in an action at law in any court of competent jurisdiction in the name of the county or municipality as the case may be against the county or municipality liable therefor.

The director of welfare or the overseer or county adjuster whose duty it was to receive or remove the poor person, shall be served with notice of the action in the manner in which any summons is required to be served.

438. Section 1 of P.L.1946, c.175 (C.44:4-91.2) is amended to read as follows:

C.44:4-91.2 Filing certificate of costs of care furnished; legal claim, enforcement.

1. At any time the county welfare board may execute and file with the county clerk or register of deeds and mortgages, as the case may be, a certificate, in the form prescribed by section 44:7-15 of the Revised Statutes, showing the amount of the cost of the care and maintenance of any person at the county welfare-house or for the permanent outdoor support furnished to any person. When so filed each certificate shall be a legal claim against both the person and his estate and shall have the same force and effect as a judgment of the Superior Court, with priority over all unsecured claims except funeral expenses not to exceed one hundred fifty dollars (\$150.00). No levy shall be made upon the real estate while it is occupied by the widow or widower, as the case may be. If the proceeds of sale of any personalty or real estate, as herein provided, exceeds the total amount paid for care and maintenance under this chapter, such excess shall be returned to such person, or in the event of his death, such excess shall be considered as the property of the deceased for proper administration proceedings. All funds reclaimed under these provisions shall be returned to the county.

439. R.S.44:4-102 is amended to read as follows:

Compelling support by relatives.

44:4-102. If any of the relatives mentioned in section 44:4-101 of this Title shall fail to perform the order or directions of the county director of welfare with regard to the support of the poor person, or if the poor person is supported at public expense, the Superior Court, upon the complaint of the director of welfare or two residents of the county may summon the persons chargeable as in other actions and summon witnesses, and may order and adjudge the able relatives to pay such sum as the circumstances may require in the discretion of the court for each poor person, as will maintain and relieve him or them, and as will relieve the public of the burden of such care and maintenance. However, where it shall appear that the person or persons sought to be held were the child or children of the poor person and were abandoned and deserted by the poor person who failed to support and maintain them during minority, the Superior Court may revoke the order of the director of welfare or reduce the amount of said order against such child or children, in proportion to the actual support

and maintenance rendered by said poor person to the child or children sought to be held. Any child now under an order to support a poor person may apply to the Superior Court which issued said order for the revocation or reduction of said order in accordance with the terms of this proviso. Violations of any such order of the Superior Court shall constitute a contempt of court.

The county through its governing body may also bring an appropriate action to recover any sum of money due for the relief, support and maintenance of any poor person against any person chargeable by law therefor.

440. R.S.44:4-104 is amended to read as follows:

Compelling support by husband or wife.

44:4-104. When a husband or father shall desert his wife, child or children or a woman shall desert her child or children and leave them, or any of them, as public charges, the director of welfare of the county may apply to the Superior Court, Chancery Division, Family Part, which court may order and adjudge suitable support and maintenance to be paid and provided by the husband or wife, or either of them, to be made out of his property, and for such time as the nature of the case and circumstances of the parties render suitable and proper in the opinion of the court, and may compel the defendant to give reasonable security for such maintenance and support, and from time to time make such further orders and judgments touching such maintenance and support as shall be just, and enforce such orders and judgments.

441. R.S.44:4-105 is amended to read as follows:

Sequestration of estate.

44:4-105. The Superior Court, Chancery Division, Family Part may:

- a. Issue process for the immediate sequestration of the personal estate and the rents and profits of the real estate of the person charged as provided in section 44:4-104 of this Title;
- b. Appoint the director of welfare of the county, or another person, receiver thereof; and
- c. Cause the personal estate and the rents and profits of the real estate, or so much thereof as is necessary, to be applied toward the maintenance and support as to the court shall from time to time seem reasonable and just.

442. Section 10 of P.L.1957, c.139 (C.44:5-19.10) is amended to read as follows:

C.44:5-19.10 Court action to force responsible relative to pay.

10. Should any relative responsible for the support of such applicant or person receiving such service fail to obey the order or direction with regard to the providing of service and paying therefor, the Superior Court may, upon complaint of the County Adjuster, summon the persons chargeable before it as in other actions and summon witnesses and may order the able relatives responsible for the support of such applicant to pay such sums as the circumstances may require in the discretion of the court for such applicant and violation of any such order of the court shall be contempt of the court and the person so violating the same shall be subject to the penalties which by law may be imposed for other contempts of said court.

443. R.S.44:7-14 is amended to read as follows:

Recipient to pledge property.

44:7-14. (a) Every county welfare board shall require, as a condition to granting assistance in any case, that all or any part of the property, either real or personal, of a person applying for old age assistance, be pledged to said county welfare board as a guaranty for the reimbursement of the funds so granted as old age assistance pursuant to the provisions of this chapter. The county welfare board shall take from each applicant a properly acknowledged agreement to reimburse for all advances granted, and pursuant to such agreement, said applicant shall assign to the welfare board, as collateral security for such advances, all or any part of his personal property as the board shall specify.

The agreement to reimburse shall provide that the filing of notice thereof as hereinafter provided, is to have the same force and effect as a judgment of the Superior Court. It shall contain therein a release of dower or curtesy, as the case may be, of the spouse of the recipient of old age assistance, and the spouse shall agree to reimburse the county welfare board for all advances made to the recipient. Such release and joinder shall be as valid and effectual as if the spouse had joined the recipient in a conveyance of the property to a third person, and the grant of old age assistance, being contingent upon such joinder by the spouse, shall be good and valuable consideration therefor. Old age assistance shall not be granted to any applicant without joinder by the spouse in the

agreement to reimburse except upon the showing of good and sufficient cause as the State Division shall by regulation define.

(b) Upon making a grant of old age assistance the county welfare board shall file with the county clerk or register of deeds and mortgages, as the case may be, in any county, a notice of the above mentioned agreement to reimburse, which notice as of the date of such filing shall have the same effect as a lien by judgment of the Superior Court, and any real estate or lands in which the recipient or spouse has a title or interest, shall thereupon become charged and encumbered with a lien for old age assistance granted the recipient and said notice shall have priority over all unrecorded encumbrances. No fees or costs shall be paid for filing such notices.

444. R.S.44:7-19 is amended to read as follows:

Assistance by relatives; enforcement.

44:7-19. The county director of welfare in cases of application for old age assistance shall ascertain, if possible, the relatives and other persons chargeable by law for the support of such applicant, and proceed to obtain their assistance for such applicant or to compel them to render such assistance as is provided by law in such cases, or if such relatives or other persons are not chargeable by law with the support of such applicant but able and willing to do so, in whole or in part, the director of welfare may contract, in writing, with such persons for the support of such applicant.

Should any relative or other person responsible for the support of an applicant for old age assistance fail to perform the order or direction of the director of welfare with regard to the support of such applicant, the Superior Court may, upon certification in writing of the director of welfare or of two residents of the municipality or county, summon or otherwise direct the appearance of the persons chargeable and subpoena witnesses, and compel the production of books, records, and other documents as may be pertinent, and shall, in a summary way, inquire into the cause of such failure to perform the order or direction of the director of welfare, and may order and adjudge the able relatives or other persons responsible for the support of such applicant to pay such sum or to deliver to the court or to the director of welfare such other pledge or guaranty as the circumstances may require in the discretion of the court for each such applicant. However, where it shall appear that the person or persons sought to be held were the child or children of the applicant for old age assistance and were abandoned and deserted by the applicant who failed to support and maintain them during minority, the Superior Court may revoke the order of the director of welfare or reduce the

amount of said order against such child or children, in proportion to the actual support and maintenance rendered by said applicant to the child or children sought to be held. Any child now under an order to support an applicant for old age assistance may apply to the Superior Court which issued said order for the revocation or reduction of said order in accordance with the terms of this provision. Violation of any such order of the court shall be a contempt of said court and punishable as such.

The county welfare board may also bring appropriate action in any court of competent jurisdiction to recover any sum of money due for assistance given any person under this chapter against such person or against any other persons chargeable by law for the support of such person.

445. R.S.44:7-20 is amended to read as follows:

Director's power to issue subpoenas; contempt; false testimony.

44:7-20. For the purpose of ascertaining and determining the facts and circumstances concerning any application for assistance made under this chapter the county director of welfare shall have power, in his discretion, to compel the attendance of the applicant and other persons in this State and the production of books, records and other documents in this State pertinent to such examination. The director of welfare may administer oaths for the purpose of such examination. Upon any misconduct or failure to obey any summons or subpoena issued to an applicant by the director, or failure to testify by the applicant, the director may, in his discretion, subject to the approval of the county welfare board, reject the application for assistance. Any misconduct or failure to obey any summons or subpoena issued to an applicant or any other person by the director, or failure to testify by the applicant or other such person, shall be punishable by the Superior Court as a contempt is punishable in a case pending in the court. But no commitment shall be ordered for a period exceeding 90 days.

Any applicant or other person who shall knowingly give false testimony before the director shall be guilty of a misdemeanor.

446. Section 1 of P.L.1964, c.155 (C.44:11-1) is amended to read as follows:

C.44:11-1 Definitions.

1. As used in this act:

"Court" means the Superior Court in the county whose welfare board is responsible for making payments of public assistance to

or for the benefit of the recipient or, in cases where a representative payee has been appointed pursuant to this act, the Superior Court having made such appointment.

"Functionally incompetent" means subject to a mental, physical or emotional condition which renders the individual incapable of receiving and utilizing payments of public assistance in a manner conducive to the health and well-being of himself and his dependents.

"Representative payee" means a person appointed by a court to act for a recipient to the extent of receiving and administering payments of public assistance.

"Public assistance" means "old age assistance" and "disability assistance" as authorized by Revised Statutes, Title 44, chapter 7; "blind assistance" as authorized by Revised Statutes, Title 30, chapter 6; "assistance for dependent children" as authorized by chapter 86, laws of 1959; together with amendments and supplements to any of the foregoing; and any other program administered through the county welfare boards, by whatever name now or hereafter known, which is authorized to provide financial assistance to needy persons in the form of money payments.

"Recipient" means a person who has been found eligible to receive payments of public assistance.

"Welfare board" means the county welfare board responsible for making payments of public assistance to or for the benefit of the recipient.

447. Section 1 of P.L.1975, c.300 (C.45:1-12) is amended to read as follows:

C.45:1-12 Extra fee for completion of medical claim form by podiatrist, optometrist or psychologist; penalty.

1. No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey

State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

448. Section 11 of P.L.1978, c.73 (C.45:1-24) is amended to read as follows:

C.45:1-24 Failure to pay penalties; enforcement.

11. Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

449. Section 12 of P.L.1978, c.73 (C.45:1-25) is amended to read as follows:

C.45:1-25 Violation of act or regulation; penalty enforcement.

12. Any person violating any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than

\$2,500.00 for the first offense and not more than \$5,000.00 for the second and each subsequent offense. For the purpose of construing this section, each transaction or statutory violation shall constitute a separate offense; provided, however, a second or subsequent offense shall not be deemed to exist unless an administrative or court order has been entered in a prior, separate and independent proceeding. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State.

450. R.S.45:5-11 is amended to read as follows:

Unlawful acts; penalty; display of name; recovery of penalties.

45:5-11. (a) Whoever practices podiatry in this State without first having obtained and filed the license herein provided for, or contrary to any of the provisions of this chapter, or whoever practices podiatry under a false or assumed name, or falsely impersonates another practitioner of a like or different name, or buys, sells, or fraudulently obtains any diploma as a podiatrist, or any podiatry license, record or registration, or aids or assists any person not regularly licensed and registered to practice podiatry in this State, to practice podiatry therein, or whoever violates any of the provisions of this chapter, shall be liable to a penalty of \$200.00.

Every person practicing podiatry and every person practicing podiatry as an employee of another shall cause his name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where such practice shall be conducted, and any person who shall neglect to cause his name to be displayed as herein required shall be liable to a penalty of \$100.00.

Using the title doctor or its abbreviation in the practice of podiatry must be qualified by the word or words "podiatrist" or "surgeon podiatrist." Any person who violates this provision shall be liable to a penalty of \$100.00.

It shall be unlawful for any person not licensed under this act to use terms, titles, words or letters which would designate or imply that he or she is qualified to treat foot ailments, or to hold himself or herself out as being able to diagnose, treat, operate, or prescribe for any ailment of the human foot, or offer or attempt to diagnose, treat, operate or prescribe for any ailment of the human foot.

(b) The Superior Court and municipal courts, within their respective territorial jurisdictions, shall have jurisdiction to hear and determine actions for penalties under this chapter. The penalties provided for by this section shall be sued for and recovered by and in the name of the State Board of Medical Examiners of New Jersey, as plaintiff. Penalties imposed because of the violation of any provision of this chapter shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall issue at the suit of the board, as plaintiff, and shall be either in the nature of a summons or warrant.

451. Section 1 of P.L.1975, c.299 (C.45:6-18.1) is amended to read as follows:

C.45:6-18.1 Extra fee for completion of dental claim form; penalty.

1. No dentist and no professional service corporation engaged in the practice of dentistry in this State shall charge a patient an extra fee for services rendered in completing a dental claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in

the name of the State, upon the complaint of the New Jersey State Board of Dentistry, as plaintiff.

452. R.S.45:9-2 is amended to read as follows:

Officers; powers; fees.

45:9-2. The board shall elect a president, a secretary and a treasurer from its membership and shall have a common seal, of which all courts of this State shall take judicial notice. Its president, or secretary, may issue subpoenas to compel attendance of witnesses to testify before the board and administer oaths in taking testimony in any matter pertaining to its duties, which subpoenas shall issue under the seal of the board and shall be served in the same manner as subpoenas issued out of the Superior Court of this State. Every person who refuses or neglects to obey the command of such subpoena, or who, after appearing, refuses to be sworn and testify shall, in either event, be liable to a penalty of \$50.00 to be sued for in the name of the board in any court of competent jurisdiction, which penalty when collected shall be paid to the treasurer of said board. It shall make and adopt all necessary rules, regulations and bylaws not inconsistent with the laws of the State or of the United States, whereby to perform the duties and to transact the business required under the provisions of this article (section 45:9-1 et seq.).

The board shall charge for licenses and other services performed by it the fees provided in chapter 9 of Title 45 of the Revised Statutes, or where not so provided, such fees as it shall prescribe by rule or regulation. The board shall make such disposition of all fees and moneys collected by it and such reports in connection therewith as directed by the Director of the Division of Budget and Accounting.

453. Section 1 of P.L.1975, c.297 (C.45:9-22.1) is amended to read as follows:

C.45:9-22.1 Extra fee for completion of medical claim form; penalty.

1. No physician and no professional service corporation engaged in the practice of medicine and surgery in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et

seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners.

454. Section 3 of P.L.1951, c.352 (C.46:3A-3) is amended to read as follows:

C.46:3A-3 Perfection of title to overplus land under ancient survey.

3. If the council of proprietors shall refuse or neglect to give preference to any prior survey, legally made, or to the possessor of any tract of land, enabling him to cover with rights, and secure the overplus lands which may be found within his ancient bounds, on his making a resurvey of his lands within six months after the notice given to him as required by section two of this act, such possessor, or any person legally authorized on his behalf, may cause a resurvey to be made, agreeably to the ancient reputed lines and boundaries, either by a deputy surveyor or by a person who understands the art of surveying, and appropriate so many rights thereon as will be sufficient to include the overplus.

When the surveyor or person making the survey herein provided for shall have satisfied a judge of the Superior Court in the county wherein the affected lands are situate that the survey so made by him is just, according to the best of his knowledge, such survey may be produced to the clerk of the county or counties wherein such lands are situate, who shall on the receipt thereof, record the same in the book directed to be kept in the respective counties by the act entitled "An act for the limitation of suits at law respecting titles to land," passed at Burlington the fifth day of June, one thousand seven hundred and eighty-seven. Thereupon the survey, so made and recorded, shall give to the owner and possessor of the lands covered thereby an absolute title in fee.

455. Section 5 of P.L.1974, c.50 (C.46:8-31) is amended to read as follows:

C.46:8-31 Service by mail upon record owner.

5. In any action in the Superior Court, Law Division, Special Civil Part or municipal court by an occupant or tenant or to recover penalties against a landlord who has not complied with this act and who cannot be served within the county or municipality, the summons and complaint may be served by certified and regular mail upon the record owner at the last address listed in the tax records of either the municipality or county. Service of such

summons and complaint by certified and regular mail shall be effective to bring the landlord before the Superior Court, Law Division, Special Civil Part or municipal court even if it were not served within the county or municipality in which the court issuing the summons is located.

456. Section 6 of P.L.1974, c.50 (C.46:8-32) is amended to read as follows:

C.46:8-32 Service of process on court clerk.

6. Service of process on the clerk of the Superior Court, Law Division, Special Civil Part or municipal court having jurisdiction over the municipality in which the property is located shall be deemed service on the landlord upon submission to the court of the following:

- a. A certification of the tenant stating that he does not know the landlord's whereabouts after having made a diligent effort, satisfactory to the court, to determine the same; and
- b. Proof of failure of service by certified mail as provided in section 5 of this act.

457. Section 8 of P.L.1974, c.50 (C.46:8-34) is amended to read as follows:

C.46:8-34 Jurisdiction of Superior Court; amounts under \$3,000.

8. The Superior Court, Law Division, Special Civil Part shall have jurisdiction over any action between a landlord and tenant where the amount in controversy is \$3,000.00 or less.

458. Section 9 of P.L.1974, c.50 (C.46:8-35) is amended to read as follows:

C.46:8-35 Penalty for violation; recovery to municipalities.

9. Any landlord who shall violate any provision of this act shall be liable to a penalty of not more than \$500.00 for each offense, recoverable by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court, Law Division, Special Civil Part in the county or the municipal court of the municipality in which the premises are located shall have jurisdiction to enforce said penalty.

The Attorney General, the municipality in which the premises are located, or any other person may institute the proceeding; where the municipality or any other person other than the Attorney General institutes the proceeding, a recovered penalty should

be remitted by the court to the municipality in which the premises subject to the proceeding are located.

459. Section 4 of P.L.1974, c.48 (C.46:8-41) is amended to read as follows:

C.46:8-41 Penalties.

4. Any owner who fails to provide to any tenant the information required under section 2 of this act or violates any other provision of this act shall be liable to a penalty of not more than \$200.00 for each offense, recoverable by the State in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court, Law Division, Special Civil Part in the county in which the premises are located shall have jurisdiction to enforce said penalty enforcement upon complaint of the Attorney General or any other person.

460. Section 5 of P.L.1975, c.310 (C.46:8-47) is amended to read as follows:

C.46:8-47 Violations of act; penalty.

5. Any landlord who violates any provision of this act, contrary to the legal rights of tenants, shall be liable to a penalty of not more than \$100.00 for each offense. Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court, Law Division, Special Civil Part in the county in which the rental premises are located shall have jurisdiction over such proceedings. Process shall be in the nature of a summons or warrant, and shall issue upon the complaint of the commissioner, the Attorney General, or any other person.

461. R.S.46:14-4 is amended to read as follows:

Proof of instruments not acknowledged or proved; application to Superior Court; notice; certificate of proof.

46:14-4. If the grantor or any of the grantors of any deed or instrument of the nature or description set forth in section 46:16-1 of this Title, made and executed, but not acknowledged or proved according to law, and the subscribing witnesses thereto are dead, of unsound mind or resident without the United States, such deed or instrument may be proved before the Superior Court by proving the handwriting of such witnesses, or, if there be no such witnesses, by proving the handwriting of such grantor or grantors, to the full satisfaction of such court, which proof may be made by

affidavits in writing, taken before any officer in this State authorized by law to take the acknowledgment and proof of deeds, and annexed to such deed or instrument. The proofs shall be certified on or under such deed or instrument in open court by the judge holding such court.

Before any proof shall be taken as herein provided, notice of the application to the Superior Court for that purpose, describing the deed or instrument and the real estate or property contained therein or affected thereby, and the time and place of such application, shall be given by advertisements, signed by the person making the application, and set up in at least five of the public places in the county, one of which such places shall be in the municipality in which such real estate or property is situate at least four weeks before making the application, and also by a publication four times during four consecutive calendar weeks, once in each week, in a newspaper printed in such county, if any be printed therein, and, if not, in a newspaper circulating in such county and printed in an adjacent county. Due proof, by affidavit annexed to such deed or instrument, of the notice herein required shall be made to the court, and certified by the judge thereof in the certificate of proof herein required.

462. R.S.46:14-6 is amended to read as follows:

Officers of State before whom deeds or instruments may be acknowledged or proved; methods; certificates.

46:14-6. If any deed or instrument of the nature or description set forth in section 46:16-1 of this Title shall have been or shall be acknowledged by a party executing the same, such party being in this State, whether residing in this State or elsewhere, before any one of the officers herein named, whether such officer was or is appointed for, or whether he was or is in the county where the affected real estate is situate or where such acknowledgment was or is taken, or not, such officer being satisfied that such party is the grantor, vendor, vendee, lessor or lessee in such deed or instrument, of all of which such officer shall make his certificate on, under or annexed to such deed or instrument, or if such deed or instrument shall have been or shall be proved before any such officer anywhere in this State by one or more of the subscribing witnesses thereto, such witness or witnesses being within this State, whether residing in this State or elsewhere, that such party (the grantor, vendor, vendee, lessor or lessee), signed, sealed and delivered such deed or instrument as his act and deed, and a certificate of such proof signed by such officer, shall be written

upon, or under or be annexed to, such deed or instrument, every such deed or instrument, so acknowledged or proved, shall be deemed to be duly acknowledged or proved.

The officers of this State authorized to take acknowledgments or proofs in this State under authority of this section are a justice of the Supreme Court; a judge of the Superior Court; an attorney-at-law; a counsellor-at-law; a notary public; a commissioner of deeds appointed for any county; a county clerk of any county; a deputy county clerk; a surrogate or deputy surrogate of any county; and a register of deeds and mortgages or deputy register of any county.

463. R.S.46:16-5 is amended to read as follows:

Informal instruments referred to in recorded deed or proved will.

46:16-5. When any writing, however informal, made to declare or to direct any use or trust of real estate, is referred to in any duly acknowledged or proved, certified and recorded deed or in any will, duly proved and recorded, or though made for some other purpose, is yet, by the terms of such deed or will, referring thereto, made to operate as such a declaration or direction, such writing, not being susceptible of being acknowledged or proved according to law, may be recorded, without acknowledgment or proof, if satisfactory proof shall be made before the Superior Court which proof shall be evidenced by a certificate of the judge of such court, indorsed upon such writing over his signature, that the writing so offered to be recorded is the identical writing so referred to in such deed or will. Ten days' notice of the application to the Superior Court to prove any such writing shall be given by publication in a newspaper published in such county, or, if there be no such newspaper, in a newspaper circulating in such county.

464. R.S.46:16-13 is amended to read as follows:

Federal tax liens and certificates of discharge therefrom; record, filing and indexing; effect of failure to record and file.

46:16-13. Notices of federal tax liens and certificates discharging such liens, which, by the provisions of Title 26 of the Code of Laws of the United States, are made a lien upon all the property and rights to property belonging to the persons against whom federal taxes are or may be assessed, may be filed in the office of the county recording officer of the county or counties wherein the property subject to such liens is situate, and shall be forthwith recorded in a book to be kept for that purpose entitled "federal liens," and shall, immediately upon such filing, be indexed in an

index book entitled "index of federal liens," which index shall indicate the date of filing, the place of record and the names of the parties thereto. Each county recording officer shall be authorized to charge for the filing and recording of notices of federal tax liens or certificates of discharge therefrom the same fees as may be charged at the time of such filing and recording for the docketing of judgments from the Superior Court.

No federal tax shall be a valid lien as against any mortgagee, pledgee, purchaser or judgment creditor until the notice thereof shall be filed as provided by this section.

465. Section 3 of P.L.1977, c.213 (C.46:30A-8) is amended to read as follows:

C.46:30A-8 Violation of act; penalty enforcement.

3. The owner or manager of any individual business establishment wherein this act is knowingly violated by said owner or manager shall be liable to a penalty of not more than \$50.00 for the first offense, not more than \$100.00 for the second offense and not more than \$250.00 for each subsequent offense. Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction over such proceedings. Process shall be in the nature of a summons or warrant, and shall issue upon the complaint of the Director of the Division of Consumer Affairs.

466. R.S.47:1-6 is amended to read as follows:

Maps; requirements prerequisite to filing in certain offices.

47:1-6. No map, plat, plan or chart of lands, required or that may be required by law to be filed, or that may be presented to the county clerk, register of deeds and mortgages or surrogate in any county of this State, shall be received for filing unless the same shall be made upon translucent tracing cloth, with fast-colored, waterproof ink and be accompanied by a cloth-print duplicate.

467. R.S.47:1-8 is amended to read as follows:

Rerecording worn, mutilated or obscure records; reindexing; cost.

47:1-8. Whenever any records of any deeds, mortgages or other instruments of record in the office of any clerk or register of deeds and mortgages of any county of this State are becoming worn out, mutilated, obliterated, obscured, or in such condition that by use the same would be likely to become entirely void, lost

or unintelligible, and the title to lands or other property endangered, such clerk or register of deeds and mortgages shall, upon the order of any judge of the Superior Court, rerecord such records anew, in books to be kept in the office of such clerk or register of deeds and mortgages, which books shall be known as the book of "rerecorded deeds," or otherwise, in accordance with the types of instruments so rerecorded, shall be numbered and paged as were the old books, shall be certified by such clerk or register of deeds and mortgages, under his hand and seal, to be true copies of the original records, and shall be reindexed in the appropriate books of indexes of such recorded deeds, mortgages or instruments in such counties, being marked as reindexed. The expense of such rerecording shall be paid by the county in which the same is done, as the judge may determine and direct.

468. Section 3 of P.L.1953, c.269 (C.47:3-11) is amended to read as follows:

C.47:3-11 Notices before destruction.

3. None of the papers described in this act shall be removed and destroyed, or the records therein effectively obliterated, as provided herein, except on sixty days' written notice to the Superior Court Assignment Judge, and to the Division of State Library, Archives and History, in the Department of Education, and said division may acquire any of said papers for inclusion in the material bearing upon the history of the Government and the people of this State in the custody of the said division. Upon any such disposition of said papers by the county clerk or register of deeds and mortgages, as provided herein, the said county clerk or register of deeds and mortgages, as the case may be, shall file with the said division, a certificate under his hand and seal, setting forth the papers disposed of and the date of disposition. A copy of every such certificate shall be retained in the office of the county clerk or register of deeds and mortgages.

469. R.S.48:4-35 is amended to read as follows:

Definitions.

48:4-35. a. "Motor vehicle" as used in this article includes all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks exclusively) carrying passengers for hire now or hereafter operated by virtue of a certificate of public convenience and necessity including vehicles

used in connection with charter or special bus operations to which this act applies within the State of New Jersey.

b. "Self-insurer" means any person who, by virtue of any law of this State is exempted by some official, board or body of this State from the requirements imposed upon other owners of similar motor vehicles to carry insurance in an insurance company.

c. "Financial responsibility" means ability to satisfy claims to the extent set forth in section 48:4-36 of this Title.

d. "For hire" means compensation in any form, whether directly or indirectly made.

e. "Financial coverage" means insurance and also self-insurer.

f. "Magistrate" shall mean judges and other officers having powers of the committing magistrate.

470. Section 51 of P.L.1972, c.186 (C.48:5A-51) is amended to read as follows:

C.48:5A-51 Penalties.

51. a. Any person or any officer or agent thereof who shall knowingly violate any of the provisions of this act or aid or advise in such violation, or who, as principal, manager, director, agent, servant or employee knowingly does any act comprising a part of such violation, is guilty of a misdemeanor.

b. Any person who shall violate any provision of this act or any rule, regulation or order duly promulgated hereunder, shall be liable to a penalty of not more than \$500.00 for a first offense, not less than \$100.00 nor more than \$1,000.00 for a second offense, and not less than \$500.00 nor more than \$1,000.00 for a third and every subsequent offense. The penalties provided in this subsection shall be enforced by summary proceedings instituted by the board in the name of the State in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal courts shall have jurisdiction to enforce said "penalty enforcement law" in connection with this act.

c. Whenever it shall appear to the board that any person has violated, intends to violate, or will violate any provisions of this act or any rule, regulation or order duly promulgated hereunder, the board may institute a civil action in the Superior Court for injunctive relief and for such other relief as may be appropriate in the circumstances, and the said court may proceed in any such action in a summary manner.

471. R.S.48:8-8 is amended to read as follows:

Maintenance of safe landing places.

48:8-8. All owners or keepers of ferries shall construct and maintain safe places of landing, where they are needed, upon penalty of forfeiting such sum as the Superior Court shall, upon complaint, determine to be sufficient to construct or repair such convenient landing. The forfeiture shall, by order of said court, be appropriated and laid out for that purpose.

472. R.S.48:8-17 is amended to read as follows:

Actions for penalties; process.

48:8-17. The penalties imposed by this article shall be recoverable by action at law, with costs, in any court having cognizance thereof, by any person who will sue for the same.

Whenever any action for the recovery of any such penalty is prosecuted it may be commenced by *capias ad respondendum* or summons, any law, usage or custom to the contrary notwithstanding.

473. Section 1 of P.L.1971, c.62 (C.48:10-11) is amended to read as follows:

C.48:10-11 Penalties.

1. Any person who violates any provision of the Natural Gas Safety Act, (P.L.1952, c.166, C.48:10-2 et seq.) as amended and supplemented or any order, rule or regulation issued thereunder, shall be subject to a civil penalty of not more than \$2,500.00 for each violation for each day that the violation persists; however, the maximum civil penalty shall not exceed \$200,000.00 for any related series of violations.

Any civil penalty may be compromised by the Board of Public Utility Commissioners. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the State to the person charged or may be recovered in a summary proceeding in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of this act.

474. Section 14 of P.L.1977, c.76 (C.49:5-14) is amended to read as follows:

C.49:5-14 Civil penalties.

14. Civil Penalties. In addition to any other sanctions herein or otherwise provided by law, the bureau chief, upon notice and hearing, may impose a penalty not exceeding \$10,000.00 for any violation of this act or of any rule or regulation duly issued hereunder. Such penalty shall be recovered by and in the name of the bureau chief 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 or a municipal court which shall have jurisdiction to enforce said penalty enforcement law in connection with this act. Where any violation of this act or of any rule or regulation duly issued hereunder is of a continuing nature, each day during which such violation continues after the date fixed by the bureau chief in any order or notice for the correction or termination of such violation, shall constitute an additional separate and distinct offense, except during the time an appeal from said order or notice may be taken or is pending.

475. R.S.50:2-9 is amended to read as follows:

Revocation of licenses on refusal to permit examination.

50:2-9. When the person in charge of any boat or vessel licensed under the provisions of this Title, or any person holding a tonger's license, is hailed or signaled by any officer of the department and refuses to stop and permit such officer or officers to board his boat, vessel or other craft and examine the oysters, oyster shells and other material thereon or if having permitted the officer or officers to board, and a violation of R.S.50:2-7 or R.S.50:2-8 having been found, refuses to comply with an order that he recull such oysters and oyster shells or immediately throw them upon the beds or grounds from which they were taken, the commissioner, in addition to the penalties provided in section 73 of P.L.1979, c.199 (C.23:2B-14), may revoke the license of such boat or vessel and the license of the tonger and the department may seize and secure any such boat, vessel and equipment and shall immediately thereafter give notice thereof to the Superior Court which shall summarily hear and determine whether there was a violation of this section, and if it does so determine, it may direct the confiscation and forfeiture of the vessel, boat and equipment for the use of the department. The commissioner may dispose of such confiscated and forfeited property at his discretion.

476. R.S.51:1-12 is amended to read as follows:

Penalties; disposition.

51:1-12. A person violating any provision of sections 51:1-10 or 51:1-11 of this Title shall be liable to a penalty of \$100.00 to be recovered in the municipal court or Superior Court by any person who may sue therefor. Such penalty when recovered shall be paid to the county treasurer of the county in which the violation occurred.

477. R.S.51:1-110 is amended to read as follows:

Costs to prevailing party in Superior or municipal court; provision in budgets.

51:1-110. In all actions brought under the provisions of this chapter in the Superior Court or municipal court, the prevailing party therein shall be entitled to recover his taxed costs which costs shall be taxed as in other actions in the court in which the action is instituted. The governing bodies of the several counties and of the several municipalities shall provide in their budgets or from other sources a sum sufficient for such costs.

478. Section 20 of P.L.1938, c.182 (C.51:1-132) is amended to read as follows:

C.51:1-132 Recovery of penalties, procedure.

20. A proceeding to recover any penalty incurred under the provisions of this act, or acts supplementary or amendatory thereof, may be brought in the name of the State of New Jersey by any duly appointed weights and measures officers in the Superior Court or municipal court of any municipality of this State, wherein the violation occurs, which courts shall have jurisdiction over the proceeding. The proceeding shall be summary and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and it may be directed to any weights and measures officer, or to any constable or police officer, commanding him to cause the person or persons so complained of to be summoned or arrested and brought before the court.

No defendant under any body execution shall be detained for a period exceeding ten days, except as may be otherwise provided by this act.

It shall be the duty of the city attorney of any municipality wherein such violation shall take place to assist in the prosecution of the same, unless such municipality has no such municipal superintendent of weights and measures as provided for in section

51:1-43 of the Revised Statutes, in which case the county prosecutor of the county wherein such violation shall take place shall assist in such prosecution. All fines and penalties collected from persons offending against the provisions of this act shall be paid by the court clerk receiving the same, when recovered by a State weights and measures officer, to the State Treasurer; when recovered by a county weights and measures officer, to the county treasurer of such county; and when recovered by a municipal weights and measures officer, to the municipality which such officer represents. For violation of any of the provisions of this act, done within the view of any weights and measures officer, such weights and measures officer is authorized, without warrant, to arrest the offender or offenders and to conduct him or them before the Superior Court or a municipal court in the county wherein such offense is committed.

479. R.S.51:3-1 is amended to read as follows:

Pillars showing true meridian; verification of meridian line.

51:3-1. The board of chosen freeholders of each county shall erect, and properly inclose and protect at public spots, adjacent to the courthouse of the county, two substantial pillars on the same meridian line and not less than one hundred feet apart. The board shall cause to be determined the accurate latitude and longitude of the first of said pillars, reckoning the longitude from the meridian at Washington, and shall have said latitude and longitude distinctly and legibly marked on said pillar in degrees, minutes, seconds and parts of a second. Upon the summit of the first pillar there shall be immovably placed a brass plate, indented with a line indicating the true meridian. There shall also be placed on said first pillar a hair sight, in such a manner that a straight line passing through the center thereof, extended to a distinctly visible needle point, which shall be maintained on the summit of the second pillar, will be in the line of the true meridian running north and south. The board shall cause the said meridian line to be verified at any time, when required by order of any judge of the Superior Court.

480. Section 15 of P.L.1968, c.222 (C.51:4-37) is amended to read as follows:

C.51:4-37 Authority to issue subpoenas; court action.

15. The superintendent shall have the power to issue subpoenas to compel production of any pertinent records, books or documents or the attendance of witnesses in any matter pertaining to

his duties and shall have the power to administer oaths in taking testimony. Subpoenas shall be issued under the seal of the superintendent and shall be served in the same manner as subpoenas issued out of the Superior Court of this State.

Upon the failure of any person to obey a subpoena as aforesaid, the superintendent may apply to the Superior Court for appropriate relief.

481. Section 16 of P.L.1968, c.222 (C.51:4-38) is amended to read as follows:

C.51:4-38 Violations; penalties; collection and enforcement; process.

16. Any person who knowingly violates any of the provisions of this act for which specific penalty or punishment is not otherwise provided, shall pay a penalty of not less than \$50.00 nor more than \$100.00 for the first offense, not less than \$100.00 nor more than \$250.00 for the second offense, and not less than \$250.00 nor more than \$500.00 for each subsequent offense.

The Superior Court and municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of this act. The penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the superintendent or any other weights and measures official.

482. Section 3 of P.L.1981, c.96 (C.51:6A-3) is amended to read as follows:

C.51:6A-3 Penalties.

3. Any person who violates any provision of this act shall be liable to a mandatory penalty of not less than \$100.00 nor more than \$500.00 recoverable by the Superintendent of Weights and Measures pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). An action for the recovery of a civil penalty for violation of this act shall be within the jurisdiction of and may be brought before the Superior Court or municipal court in the municipality where the offense is committed or where the defendant resides or where the defendant may be apprehended.

A summons or warrant against any foreign business entity doing business in this State shall be processed as provided by law.

483. R.S.51:7-9 is amended to read as follows:

Procedure for recovery of penalties; jurisdiction.

51:7-9. Any penalty incurred under the provisions of this chapter shall be sued for in the name of the State of New Jersey by any weights and measures officer. Jurisdiction of all cases arising out of violations of the provisions of this chapter is hereby conferred upon the Superior Court and the municipal courts in the county in which such violations are committed.

484. R.S.51:8-16 is amended to read as follows:

Arrest without warrant.

51:8-16. For violation of any of the provisions of this chapter, done within the view of any weights and measures officer, such weights and measures officer is authorized, without warrant, to arrest the offender or offenders and to conduct him or them before the Superior Court or any municipal court having jurisdiction in the county wherein such arrest is made or the offense is committed.

485. R.S.51:9-12 is amended to read as follows:

Summons or warrant to issue.

51:9-12. A complaint having been made to the Superior Court or a municipal court by any weights and measures official, that any person has violated any of the provisions of this chapter, a summons or a warrant may issue directed to any weights and measures official or to any constable or police officer for the appearance or arrest of the person so charged.

486. R.S.51:9-18 is amended to read as follows:

Arrest without warrant.

51:9-18. Any police officer, or weights and measures official is hereby authorized to arrest, without warrant, any person violating, in the presence of such police officer, or weights and measures official any of the provisions of this chapter, and to bring the defendant before the Superior Court or a municipal court in the county where such offense is committed.

487. R.S.51:9-20 is amended to read as follows:

Summons or warrant valid throughout State; arrest in county other than where violation occurred; procedure.

51:9-20. A summons or warrant issued by any court having jurisdiction in accordance with the provisions of this chapter shall

be valid throughout the State, and any officer who has power to serve the said summons, or to serve said warrant and make arrest thereon, in the county where the same shall have been issued, shall have like power to serve said summons and to serve said warrant and make arrest thereon in any of the several counties of the State. If any person shall be arrested for a violation committed in the county other than that in which the arrest shall take place, the person so arrested may demand to be taken before the Superior Court or a municipal court in the county in which the arrest may have been made for the purpose of making a cash deposit or of entering into a recognizance with sufficient surety; whereupon the officer serving the said warrant shall take the person so apprehended before such a court in the county in which the arrest shall have been made, which shall thereupon fix a day for the matter to be heard before the court issuing the said warrant, and shall take from the person apprehended a cash deposit or recognizance to the State of New Jersey with sufficient surety or sureties for the appearance of the said person at the time and place designated. The cash deposit or recognizance so taken shall be returned to the court issuing the warrant, to be retained and disposed of by it as by this chapter provided.

488. Section 1 of P.L.1952, c.143 (C.51:10-1) is amended to read as follows:

C.51:10-1 Terms defined.

1. For the purpose of this act the following words shall be deemed to have the meaning herein given them:

(a) "Liquefied petroleum gas" shall mean and include any material or substance which is composed predominantly of any of the following hydrocarbons or mixtures of the same:

Propane, propylene, butane, normal or iso-, and butylene.

(b) "Superintendent" shall mean the Superintendent of the Division of Weights and Measures of the Department of Law and Public Safety.

(c) "Weights and measures officer" shall mean and include the superintendent of weights and measures or his deputy or assistant superintendents, county superintendents of weights and measures or their assistants, and municipal superintendents of weights and measures or their assistants.

(d) "Court" shall be construed to mean and to include the Superior Court or municipal court.

489. Section 14 of P.L.1952, c.143 (C.51:10-14) is amended to read as follows:

C.51:10-14 Recovery of penalty, jurisdiction.

14. Any penalty shall be recovered as specified in sections 51:1-103 and 51:1-105 to 51:1-107 of the Revised Statutes. An action for the recovery of a penalty for violation of any of the provisions of this act shall be within the jurisdiction of and may be brought before the Superior Court or a municipal court in the county in which the offense is committed or where the defendant may reside. In any proceeding process shall be the same as that provided for in said sections of the Revised Statutes, and any weights and measures officer shall have power to arrest any offender without warrant where there is a violation of this act within his view, and conduct him before any court having jurisdiction in the county where the arrest is made or the offense committed.

490. Section 21 of P.L.1968, c.450 (C.51:11-21) is amended to read as follows:

C.51:11-21 Subpoenas; oaths.

21. The superintendent shall have the power to issue subpoenas to compel production of any pertinent records, books, or documents or the attendance of witnesses in any matter pertaining to his duties and shall have the power to administer oaths in taking testimony. Subpoenas shall be issued under the seal of the superintendent and shall be served in the same manner as subpoenas issued out of the Superior Court of the State.

Upon the failure of any person to obey a subpoena as aforesaid, the superintendent may apply to the Superior Court for appropriate relief.

491. Section 25 of P.L.1968, c.450 (C.51:11-25) is amended to read as follows:

C.51:11-25 Jurisdiction; enforcement of penalties; arrest without warrant.

25. The Superior Court and municipal court shall have jurisdiction of proceedings for the enforcement and collection of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of this act. The penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the superintendent or any other weights and measures official; provided,

however, that any weights and measures official on the violation of any of the provisions of this act within his view may without warrant arrest the offender and conduct him before the court having jurisdiction in the municipality where the arrest is made or the offense committed. Such court on the filing of written verified complaint setting forth the nature of the offense shall hear and determine in a summary manner, the guilt or innocence of the defendant and inflict the penalties provided by law.

492. Section 25 of P.L.1971, c.369 (C.51:12-6) is amended to read as follows:

C.51:12-6 Penalties.

25. Any person who shall violate any provisions of this act, or any rule or regulation of the commissioner promulgated pursuant to this act shall be subject to a penalty of not more than \$200.00 for a first offense and not more than \$2,000.00 for each subsequent offense. Proceedings to collect and enforce such penalties shall be summary pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) in the Superior Court or a municipal court, both of which shall have jurisdiction to enforce said penalty enforcement law in connection with this act.

493. Section 1 of P.L.1955, c.155 (C.52:2-3) is amended to read as follows:

C.52:2-3 Persons authorized to use seal.

1. The Governor of the State, the head of any principal executive department of the State, the members of the Legislature of the State, the Justices of the Supreme Court, the judges of the Superior Court, the Secretary of the Senate, the Clerk of the General Assembly and members of the Congress of the United States and each of them, are authorized to use, exhibit and display the Great Seal of the State of New Jersey, in whole or in part, including such use, exhibition and display on their motor vehicle license plates.

494. Section 12 of P.L.1968, c.266 (C.52:9M-12) is amended to read as follows:

C.52:9M-12 Commission's powers; witnesses.

12. With respect to the performance of its functions, duties and powers and subject to the limitation contained in paragraph d. of this section, the commission shall be authorized as follows:

a. To conduct any investigation authorized by this act at any place within the State; and to maintain offices, hold meetings and function at any place within the State as it may deem necessary;

b. To conduct private and public hearings, and to designate a member of the commission to preside over any such hearing; no public hearing shall be held except after adoption of a resolution by majority vote, and no public hearing shall be held by the commission until after the Attorney General and the appropriate county prosecutor or prosecutors shall have been given at least seven days' written notice of the commission's intention to hold such a public hearing and afforded an opportunity to be heard in respect to any objections they or either of them may have to the commission's holding such a hearing;

c. To administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation, and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers;

d. Unless otherwise instructed by a resolution adopted by a majority of the members of the commission, every witness attending before the commission shall be examined privately and the commission shall not make public the particulars of such examination. The commission shall not have the power to take testimony at a private hearing or at a public hearing unless at least two of its members are present at such hearing, except that the commission shall have the power to conduct private hearings, on an investigation previously undertaken by a majority of the members of the commission, with one commissioner present, when so designated by resolution;

e. Witnesses summoned to appear before the commission shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If any person subpoenaed pursuant to this section shall neglect or refuse to obey the command of the subpoena, any judge of the Superior Court or any municipal court may, on proof by affidavit of service of the subpoena, payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpoena, issue a warrant for the arrest of said person to bring him before the judge, who is authorized to proceed against such person as for a contempt of court.

495. R.S.52:12-2 is amended to read as follows:

Contents.

52:12-2. The legislative manual shall include in the contents of each volume the following:

- a. The Constitution of the State of New Jersey;
- b. The rules of the Senate, the rules of the General Assembly, and the joint rules and orders of the Senate and General Assembly;
- c. A correct list of the members of the Legislature of the Session for which the volume is published, with their post-office addresses;
- d. A correct list of the several State officers, with the names of their offices, their post-office addresses, the terms for which they are elected or appointed and the date of the expiration thereof;
- e. A correct list of the names of the Chief Justice and Justices of the Supreme Court, and the judges of the Superior Court, their terms of office and the date of the expiration thereof;
- f. A correct list of the officers of each county, including the sheriff, coroners, county clerk, surrogate, county treasurer, register of deeds and mortgages, and county prosecutors, with their post-office addresses, their terms of office and the date of the expiration thereof;
- g. A list of the United States Courts in and for this State, with the names of the judges, clerks, the place where held and the time of holding their several terms;
- h. The names of the President and Officers of the United States Government, and the names and post-office addresses of the United States judges and other officers of the United States Courts in this State;
- i. The latest census of this State taken under the authority of the United States, as well as any census of the State when taken under the authority of the State;
- j. The election returns of the general election next preceding the meeting of the Legislature for which the volume is published;
- k. A careful synopsis of all the annual reports of the State departments and institutions required by law to be submitted to the Governor or Legislature; and
- l. Such other matter as the Governor or Legislature may from time to time direct to be published in such volume, or which the compilers of the volume may see fit to print, pertaining to the affairs of the State.

496. R.S.52:14-12 is amended to read as follows:

Notice of death of certain State officers.

52:14-12. Upon the death of a State officer holding an office which is to be filled by the Governor and Senate, or by the Legislature in joint meeting, or by the people at an annual election, the assignment judge of the Superior Court of the county in which the deceased officer resided at the time of his death shall forthwith give notice and information, in writing, to the Governor, or person administering the government of this State, of the death of such officer and the time thereof, according to the best of the knowledge and belief of the judge. The notice shall be filed by the Governor, or person administering the government, in the office of the Secretary of State.

The Governor, or person administering the government, shall communicate to the Legislature at the earliest opportunity, notice of the death of every officer whose office is to be filled by the Legislature in joint meeting, and of every case in which, by reason of death, either house of the Legislature is authorized to issue writs of election for supplying vacancies.

497. Section 3 of P.L.1952, c.336 (C.52:17B-41.3) is amended to read as follows:

C.52:17B-41.3 Meetings, organization, powers, agent.

3. The board shall hold at least two meetings each year and may hold such other meetings as it may deem advisable. The time and place of all such meetings shall be determined by the board.

The board shall elect a president, a secretary and a treasurer from its membership and shall have a common seal, of which all courts of this State shall take judicial notice. Its president, or secretary, may issue subpoenas to compel attendance of witnesses to testify before the board and administer oaths in taking testimony in any matter pertaining to its duties, which subpoenas shall issue under the seal of the board and shall be served in the same manner as subpoenas issued out of the Superior Court of this State, and every person who refuses or neglects to obey the command of such subpoena, or who, after appearing, refuses to be sworn and testify, shall, in either event, be liable to a penalty of fifty dollars (\$50.00) to be sued for in the name of the board in any court of competent jurisdiction, which penalty when collected shall be paid to the treasurer of said board.

The board may appoint an agent, subject to the approval of the Attorney General, whose title shall be "inspector of the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Techni-

cians," who shall hold office during the pleasure of the board and who may be removed by the board subject to the approval of the Attorney General, and shall, during his continuance in office, be authorized to serve and execute any process issued by any court of record under the provisions of this act. Such agent shall not be subject to the provisions of the Civil Service law.

498. Section 18 of P.L.1952, c.336 (C.52:17B-41.18) is amended to read as follows:

C.52:17B-41.18 Penalty.

18. Any person who, after this act becomes operative, shall practice as a licensed ophthalmic dispenser or ophthalmic technician as defined in section five of this act, or hold himself out to be a qualified or licensed ophthalmic dispenser or ophthalmic technician, or designate himself by any other term or title which implies that he is an ophthalmic dispenser or ophthalmic technician without having been licensed as a qualified ophthalmic dispenser or ophthalmic technician, by the board, shall be liable to a penalty of two hundred dollars (\$200.00), which penalty shall be recovered in a summary manner in the Superior Court in the manner prescribed by the rules of procedure for those courts.

499. Section 6 of P.L.1967, c.234 (C.52:17B-83) is amended to read as follows:

C.52:17B-83 County medical examiner; appointment; term.

6. The office of county medical examiner is hereby created and shall be maintained in each county, except that several counties may jointly maintain the office on a cooperative basis. The office shall be directed by a county medical examiner who shall be appointed by the board or boards of chosen freeholders of the county or counties maintaining such office for a term of five years; provided, however, that any person in office as county physician or chief medical examiner on the effective date of this act shall continue as county medical examiner until the expiration of the term for which he was appointed. The county medical examiner shall be a licensed physician, of recognized ability and good standing in his community, with such training or experience as may be prescribed by standards promulgated by the State Medical Examiner by rule or regulation.

If the board of chosen freeholders shall fail to appoint a county medical examiner or if the office of county medical examiner

shall become vacant or upon the written request of any assignment judge of the Superior Court or of the board of chosen freeholders of the county, the State Medical Examiner shall designate one of his assistants to perform the duties of the office. Whenever the State Medical Examiner shall have taken over the duties of a county medical examiner, he shall have all the authority conferred by law upon a county medical examiner and he may appoint such temporary assistants, aides, investigators or other personnel as he may deem necessary. In such event there shall be paid, by the treasurer of the county or counties, as the case may be, such sum for this service as the assignment judge of the Superior Court of the county or counties shall certify and fix, on the application of the State Medical Examiner, provided, that the compensation allowed shall not exceed that provided by law for the payment of the county medical examiner in said county or counties for the same or similar services.

500. Section 12 of P.L.1970, c.74 (C.52:17B-108) is amended to read as follows:

C.52:17B-108 Attorney General to have power and authority of prosecutor; appointment of assistants; payment for services.

12. Whenever the Attorney General, personally or by his deputies or assistants, shall attend in any county for the prosecution of all or any part of the criminal business of the State in said county, he shall have all the power and authority of the county prosecutor, including the investigation of alleged crimes, the attendance before the criminal courts and grand juries of the county, the preparation and trial of indictments for crimes, the representation of the State in all proceedings in criminal cases on appeal or otherwise in the courts of this State, and in addition, shall have the power to appoint such temporary assistants, aides, investigators or other personnel and incur such expenses as he shall deem necessary.

Whenever the criminal business or any part of the criminal business of any county is prosecuted by the Attorney General, personally or by his deputies or assistants, there shall be paid by the treasurer of the county such sum for that service, including the compensation of any deputy or assistant Attorney General, as the assignment judge of the Superior Court of the county shall certify and fix on the application of the Attorney General; provided that the compensation allowed shall not exceed that provided by law for the payment by said county for the same or similar services.

501. Section 19 of P.L.1983, c.383 (C.52:27D-210) is amended to read as follows:

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, plans 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 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.

502. R.S.54:3-23 is amended to read as follows:

Disobedience of witness, punishment.

54:3-23. In case of the failure of a person to obey any such order or subpoena of a county board of taxation, or to answer any inquiry properly put to him upon such examination, the person shall be punishable by the Superior Court in the same manner as such failure is punishable by that court in a case therein pending.

503. Section 11 of P.L.1976, c.63 (C.54:4-6.12) is amended to read as follows:

C.54:4-6.12 Failure to provide rebate, notice, certification, information required by act; penalty; enforcement; jurisdiction.

11. Any landlord who fails to provide property tax rebates to his tenants in accordance with the provisions of this act, or who knowingly and willfully fails to provide or post any notice, certification, information or statement required by this act shall be liable for a penalty of not more than \$100.00 for each offense. Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal court of the municipality in which the qualified real rental property is located

shall have jurisdiction over such proceedings. Process shall be in the nature of a summons or warrant, and shall be issued upon the complaint of the local enforcement agency, or any other person. Any money received as a result of such proceedings shall be paid over to the governing body of the municipality in which the qualified real rental property is located and may be used by the governing body for any lawful municipal purpose.

504. R.S.54:4-16 is amended to read as follows:

Assessor empowered to examine under oath.

54:4-16. The assessor shall have power to examine under oath any person or officer of a corporation with regard to the taxable property of himself, the corporation or others, or the truth of the matters contained in a claim for exemption of any person or corporation, and may compel the attendance of such persons and other witnesses and the production of books and papers by his order therefor, designating the time and place for such attendance and production. The order shall be served on the person, witness or corporation at least two days before the time named, either personally or by leaving it at the residence of the person or witness or at the office of the corporation. In case of failure to comply with the order, the assessor may apply ex parte to the Superior Court to compel the person or witness so to do.

505. R.S.54:4-82 is amended to read as follows:

Hearing on debtor's ability to pay.

54:4-82. Upon presentation of an application setting forth that the applicant is in the custody of the sheriff or jailer of the county for the nonpayment of a tax, that he applies for his discharge and is without sufficient goods and chattels whereof to make a distress and without means of payment of the tax and costs, the Superior Court shall thereupon direct the sheriff or jailer to cause the applicant to be brought before it for examination and for the hearing of the application. Notice of the application, and of the time appointed for the hearing thereof, shall be given to the legal representative of the municipality wherein the tax was levied, who may be heard in relation to the application. After the examination of the applicant and the hearing, the court may order his discharge, or order his release upon condition that he shall pay the tax and costs assessed against him in such manner as the circumstances of the case shall warrant. A person released upon

condition that he shall pay the tax and costs, who shall violate the condition of the order releasing him, may be taken into custody and kept in confinement until the tax and costs are paid.

506. R.S.54:5-105 is amended to read as follows:

Jurisdiction of courts, proof.

54:5-105. The Superior Court in an action may direct the county clerk or register of deeds, as the case may be, to cancel of record any tax sale certificate of record in the county if it shall be satisfied by proof that the holder of the tax sale certificate has been fully paid all moneys expended by him for the tax sale certificate, including all expenses incurred by him, and lawful interest therein according to law. The court may proceed in the action in a summary manner or otherwise.

507. Section 10 of P.L.1966, c.136 (C.54:11A-10) is amended to read as follows:

C.54:11A-10 Powers of director.

10. The director shall have power to examine under oath any person or officer of a corporation with regard to the taxable property of himself, the corporation or others, or the truth of the matters contained in a claim for exemption of any person or corporation, and may compel the attendance of such persons and other witnesses and the production of books and papers by his order therefor, designating the time and place for such attendance and production. The order shall be served on the person, witness or corporation at least two days before the time named, either personally or by leaving it at the residence of the person or witness or at the office of the corporation. In case of failure to comply with the order, the director may apply ex parte to the Superior Court to compel the person or witness so to do.

508. R.S.54:18-3 is amended to read as follows:

Account books.

54:18-3. Every agent or broker, residing or having an office or place of business in this State, requested by the insurer to make the return and payment as set forth in section 54:18-2 shall keep accurate books of account of all business done by him as agent or broker for which such a return is required, in which shall be put down the name of the insured, the date and expiration of the insurance, a description of the property insured, a statement of its

location, the amount of the insurance and of the premium paid therefor. If any such agent or broker fails, neglects or refuses to comply with any provisions of this chapter, or in case any fraud or dishonesty in the returns, hereinbefore provided to be made by him, is apparent or becomes known, the treasurer of a duly incorporated firemen's relief association injured thereby may obtain an order from a judge of the Superior Court in the county in which the association is located, compelling the agent or broker to produce in the court his books of account for examination by the court.

509. R.S.54:18-4 is amended to read as follows:

Penalty for noncompliance by agent or broker.

54:18-4. Any such agent or broker who fails, neglects or refuses to keep books of account as aforesaid, or to produce them in the Superior Court upon an order of the court, or to make proper and accurate returns as hereinbefore provided, or to pay over the percentage due upon any premium as aforesaid, at the time and in the manner specified in this chapter, or who is found, upon examination by the court, to have made a false return of the business done by him, shall, for each offense, forfeit and pay to the treasurer of any duly incorporated firemen's relief association that may be injured by his failure, neglect or refusal, or by the making of the false returns, the sum of \$500.00.

510. R.S.54:34-1 is amended to read as follows:

Transfers taxable.

54:34-1. Except as provided in section 54:34-4 of this Title, a tax shall be and is hereby imposed at the rates set forth in section 54:34-2 of this Title upon the transfer of property, real or personal, of the value of \$500.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to or for the use of any transferee, distributee or beneficiary in the following cases:

- a. Where real or tangible personal property situated in this State or intangible personal property wherever situated is transferred by will or by the intestate laws of this State from a resident of this State dying seized or possessed thereof.
- b. Where real or tangible personal property within this State of a decedent not a resident of this State at the time of his death is transferred by will or intestate law.
- c. Where real or tangible personal property within this State of a resident of this State or intangible personal property wher-

ever situate of a resident of this State or real or tangible personal property within this State of a nonresident, is transferred by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death.

A transfer by deed, grant, bargain, sale or gift made without adequate valuable consideration and within three years prior to the death of the grantor, vendor or donor of a material part of his estate or in the nature of a final disposition or distribution thereof, shall, in the absence of proof to the contrary, be deemed to have been made in contemplation of death within the meaning of subsection c. of this section; but no such transfer made prior to such three-year period shall be deemed or held to have been made in contemplation of death.

d. Where by transfer of a resident decedent of real or tangible personal property within this State or intangible property wherever situate, or by transfer of a nonresident decedent of real or tangible personal property within this State, a transferee, distributee or beneficiary comes into the possession or enjoyment therein of:

(1) An estate in expectancy of any kind or character which is contingent or defeasible, transferred by an instrument taking effect on or after July 4, 1909; or

(2) Property transferred pursuant to a power of appointment contained in an instrument taking effect on or after July 4, 1909.

e. When a decedent appoints or names one or more executors or trustees and bequeaths or devises property to him or them in lieu of commissions or allowances, the transfer of which property would otherwise be taxable, or appoints him or them his residuary legatee or legatees, and the bequest, devise or residuary legacy exceeds what would be reasonable compensation for his or their services, such excess shall be deemed a transfer liable to tax. The Superior Court having jurisdiction in the case, shall determine what is a reasonable compensation.

f. The right of the surviving joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of real or personal property held in the joint names of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, excluding, however, the right of a spouse, as a surviving joint tenant with his or her deceased spouse, to the immediate ownership or possession and enjoyment of a membership certificate or stock in a cooperative housing corporation, the

ownership of which entitles such member or stockholder to occupy real estate for dwelling purposes as the principal residence of the decedent and spouse, shall upon the death of one of such persons, be deemed a transfer taxable in the same manner as though such property had belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed by his will to the surviving joint tenant or joint tenants, person or persons, excepting therefrom such part of the property as such survivor or survivors may prove to the satisfaction of the Director of the Division of Taxation to have originally belonged to him or them and never to have belonged to the decedent.

In the case of a nonresident decedent, subsection f. of this section shall apply only to real or tangible personal property within this State.

511. Section 1 of P.L.1939, c.122 (C.54:35-23) is amended to read as follows:

C.54:35-23 Consents to transfer assets.

1. Before the Director of the Division of Taxation shall issue any consents to transfer assets of a person dying domiciled in the State of New Jersey, he shall require that proof be submitted to him that the will of such decedent was originally probated in New Jersey, or that letters of administration upon the estate of such decedent were originally granted in New Jersey; and if it shall appear that original probate or that original administration was had in a foreign jurisdiction, the director shall withhold issuance of all consents to transfer the decedent's assets, and shall make report thereof to the Superior Court, and shall await the further order of the court. This act shall not apply in cases where it shall appear to the director that neither the probate of a decedent's will nor the grant of letters of administration shall be required by the laws of this State respecting administration of estates. Notwithstanding the provisions of this act, the director may, in his discretion, issue any or all consents to transfer assets of a decedent in any case where, in his judgment, withholding issuance thereof would jeopardize the collection of transfer inheritance taxes payable to this State.

512. R.S.54:39-59 is amended to read as follows:

Enforcement of penalty.

54:39-59. The penalty or fine imposed because of a violation of any provision of article eight of this chapter (Sec. 54:39-51 et seq.) shall be sued for in the name of the Director of the Division of

Taxation. The Superior Court and any municipal court, if the violation occurs within the territorial jurisdiction of the court, shall have jurisdiction over proceedings to enforce and collect the penalty or fine. The proceedings shall be summary and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and process shall be either in the nature of a summons or a warrant.

513. Section 18 of P.L.1963, c.44 (C.54:39A-18) is amended to read as follows:

C.54:39A-18 Certificate of indebtedness; docket entries; force and effect.

18. As an additional remedy, the director may issue a certificate to the Clerk of the Superior Court that any user is indebted under this act in such an amount as shall be stated in the certificate. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon his record of docketed judgments the name and address of such user and the address of the place of business where such tax liability was incurred, if shown in the certificate, the amount of the debt so certified, the short name of the tax and the date of making such entries. The making of the entries shall have the same force and effect as the entry of a docketed judgment in the office of such clerk, and the director shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the user's right of appeal.

514. Section 18 of P.L.1959, c.191 (C.54:40-67) is amended to read as follows:

C.54:40-67 Enforcement of penalties.

18. Penalties set forth in this act shall be sued for by and in the name of the director and shall be recoverable with costs. The Superior Court and every municipal court shall have jurisdiction to enforce the provisions of this act. Any proceeding for a violation of this act may be brought in the county or municipality where the violation occurs or where the violator resides, has a place of business or principal office. The proceeding shall be summary in nature and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). A warrant may issue in lieu of summons. If judgment shall be rendered for the plaintiff, the court shall cause any defendant who may refuse or fail to pay forthwith the amount of the judgment rendered against him and all costs and charges incident thereto to be committed to the county jail for a period not exceeding 30 days.

If a defendant who is committed to jail in default of payment of the penalty shall serve the full period for which he shall be committed, upon his release from jail he shall be entitled to have the judgment satisfied of record, and the certificate of the warden of said jail that the said defendant has been detained for the period specified in the commitment which the judgment for the penalty and costs is docketed to discharge the same of record.

515. Section 601 of P.L.1948, c.65 (C.54:40A-24) is amended to read as follows:

Penalties, disposition of penalties, costs and expenses.

601. a. Penalties. Any person who shall engage in any business or activity for which a license is required under the provisions of this act, without first having obtained a license to do so, or who, having had such a license, shall continue to engage in or conduct such business after any such license shall have been revoked, or during a suspension thereof, shall be liable to a penalty of not more than \$250.00, which penalty shall be sued for, and shall be recoverable in the name of the director; and each day that any such business is so engaged in or conducted shall be deemed a separate offense.

b. Jurisdiction of court; proceedings. The Superior Court and every municipal court within their respective jurisdictions, and with respect to offenses occurring within the territorial jurisdiction of the court, shall have jurisdiction over proceedings to enforce and collect the penalty. The proceedings shall be brought by and in the name of the director. They shall be summary and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant.

If judgment be rendered for the plaintiff, the court shall cause any defendant who refuses or fails to pay forthwith the amount of the judgment rendered against him and all the costs and charges incident thereto, to be committed to the county jail for such period as the court shall determine, not exceeding 30 days.

c. Penalty for further violations; recovery; proceedings in court. In case a person shall, after conviction of any violation of this act, be again convicted of violating the same provision thereof, he may be liable to a penalty for such further violation, in double the maximum penalty which might have been imposed on the first conviction, to be sued for and recovered in the manner above set forth. In case any defendant against whom judgment has been rendered for a money penalty under this subsection, shall fail or neglect to pay forthwith the amount of said penalty,

the court shall commit him to jail for such number of days not exceeding 90 days, as the court shall determine.

d. Disposition of penalties. All penalties recovered for violations of this act shall be paid to the director and by him accounted for and paid to the State Treasurer as in the case of State taxes.

e. Costs; expenses. The costs recoverable in any such proceeding shall be recovered by the director in the event of judgment in his favor. If the judgment be for the defendant it shall be without costs against the director. All expenses incident to the recovery of any penalty pursuant to the provisions of this section shall be paid for as any other expense incident to the administration of this act.

516. Section 609 of P.L.1948, c.65 (C.54:40A-32) is amended to read as follows:

C.54:40A-32 Records; possession and transportation of unstamped cigarettes; seizure and confiscation of vessel or vehicle.

609. Records; possession and transportation of unstamped cigarettes; seizure and confiscation of vessel or vehicles. Every person who shall transport cigarettes not stamped as required by this act upon the public highways, waterways, roads or streets of this State shall have in his actual possession invoices or delivery tickets for such cigarettes which shall show the true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee or purchaser, the quantity and brands of the cigarettes transported and in addition shall show separately the true name and complete and exact address of the person who has or shall assume the payment of the New Jersey State tax or the tax, if any, of the state or foreign country at the point of ultimate destination, provided that any common carrier which has issued a bill of lading for a shipment of cigarettes and is without notice to itself or to any of its agents or employees that said cigarettes are not stamped as required by this act shall be deemed to have complied with this act and the vehicle or vessel in which said cigarettes are being transported shall not be subject to confiscation hereunder. In the absence of such invoices, delivery tickets or bills of lading, as the case may be, the cigarettes so transported, the vehicle, or vessel in which the cigarettes are being transported and any paraphernalia or devices used in connection with the unstamped cigarettes, are declared to be contraband goods and may be seized by the director, his agents or employees or by any peace officer of the State when directed by the director, his agents or employees so to do, without a

warrant. The director shall immediately thereafter institute a proceeding for the confiscation thereof in the Superior Court or the municipal court within the jurisdiction of which the seizure is made. The owner or any person having a security interest in any such vehicle may secure release of the same by depositing with the clerk of the court, in which such proceeding is pending, a bond with good and sufficient sureties in an amount to be fixed by the court, conditioned upon the return of said vehicle to the director upon demand after completion of said proceeding. The court may proceed in a summary manner and may direct confiscation to the director; provided, however, anything to the contrary notwithstanding, that the owner or any person claiming to be the holder of a mortgage, conditional sales contract or other security interest in any vehicle or vessel, the disposition of which is provided for above, may present his petition so alleging and be heard, and in the event it appears to the court that the property was unlawfully used by a person other than the owner or such claimant, and if such owner or claimant acquired ownership or his security interest in good faith and without knowledge that the vehicle or vessel was going to be so used, the court shall either waive forfeiture in favor of such owner or claimant and order the vehicle or vessel returned or delivered to such owner or claimant, or if it is found that the value thereof exceeds the amount of the claim, the court shall order payment of the amount of the claim out of the proceeds of the sale. Every transporter who violates the provisions of this act is a disorderly person, and shall, in addition to such penalties as attached thereto, be liable to a penalty equal to the amount of tax due on any unstamped cigarettes transported by him, which penalty shall be sued for and recovered in the same manner as provided for the penalties imposed by section 601 of the act to which this act is amendatory (C.54:40A-24).

517. R.S.54:44-3 is amended to read as follows:

Certification of debt; judgment; docket; procedure thereon.

54:44-3. As an additional or alternative remedy, the director may issue a certificate to the Clerk of the Superior Court that any person is indebted under this subtitle in an amount named in the certificate and thereupon the clerk to whom the certificate shall have been issued shall immediately enter upon his record of docketed judgments the name of such person as defendant, and of the State as plaintiff, the amount of the debt so certified, a short name of the tax, and the date of making the entries. The making of the entries shall have the same force and effect as the entry of

a docketed judgment in the office of such clerk, and the director shall have all of the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action but without prejudice to the taxpayer's right of appeal. Every person who shall be licensed to manufacture, distribute, transport, store, warehouse, import, offer for sale or sell alcoholic beverages, or to sell warehouse receipts, receipts, certificates, contracts or other documents given upon the storage of alcoholic beverages, under any law of this State shall, by the acceptance of such license, be deemed to have consented to the procedure set forth in this section.

518. R.S.54:49-12 is amended to read as follows:

Alternate remedy, effect of judgment, procedure.

54:49-12. As an additional remedy, the Director of the Division of Taxation may issue a certificate to the Clerk of the Superior Court that any person is indebted under such State tax law in such an amount as shall be stated in the certificate. The certificate shall contain a short name of the tax under which the said indebtedness arises. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon his record of docketed judgments the name of such person, and of the State, the address of the place of business where such tax liability was incurred, if shown in the certificate, the amount of the debt so certified, a short name of the tax, and the date of making such entries. The making of the entries shall have the same force and effect as the entry of a docketed judgment in the office of such clerk, and the director shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to the taxpayer's right of appeal.

519. Section 1 of P.L.1943, c.10 (C.54:49-13.1) is amended to read as follows:

C.54:49-13.1 Reinstatement of corporation, procedure.

1. Whenever in respect to any taxpaying corporation, the Clerk of the Superior Court or of any former court has or shall have entered upon his record of judgments the entries against such corporation required in and by section 54:49-12 of the Revised Statutes; and, whenever, acting pursuant to section 54:11-2 of the Revised Statutes, the Governor issues his proclamation, declaring the charter of such corporation is repealed, and

the powers conferred upon them inoperative and void for failure to satisfy, in whole or in part, the tax and interest thereon, evidenced by the aforesaid judgment; and whenever, thereafter, such corporation pays to the Secretary of State a sum received by him, in whole or in part, in lieu of the tax and interest thereon evidenced by the aforesaid judgment, and the Governor, by and with the advice of the Attorney-General, permits such corporation to be reinstated to all its franchises and privileges, and the Secretary of State has issued his certificate, entitling such corporation to continue its business and franchises, all pursuant to section 54:11-5 of the Revised Statutes, the Attorney-General, either personally or through the agency of a legal assistant acting in his name, may affix his signature and official title on the margin of the record of such judgment in any such clerk's office and enter above said signature words and figures of the tenor following: "On (Date) the judgment-debtor herein was reinstated pursuant to R.S.54:11-5." Such signing and making of the entry shall operate as a satisfaction of such judgment.

520. R.S.56:3-23 is amended to read as follows:

Collection and enforcement of penalties, jurisdiction.

56:3-23. The Superior Court and any municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of this article. The proceedings shall be summary and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of any person.

521. R.S.56:3-25 is amended to read as follows:

Search warrant for unlawfully used containers marked with registered name, mark or device; procedure thereon.

56:3-25. Whenever any person makes oath before the Superior Court or any municipal court that he has reason to believe and does believe that any bottle, container or receptacle mentioned in section 56:3-15 of this Title, the property of any person or corporation who or which has complied with the provisions of sections 56:3-16 and 56:3-17 of this Title, are being filled, sold, bought, given, taken, possessed, used, disposed of or trafficked in by any person or corporation in violation of this article, the court shall issue a search warrant to discover and obtain such bottles, con-

tainers or receptacles, and to bring before the court the person in whose possession bottles, containers or receptacles may be found. If any such bottles, containers or receptacles are found in the possession of any such person in violation of the provisions of this article, the court issuing the search warrant shall proceed summarily in a criminal proceeding to trial and judgment, and, upon a conviction and judgment, shall also award possession of the bottles, containers or receptacles taken under the search warrant to the owners or proprietors thereof.

522. R.S.56:3-41 is amended to read as follows:

Penalty; recovery; jurisdiction; procedure.

56:3-41. Any person violating any of the provisions of this article shall, for the first offense, be liable to a penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and for each subsequent offense to a penalty of two hundred dollars (\$200.00), recoverable in a civil action before the Superior Court or municipal courts, which courts within their respective territorial jurisdictions, shall have jurisdiction to hear and determine actions brought under this article. An action for the recovery of a penalty under this article may be instituted by any person aggrieved or damnified by a violation of this article. The penalty, when recovered in the Superior Court shall be paid to the treasurer of the county, and, when recovered in a municipal court, shall be paid to the treasurer of the municipality.

523. R.S.56:3-47 is amended to read as follows:

Complaint for unlawful use of cans; jurisdiction; search warrant; procedure.

56:3-47. If any owner, dealer or shipper, or his agent, has reason to believe, and does believe, that any can or cans of the kind mentioned in section 56:3-42 of this Title, stamped or marked as provided in said section 56:3-42, is or are being used, or has or have been unlawfully used as aforesaid, by any person, or that any person has any such can or cans secreted in or upon his premises, or any other place, any such owner, dealer or shipper, or his agent, may go before the Superior Court or the municipal court in the municipality wherein such offenses may be or have been committed, and make complaint thereof under oath, which complaint may be wholly upon information and belief. Whereupon the court shall issue a process in the nature of a search warrant, directed to any constable, marshal or an executive officer of any municipality, which shall recite the complaint, or the substance thereof, and shall

command such constable, marshal or executive officer to search immediately the premises, place or places mentioned in the complaint, and, if any milk or cream cans be found, to bring the same, together with the body of the person in whose possession they may be found, before the court which shall summarily inquire into the ownership of such can or cans, and, upon being satisfied that the same belong to such owner, dealer or shipper, or that his agent is entitled to the possession thereof, he shall deliver such can or cans to such owner, dealer or shipper, or his agent, who shall have the costs of the proceedings from the person so illegally having such can or cans in his or their possession. If the person illegally having such can or cans in his possession shall refuse to pay the costs, the court shall commit such person to the county jail of the county wherein he shall be arrested until such costs are paid.

524. Section 401 of P.L.1938, c.163 (C.56:6-4) is amended to read as follows:

C.56:6-4 Procedure for collection of penalties.

401. Procedure for collection of penalties

The following procedure shall be followed in actions for the enforcement of penalties set forth in Article III of this act:

(a) The said penalty shall be sued for in the name of the Director of the Division of Taxation. The Superior Court and every municipal court is hereby authorized, upon the filing of a complaint in writing, duly verified by the Director of the Division of Taxation, or by any assistant or employee of the Director of the Division of Taxation, which may be made upon information or belief, that any retail dealer has violated any of the provisions of Article II of this act, to issue process at the suit of the Director of the Division of Taxation as plaintiff. Such process shall be either in the nature of a summons or warrant, which may issue without any order of the court or judge first being obtained against the person or persons so charged. When such process shall be in the nature of a warrant, it shall be returnable forthwith, and when in the nature of a summons, it shall be returnable in not less than five nor more than ten days. Such process shall specify the section of the act which is alleged to have been violated by the defendant or defendants, and upon the return of such process or at any time to which the trial shall be adjourned, the said court shall proceed and summarily hear the testimony and, without the filing of any pleadings, determine the matter and give judgment, without a jury, either for the plaintiff for the recovery of such penalty

with costs or for the defendant. If judgment shall be rendered for the plaintiff, the court shall cause any defendant who may refuse or fail to pay forthwith the amount of the judgment rendered against him and all costs and charges incident thereto to be committed to the county jail for any period not exceeding the period mentioned in Article III hereof.

(b) The officers to serve and execute all process under this act shall be officers authorized to serve all process out of said court. The court shall have the power to adjourn the hearing or trial in any case from time to time, but in such case, except in case where the first process was a summons, it shall be the duty of the judge to detain the defendant in safe custody unless he shall enter into a bond to the Director of the Division of Taxation with at least one sufficient surety, in a sum fixed by the court which shall be not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), conditioned for his appearance on the day to which the hearing shall be adjourned and thence from day to day until the case is disposed of, and then to abide by the judgment of the said court, and such bond if forfeited may be prosecuted by said Director of the Division of Taxation.

(c) The form of conviction in prosecutions under this article shall be in the following or similar form:

"State of New Jersey,)
)ss.
County of)

Be it remembered, that on this day of , at , in said County, X , the defendant, was by (name of court) convicted of violating Section of Article II of an act entitled 'An act to regulate the retail sale of motor fuels, and providing penalties for violations' (date of approval of act) in a summary proceeding at the suit of the Director of the Division of Taxation, upon a complaint by ; and, further, that the witnesses in said proceeding who testified for the plaintiff were (name them), and the witnesses who testified for the defendant were (name them).

Wherefore, the said court does hereby give judgment that the plaintiff recover of the defendant dollars penalty and dollars costs of this proceeding."

The conviction shall be signed by the judge before whom the conviction is had. In case the defendant is committed to jail in default of

payment of the penalty, commitment in the following form shall be added beneath the judge's signature to the conviction:

"And the said X, neglecting and refusing to pay the amount of the penalty above mentioned, with costs, it is hereby ordered that the said X be and he is hereby committed to the common jail in the county of for a period of days, unless the said penalty and costs are sooner paid." Such commitment shall also be signed by the judge and, in case of commitment of any defendant to jail, the conviction and the commitment shall be signed in duplicate, and one of the duplicate copies shall serve the purpose of a warrant of commitment. If a defendant who is committed to jail in default of payment of the penalty shall serve the full period for which he shall be committed, upon his release from jail he shall be entitled to have the judgment satisfied of record, and the certificate of the warden of said jail that the said defendant has been detained for the period specified in the commitment shall be sufficient warrant for the clerk of any court in which the judgment for the penalty and costs is docketed to discharge the same of record.

(d) The clerk of the court may sign and seal any process required to issue under this act, except a warrant of commitment. The costs recoverable in any such proceeding shall be the same as costs taxed in actions in said court and shall be recoverable by said Director of the Division of Taxation in the event of the conviction of the defendant. Execution may issue for the collection of any judgment obtained under this act against the goods and chattels and body of the defendant without any order first obtained for such purpose.

(e) The Director of the Division of Taxation may file a bill in the Superior Court for an injunction to prohibit any habitual violation of this act, or any of the orders, rules, or regulations made by the director, and every such action shall proceed in the Superior Court according to the rules and practice of that court, and cases of emergency shall have precedence over other litigation pending at the time in the Superior Court, and final hearing may be had within such time and on such notice as the court shall direct.

525. Section 6 of P.L.1981, c.230 (C.56:6-4.1) is amended to read as follows:

C.56:6-4.1 Weights and measures officers may recover penalties.

6. a. The State Superintendent of Weights and Measures or any State, county, or municipal weights and measures officer may

also recover penalties for violations of P.L.1938, c.163 (C.56:6-1 et seq.). The action shall be within the jurisdiction of and may be brought before the Superior Court or any municipal court in the county or municipality where the offense was committed, or where the defendant may reside, or where the defendant may be apprehended, which court is hereinafter referred to as the court, upon the filing of a complaint by a weights and measures officer, in a civil penalty action pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

b. The State Superintendent or any weights and measures official shall be authorized to serve all process out of said court.

c. Any judgment recovered for a penalty under the provisions of P.L.1938, c.163 (C.56:6-1 et seq.), in any municipal court may be docketed with the Superior Court. Execution may issue in a manner similar to that for other Superior Court judgments.

d. Any habitual violations of provisions of P.L.1938, c.163 (C.56:6-1 et seq.), or of any orders or rules or regulations made pursuant to said statutes may be restrained by the Superior Court in an action brought for such purpose by the Attorney General on behalf of the State Superintendent of Weights and Measures.

e. Penalties, when imposed or recovered in an action brought by a State weights and measures officer, shall be payable to the State Treasurer. When such action is brought by a county or municipal weights and measures officer, the penalty moneys shall be paid to the respective county or municipal treasury, as the case may be.

526. Section 2 of P.L.1966, c.39 (C.56:8-14) is amended to read as follows:

C.56:8-14 Enforcement of penalty; process.

2. The Superior Court and every municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of the act to which this act is a supplement. Except as otherwise provided in this act the penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the Attorney General or any other person.

In any action brought pursuant to this section to enforce any order of the Attorney General or his designee the court may, without regard to jurisdictional limitations, restore to any person in

interest any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under this act.

In the event that any person found to have violated any provision of this act fails to pay a civil penalty assessed by the court, the court may issue, upon application by the Attorney General, a warrant for the arrest of such person for the purpose of bringing him before the court to satisfy the civil penalty imposed.

527. Section 16 of P.L.1981, c.262 (C.58:1A-16) is amended to read as follows:

C.58:1A-16 Violations of act; penalty.

16. If any person violates any of the provisions of this act or any rule, regulation or order adopted or issued pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to enforce said provisions and to prohibit and prevent that violation and the court may proceed in the action in a summary manner. Any person who violates the provisions of this act or any rule, regulation or order adopted or issued pursuant to this act shall be liable to a civil administrative penalty of not more than \$5,000.00 for each offense to be imposed by the department pursuant to standards adopted in regulations; or a civil penalty of not more than \$5,000.00 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 shall have jurisdiction to enforce the penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is authorized 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.

528. Section 6 of P.L.1971, c.177 (C.58:10-23.30) is amended to read as follows:

C.58:10-23.30 Injunctive relief; penalties.

6. If any person violates any of the provisions of this act, or any rule or regulation promulgated pursuant to the provisions of this act, the department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent

such violation or violations and the said court may proceed in the action in a summary manner. Any person who violates any of the provisions of this act, or any rule or regulation promulgated pursuant to this act shall be liable to a penalty of not more than \$3,000.00 for each offense to be collected in a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.), and in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. 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.

529. Section 9 of P.L.1942, c.308 (C.58:11-9.9) is amended to read as follows:

C.58:11-9.9 Recovery of penalties, procedure.

9. Any penalty incurred under any of the provisions of section 8 of this act shall be recovered in a civil action in the name of the State department, a local board of health, or the owner of the supply specified in said section 8. Such action may be maintained in the Superior Court or any municipal court, and jurisdiction is conferred upon said courts, within their respective territorial jurisdictions, to hear and determine such actions.

530. Section 8 of P.L.1983, c.230 (C.58:11-71) is amended to read as follows:

C.58:11-71 Violations; penalties.

8. a. If any person violates any of the provisions of this act, or any operating requirements, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to enforce said provisions and to prohibit and prevent that violation and the court may proceed in the action in a summary manner.

b. Any person who violates or causes the violation of any of the provisions of this act or any operating requirements shall be liable to a civil administrative penalty of not more than \$5,000.00 for each offense to be imposed by the department pursuant to standards adopted in regulations, or a civil penalty of not more than \$5,000.00 for each offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

c. The department may recover in any civil action the State's reasonable costs of preparing and litigating the civil action pursuant to this act.

d. Any and all penalties prescribed by any provisions of this act may be recovered in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction to enforce the penalty enforcement law.

e. The department is authorized and empowered to compromise and settle any penalty imposed under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

f. All penalties received pursuant to the provisions of this act shall be paid into the "Environmental Services Fund" created by P.L.1975, c.232 (C.13:1D-29 et seq.), and expended for the functions authorized herein.

531. 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, 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 had been requested. 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 shall have jurisdiction to enforce "the penalty enforcement law."

532. Section 12 of P.L.1972, c.185 (C.58:16A-63) is amended to read as follows:

C.58:16A-63 Violation of act; penalty.

12. (a) Any person who knowingly violates a provision of this act or a rule, regulation or order adopted pursuant to this act shall be subject to a penalty of not more than \$2,500.00 for each offense and any person who otherwise violates a provision of this act shall be subject to a penalty of not more than \$1,500.00 for each offense, both to be collected by the department in a summary proceeding under "the pen-

alty enforcement law" (N.J.S.2A:58-1 et seq.), and in any court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature each day which it continues shall constitute an additional, separate and distinct offense. 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. All moneys recovered in any such action, together with the costs recovered therein, shall be paid to the Environmental Services Fund.

(b) If any person violates any of the provisions of this act or any rule or regulation promulgated pursuant to the provisions of this act, the department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

Repealer.

533. The following are repealed:

New Jersey Statutes sections:

N.J.S.2A:8-11;

N.J.S.2A:16-10;

N.J.S.2A:16-14;

N.J.S.2A:16-21 to N.J.S.2A:16-27 both inclusive;

N.J.S.2A:16-30;

N.J.S.2A:16-34 and N.J.S.2A:16-35;

N.J.S.2A:16-37 to N.J.S.2A:16-40;

N.J.S.2A:18-1 to N.J.S.2A:18-15 both inclusive;

N.J.S.2A:18-17 to N.J.S. 2A:18-26 both inclusive;

N.J.S.2A:18-28;

N.J.S.2A:18-30 and N.J.S.2A:18-31;

N.J.S.2A:18-46 to N.J.S.2A:18-50 both inclusive;

N.J.S.2A:18-62 to N.J.S.2A:18-64 both inclusive;

N.J.S.2A:18-68;

N.J.S.2A:18-70;

N.J.S.2A:39-9;

N.J.S.2A:44-105;

N.J.S.2A:75-1 to N.J.S. 2A:75-7 both inclusive;

N.J.S.2A:81-16;

N.J.S.22A:2-24;

N.J.S.22A:2-28;

N.J.S.22A:2-40;

N.J.S.22A:4-18;

Revised Statutes:

R.S.34:11-64;

Pamphlet Laws:

Laws of 1981, c.243, s.39 (C.2A:4-30.62);

Laws of 1953, c.394 (C.2A:15-47.1);

Laws of 1953, c.336 (C.22A:2-45);

Laws of 1953, c.338 (C.22A:2-46);

Laws of 1955, c.92 (C.22A:2-49 and C.22A:2-50);

Laws of 1955, c.155 (C.52:2-6).

534. This act shall take effect immediately.

Approved April 9, 1991.

CHAPTER 92

AN ACT requiring smoke-sensitive alarm devices in certain structures used for residential purposes and supplementing P.L.1983, c.383 (C.52:27D-192 et seq.).

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

C.52:27D-198.1 Residential structures to have smoke-sensitive alarm devices.

1. A structure used or intended for use for residential purposes by not more than two households shall have a smoke-sensitive alarm device on each level of the structure and outside each separate sleeping area in the immediate vicinity of the bedrooms and located on or near the ceiling in accordance with National Fire Protection Association Standard No. 74-1984 for the installation, maintenance, and use of household fire warning equipment. The installation of battery operated smoke-sensitive alarm devices shall be accepted as meeting the requirements of this section. The smoke-sensitive device shall be tested and listed by a product certification agency recognized by the Bureau of Fire Safety. This section shall not be enforced except pursuant to sections 2 and 3 of this act.

C.52:27D-198.2 Municipal officer, agency to determine compliance.

2. a. In any case where a change of occupancy of any building subject to the requirements of section 1 of this act is subject to a municipal ordinance requiring the issuance of a certificate of occupancy, certificate of inspection or other documentary certification of compliance with laws and regulations relating to safety, healthfulness and upkeep of the premises, no such certificate shall issue until the municipal officer or agency responsible for its issuance has determined that the building is equipped with an alarm device or devices as required by section 1 of this act.

b. In the case of change of occupancy of any building subject to the requirements of section 1 of this act to which the provisions of subsection a. of this section do not apply, no owner shall sell, lease or otherwise permit occupancy for residential purposes of that building without first obtaining from the relevant enforcement agency under the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) a certificate evidencing compliance with the requirements of this act. The local governing body having jurisdiction over the said enforcing agency or, where the Bureau of Fire Safety is the enforcing agency, the Commissioner of Community Affairs shall establish a fee which covers the cost of inspection and of issuance of the certificate.

C.52:27D-198.3 Fine for noncompliance.

3. An owner who sells, leases, rents or otherwise permits to be occupied for residential purposes any premises subject to the provisions of this supplementary act when the premises do not comply with the requirements of section 1 hereof, or without complying with the inspection and certification requirements of section 2 hereof, shall be subject to a fine of not more than \$500.00, which may be collected and enforced by the local enforcing agency as defined in subsection g. of section 5 of P.L.1983, c.383 (C.52:27D-196) by summary proceedings pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

4. The Commissioner of Community Affairs is hereby authorized to make and promulgate, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) all such rules and regulations as may be necessary or expedient for the proper and timely effectuation of the purposes of this supplementary act.

5. This act shall take effect on the 60th day next following the date of its enactment, except that section 4 shall take effect immediately.

Approved April 9, 1991.

CHAPTER 93

AN ACT concerning an anachronistic law prohibiting the garnishment of wages of a World War I veteran for certain debts and repealing R.S.38:21-1.

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

Repealer.

1. R.S.38:21-1 is repealed.
2. This act shall take effect immediately.

Approved April 9, 1991.

CHAPTER 94

AN ACT concerning the disposal and recycling of used lead acid batteries, and supplementing 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-199 Definitions.

1. As used in this act:

“Distributor” means a person who sells lead acid batteries at wholesale to retailers in this State, including any manufacturer who engages in these sales;

“Lead acid battery” means a lead acid electric storage battery designed for use in motor vehicles, aviation equipment or marine vessels;

“Manufacturer” means a person producing lead acid batteries for sale to distributors or retailers or consumers;

“Recycling” means any process by which solid waste materials are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

“Retailer” means a person engaged in the sale of lead acid batteries to any person at retail and includes any manufacturer or distributor engaging in retail sales, except that “retailer” shall not include a person engaged in the sale of new motor vehicles;

“Scrap processing facility” means a commercial industrial facility designed and operated for receiving, storing, processing and transferring source separated, nonputrescible ferrous and non-ferrous metal, which materials are purchased by the owner or operator thereof, and which are altered or reduced in volume or physical characteristics onsite by mechanical methods, including but not limited to baling, cutting, torching, crushing, or shredding, for the purposes of resale for remelting, refining, smelting or remanufacturing into raw materials or products;

“Solid waste container” means a receptacle, container or bag suitable for the depositing of solid waste.

C.13:1E-200 Disposal of used lead acid battery.

2. No person shall dispose of a used lead acid battery as solid waste at any time. Any person seeking to discard a used lead acid battery may deliver the used lead acid battery to:

- a. a retailer of lead acid batteries, or a distributor or manufacturer engaged in the sale at wholesale of lead acid batteries;
- b. a secondary lead smelter;
- c. a scrap processing facility at which used lead acid batteries are received, stored, processed or transferred for the purposes of recycling; or
- d. a household hazardous waste collection site established pursuant to a county household hazardous waste collection program.

C.13:1E-201 Retailers to accept used lead acid battery.

3. a. Every retailer, including every distributor or manufacturer offering lead acid batteries for sale at wholesale, upon presentation at any time during business hours from a member of the public, shall accept any used lead acid battery if the battery is offered as part of an exchange related to the sale of a new lead acid battery.

b. No retailer shall dispose of a used lead acid battery as solid waste at any time. Any retailer may return used lead acid batteries accepted from the public directly to the distributor. A retailer may arrange for the pickup and proper recycling of used lead acid batteries with:

- (1) a secondary lead smelter;
- (2) a scrap processing facility at which used lead acid batteries are received, stored, processed or transferred for the purposes of recycling; or

(3) a household hazardous waste collection site established pursuant to a county household hazardous waste collection program.

C.13:1E-202 Distributor to accept used lead acid battery from retailer.

4. a. No distributor or his agent may refuse to accept any used lead acid battery returned to the distributor or his agent from any retailer in the distributor's service area. Whenever a retailer or group of retailers receives a shipment or consignment of, or in any manner acquires, lead acid batteries from any distributor outside of New Jersey for sale to consumers in New Jersey, the retailer or retailers shall be subject to the provisions of this act as if they were distributors as well as retailers.

b. No distributor shall dispose of a used lead acid battery as solid waste at any time. Any distributor may return used lead acid batteries accepted from a retailer directly to the manufacturer. A distributor may arrange for the pickup and proper recycling of used lead acid batteries with:

- (1) a secondary lead smelter;
- (2) a scrap processing facility at which used lead acid batteries are received, stored, processed or transferred for the purposes of recycling; or
- (3) a household hazardous waste collection site established pursuant to a county household hazardous waste collection program.

C.13:1E-203 Manufacturer to accept used lead acid battery from distributor.

5. No manufacturer may refuse to accept any used lead acid battery from any distributor. Every manufacturer producing lead acid batteries for distribution or sale in this State shall provide for the proper recycling of used lead acid batteries returned pursuant to this act. A manufacturer may arrange for the transportation of used lead acid batteries to:

- a. a secondary lead smelter permitted by the United States Environmental Protection Agency; or
- b. any scrap processing facility that accepts used lead acid batteries for recycling.

C.13:1E-204 Retailer to display notice that lead acid batteries may be recycled.

6. Every retailer of lead acid batteries shall conspicuously post and maintain, at or near the point of sale, a legible notice to consumers, not less than 8 1/2 inches by 11 inches in size and bearing the State recycling logo or symbol, containing the following inscription:

"Lead acid batteries can be recycled here. It is illegal to discard an automotive or marine lead acid battery in New Jersey. State law requires us to accept and recycle any used automotive or

marine lead acid battery returned to us, in exchange for the purchase of a new lead acid battery.”

C.13:1E-205 Solid waste collector not to collect used lead acid batteries.

7. No solid waste collector registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) and holding a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9) shall knowingly collect used lead acid batteries placed for collection and disposal as solid waste. A solid waste collector may refuse to collect a solid waste container containing a used lead acid battery.

C.13:1E-206 Solid waste facility not to accept used lead acid batteries.

8. No solid waste facility in this State shall knowingly accept for disposal a truckload or roll-off container of solid waste containing any used lead acid batteries. The owner or operator of a solid waste facility may refuse to accept for disposal any truckload or roll-off container of solid waste containing any used lead acid batteries.

C.13:1E-207 Consumer complaints, information; compliance.

9. a. The Department of Environmental Protection shall establish a means of addressing consumer complaints and a public education program to assure the widespread dissemination of information concerning the purpose of this act.

b. The department shall have the right to enter, at any time during normal business hours and upon presentation of appropriate credentials, any recycling center as defined in section 2 of P.L.1987, c.102 (C.13:1E-99.12), or any retail establishment or scrap processing facility at which used lead acid batteries are received, stored, processed or transferred for the purposes of recycling, in order to determine compliance with the provisions of this act.

10. The Commissioner of Environmental Protection shall adopt, pursuant to the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

11. Section 10 of this act shall take effect immediately, and the remainder of the act shall take effect on the first day of the sixth month following enactment, except that the department may take such administrative measures as may be necessary to prepare for its timely implementation.

Approved April 9, 1991.

CHAPTER 95

AN ACT concerning the use and acceptance by banking institutions of certain forms of powers of attorney and supplementing P.L.1971, c.373 (C.46:2B-8 et seq.).

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

C.46:2B-10 Definitions.

1. As used in this act:

“Account” means an agreement between a banking institution and its customer pursuant to which the banking institution accepts funds or property of the customer and agrees to repay or return the funds or property upon the terms and conditions specified in the agreement. The term “account” includes, but is not limited to, checking accounts, savings accounts, certificates of deposit and other types of time and demand accounts as banking institutions are authorized to enter into pursuant to applicable federal or State law.

“Agent” means the person authorized to act for another person pursuant to a power of attorney. An agent may be referred to as an “attorney,” “attorney-in-fact” or “deputy” in the power of attorney.

“Banking institution” includes banks, savings banks, savings and loan associations and credit unions, whether chartered by the United States, this State or any other state or territory of the United States or a foreign country.

A thing is done “in good faith” when it is in fact done honestly, regardless of whether it is done negligently.

“Power of attorney” means a duly signed and acknowledged written document in which a principal authorizes an agent to act on his behalf.

“Principal” means a person executing a power of attorney.

“Safe deposit company” means a company operating pursuant to P.L.1983, c.566 (C.17:14A-1 et seq.).

C.46:2B-11 Authority of agent.

2. If any power of attorney contains language which confers authority on the agent to “conduct banking transactions as set forth in section 2 of P.L.1991, c.95 (C.46:2B-11)”, the agent shall have the following authority under the power of attorney:

a. To continue, modify or terminate any account or other banking arrangement made by or on behalf of the principal prior to creation of the agency;

b. To open, either in the name of the agent alone, the principal alone or in both their names jointly, or otherwise, an account of any type in any banking institution selected by the agent; to hire, remove the contents of or surrender a safe deposit box or vault space; and to make other contracts for the procuring of other services made available by any banking institution or safe deposit company as the agent shall deem desirable;

c. To draw, sign and deliver checks or drafts for any purpose, to withdraw by check, order, draft, wire transfer, electronic funds transfer or otherwise, any funds or property of the principal deposited with, or left in the custody of, any banking institution, wherever located, either prior or subsequent to the creation of the agency, and use any line of credit connected with any such accounts, apply for any automatic teller machine card or debit card or use any automatic teller machine card or debit card, including already existing cards, in connection with any such accounts and apply for and use any bank credit card issued in the name of the agent as an alternate user, but shall not use existing credit cards issued in the name of the principal, on existing bank credit card accounts of the principal;

d. To prepare periodic financial statements concerning the assets and liabilities or income and expenses of the principal, and to deliver statements so prepared to the banking institution or other person whom the agent believes to be reasonably entitled;

e. To receive statements, vouchers, notices or other documents from any banking institution and to act with respect to them;

f. To have free access during normal business hours to any safe deposit box or vault to which the principal would have access if personally present;

g. To borrow money by bank overdraft, loan agreement or promissory note of the principal given for a period or on demand and at an interest rate as the agent shall select; to give any security out of the assets of the principal as the agent shall deem desirable or necessary for any borrowing; to pay, renew or extend the time of payment of any agreement or note so given or given by or on behalf of the principal; and to procure for the principal a loan from any banking institution by any other procedure made available by a banking institution;

h. To make, assign, endorse, discount, guaranty and negotiate for any purpose all promissory notes, checks, drafts or other negotiable or non-negotiable paper instruments of the principal or payable to the principal or to the principal's order; to receive the

cash or other proceeds of these transactions; and to accept any draft drawn by any person upon the principal and pay it when due;

i. To receive for the principal and deal in or with any trust receipt, warehouse receipt or other negotiable or non-negotiable instrument in which the principal has or claims to have interest;

j. To apply for and receive letters of credit or traveler's checks from any banking institution selected by the agent, giving any related indemnity or other agreements as the agent shall deem appropriate;

k. To consent to an extension in the time of payment for any commercial paper or banking transaction in which the principal has an interest or by which the principal is, or might be, affected in any way;

l. To demand, receive, obtain by action, proceeding or otherwise any money or other thing of value to which the principal is, may become or may claim to be entitled to as the proceeds of any banking transaction conducted by the principal or by the agent in the execution of any of the powers described in this section, or partly by the principal and partly by the agent so acting; to conserve, invest, disburse or utilize anything so received for the purposes enumerated in this section; and to reimburse the agent for any expenditures properly made by the agent in the execution of the powers conferred upon the agent by the power of attorney pursuant to the provisions of this section;

m. To execute, acknowledge, seal and deliver any instrument in the name of the principal or otherwise which the agent deems useful for the accomplishment of any purpose enumerated in this section;

n. To prosecute, defend, submit to arbitration, settle and propose or accept a compromise with respect to any claim existing in favor of or against the principal based on or involving any banking transaction or to intervene in any action or proceeding relating to the banking transaction;

o. To hire, discharge and compensate any attorney, accountant, expert witness or other assistant or assistants when the agent deems the action to be appropriate for the proper execution by the agent of any of the powers described in this section and for maintaining the necessary records; and

p. In addition to the specific acts set forth in this section, to do any other act which the principal may do through an agent concerning any transaction with a banking institution which affects the financial or other interests of the principal.

C.46:2B-12 Powers of agent.

3. An agent may exercise all powers described in this act exercisable by the principal upon and after the presentation of the

power of attorney to the banking institution with respect to any banking transaction whether conducted in this or any other state.

C.46:2B-13 Banking institutions to accept power of attorney.

4. With respect to banking transactions, banking institutions shall accept and rely on a power of attorney which conforms to this act and shall permit the agent to act and exercise the authority set forth in this act, provided that:

a. The banking institution shall refuse to rely on or act pursuant to a power of attorney if (1) the signature of the principal is not genuine, or (2) the employee of the banking institution who receives, or is required to act on, the power of attorney has received actual notice of the death of the principal, of the revocation of the power of attorney or of the disability of the principal at the time of the execution of the power of attorney;

b. The banking institution is not obligated to rely on or act pursuant to the power of attorney if it believes in good faith that the power of attorney does not appear to be genuine, that the principal is dead, that the power of attorney has been revoked or that the principal was under a disability at the time of the execution of the power of attorney. The banking institution shall have a reasonable time under the circumstances within which to decide whether it will rely on or act pursuant to a power of attorney presented to it, but it may refuse to act or rely upon a power of attorney first presented to it more than 10 years after its date or on which it has not acted for a 10-year period unless the agent is either the spouse, parent or a descendant of a parent of the principal;

c. If the power of attorney provides that it "shall become effective upon the disability of the principal" or similar words, the banking institution is not obligated to rely on or act pursuant to the power of attorney unless the banking institution is provided by the agent with proof to its satisfaction that the principal is then under a disability;

d. If the agent seeks to withdraw or pay funds from an account of the principal, the agent shall provide evidence satisfactory to the banking institution of his identity and shall execute a signature card in a form as required by the banking institution;

e. If the banking institution refuses to rely on or act pursuant to a power of attorney and the agent or principal has, in writing, provided the banking institution with an address of the agent, the institution shall notify the agent by a writing addressed to the address provided to it that the power of attorney has been rejected and the reason for the rejection;

f. The banking institution has viewed a form of power of attorney which contains an actual original signature of the principal. Alternatively, if the banking institution receives an affidavit of the agent that such an original is not available to be presented, the banking institution may accept a photocopy of the power of attorney certified to be a true copy of the original by either (1) another banking institution or (2) the county recording office of the county in which the original was recorded.

C.46:2B-14 Banking institutions not liable for action in reliance on power of attorney.

5. No banking institution acting in reliance on a power of attorney as set forth in this act, nor any person acting on behalf of such an institution, shall be held liable for injury for any act or omission if it is performed in good faith and within the scope of the institution's or person's duties, unless the act or omission constitutes a crime, actual fraud, actual malice or willful misconduct.

C.46:2B-15 Limitations on power of agent.

6. Nothing in this act shall be deemed to give an agent any greater authority or rights than the principal could exercise on his own behalf.

C.46:2B-16 Banking transaction by agent binds principal.

7. Any banking transaction made by an agent or banking institution under the authority of a power of attorney described in this act, unless otherwise invalid or unenforceable, binds the principal and his heirs, devisees, and personal representatives.

C.46:2B-17 Power of attorney not made pursuant to this act valid.

8. This act is not intended to be the exclusive method of providing for powers of attorney for bank transactions and nothing herein shall be deemed to invalidate or make inoperable any power of attorney which is not made pursuant to this act and which is otherwise valid. A power of attorney for banking transactions pursuant to this act may be combined with a power of attorney for other purposes. The provisions of section 1 of P.L.1971, c.373 (C.46:2B-8) shall apply to any power of attorney made pursuant to this act.

C.46:2B-18 Banking institution may retain copy of power of attorney.

9. The banking institution may retain a photocopy of the original signed power of attorney presented to it pursuant to subsection f. of section 4 of this act or may retain and rely upon the certified copies of the original as alternatively provided in subsection f. of section 4 and thereafter may rely on such photocopy or certified copy unless or until it receives knowledge or

information that requires or permits it not to honor the power of attorney as provided in section 4.

C.46:2B-19 Agent acting pursuant to power of attorney shall be a fiduciary.

10. An agent presenting or acting pursuant to or relying on a power of attorney described in section 2 of this act shall be a fiduciary within the meaning of the "Uniform Fiduciaries Law," P.L.1981, c.405 (C.3B:14-52 et seq.).

11. This act shall take effect on the 180th day after the date of enactment.

Approved April 9, 1991.

CHAPTER 96

AN ACT concerning municipal court jurisdiction of motor vehicle violations committed by 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 any age; (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; (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; or (4) the commission of an act which

constitutes a violation of P.L.1981, c.318 (C.26:3D-1 et seq.), P.L.1981, c.319 (C.26:3D-7 et seq.), P.L.1981, c.320 (C.26:3D-15 et seq.), P.L.1985, c.185 (C.26:3E-7 et seq.), P.L.1985, c.186 (C.26:3D-32 et seq.), N.J.S.2C:33-13, P.L.1985, c.318 (C.26:3D-38 et seq.), P.L.1985, c.381 (C.26:3D-46 et seq.), or of any amendment or supplement thereof, by a juvenile of any age; or (5) an act which constitutes a violation of chapter 7 of Title 12 of the Revised Statutes relating to the regulation and registration of power vessels, by a juvenile of any age or section 2 of P.L.1987, c.453 (C.12:7-61) shall not constitute delinquency as defined in this act. The municipal court having jurisdiction over a case involving a violation by a juvenile of a section of Title 26 listed in this subsection, or N.J.S.2C:33-13, shall forward a copy of the record of conviction in that case to the Family Part intake service of the county where the municipal court is located.

If a municipal court orders detention or imposes a term of imprisonment on a juvenile in connection with a violation of Title 39 of the Revised Statutes, chapter 7 of Title 12 of the Revised Statutes or N.J.S.2C:33-13, that detention or term of imprisonment shall be served at a suitable juvenile institution and not at a county jail or county workhouse.

2. This act shall take effect immediately.

Approved April 9, 1991.

CHAPTER 97

AN ACT concerning the prescription of certain medications by certified nurse midwives, amending R.S.45:14-13, R.S.45:14-14 and R.S.45:14-15 and supplementing chapter 9 of Title 45 of the Revised Statutes.

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

C.45:10-17 Definitions.

1. As used in this act:

“Board” means the State Board of Medical Examiners.

“Certified nurse midwife” means a certified nurse midwife registered with the board.

“Drug” means drugs, medicine and devices, as determined by the board.

C.45:10-18 Certified nurse midwife may prescribe drugs.

2. A certified nurse midwife who meets the qualifications pursuant to section 3 of this act may prescribe drugs, as delineated in standing orders and practice protocols developed in agreement between a certified nurse midwife and a collaborative physician. The practice protocols shall be established in accordance with standards adopted by the board.

C.45:10-19 Qualifications for nurse midwife to prescribe drugs.

3. To qualify to prescribe drugs pursuant to section 2 of this act, a certified nurse midwife shall have completed 30 contact hours, as defined by the National Task Force on the Continuing Education Unit, in pharmacology or a pharmacology course, acceptable to the board, in an accredited institution of higher education approved by the Department of Higher Education or the board.

C.45:10-20 Application for authority to prescribe drugs.

4. A certified nurse midwife shall apply on a form prescribed by the board to obtain the authority to prescribe drugs pursuant to section 2 of this act and shall present evidence acceptable to the board of meeting the requirements of section 3 of this act.

C.45:10-21 Board may prohibit nurse midwife from prescribing drugs.

5. If the board determines that a certified nurse midwife who is permitted to prescribe drugs pursuant to this act has violated any provisions of this act or any provision of a regulation pertaining to certified nurse midwives or violated any State or federal law or regulation applicable to the prescription of drugs, the board shall prohibit that certified nurse midwife from prescribing any drugs.

C.45:10-22 Rules, regulations.

6. The board shall promulgate rules and regulations in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

7. R.S.45:14-13 is amended to read as follows:

Prescriptions filled only by pharmacist or apprentices duly supervised.

45:14-13. No person who is not a registered pharmacist of this State, or an apprentice employed in a pharmacy under the immediate personal supervision of a registered pharmacist, shall compound, dispense, fill or sell prescriptions of physicians, dentists, veterinarians, any other medical practitioners or certified nurse midwives licensed or approved to write prescriptions for drugs and medicines.

8. R.S.45:14-14 is amended to read as follows:

“Prescription” defined.

45:14-14. The term “prescription” as used in R.S.45:14-13, R.S.45:14-15 to R.S.45:14-17 means an order for drugs or medicines or combinations or mixtures thereof, written or signed by a duly licensed physician, dentist, veterinarian, other medical practitioner or a certified nurse midwife licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and includes orders for drugs or medicines or combinations or mixtures thereof transmitted to pharmacists through word of mouth, telephone, telegraph or other means of communication by a duly licensed physician, dentist, veterinarian, other medical practitioner or a certified nurse midwife licensed or approved to write prescriptions intended for the treatment or prevention of disease in man or animals, and such prescriptions received by word of mouth, telephone, telegraph or other means of communication shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be filed by the pharmacist as provided for in R.S.45:14-15, but no prescription, for any narcotic drug, except as provided in section 15 of P.L.1970, c.226 (C.24:21-15), shall be given or transmitted to pharmacists, in any other manner, than in writing signed by the physician, dentist, veterinarian, other medical practitioner or certified nurse midwife giving or transmitting the same, nor shall such prescription be renewed or refilled.

9. R.S.45:14-15 is amended to read as follows:

Prescriptions to be numbered and filed; records.

45:14-15. The registered pharmacist compounding, dispensing, filling or selling a prescription shall place the original written prescription in a file kept for that purpose for a period of not less than five years if such period is not less than two years after the last refilling, and affix to the container in which the prescription is dispensed, a label bearing the name and complete address of the pharmacy or drug store in which dispensed, the brand name or generic name of the product dispensed unless the prescriber states otherwise on the original written prescription, the date on which the prescription was compounded and an identifying number under which the prescription is recorded in his files, together with the name of the physician, dentist, veterinarian, other medical

practitioner or certified nurse midwife prescribing it and the directions for the use of the prescription by the patient, as directed on the prescription of the physician, dentist, veterinarian, other medical practitioner or certified nurse midwife licensed or approved to write prescriptions. Every registered pharmacist who fills or compounds a prescription, or who supervises the filling or compounding of a prescription by a person other than a pharmacist registered in this State, shall place his name or initials on the original prescription or on the label affixed to the container in which the prescription is dispensed or in a book kept for the purpose of recording prescriptions. The board of pharmacy or any of its agents is hereby empowered to inspect the prescription files and other prescription records of a pharmacy and to remove from said files and take possession of any original prescription; providing, that the authorized agent removing or taking possession of an original prescription shall place in the file from which it was removed a copy certified by said person to be a true copy of the original prescription thus removed; provided further, that the original copy shall be returned by the board of pharmacy to the file from which it was removed after it has served the purpose for which it was removed.

10. This act shall take effect immediately.

Approved April 9, 1991.

CHAPTER 98

AN ACT changing the designated statutory title of "Municipal Court Clerk" to "Municipal Court Administrator", 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:8-13a Municipal court clerk designated municipal court administrator.

1. From and after the effective date of this act, the municipal court clerk in each municipal court shall be known and referred to as the "municipal court administrator".

2. This act shall take effect immediately.

Approved April 12, 1991.

CHAPTER 99

AN ACT concerning environmental health, and amending and supplementing P.L.1977, c.443.

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

1. Section 2 of P.L.1977, c.443 (C.26:3A2-22) is amended to read as follows:

C.26:3A2-22 Legislature's findings and declarations.

2. The Legislature finds that environmental health programs for the control of air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution and to protect workers and the public from hazardous substances and toxic catastrophes are inherently regional in nature and that the existing county health departments have experience administering environmental health programs on a regional basis and that they are among the most efficient health units in the State.

The Legislature, therefore, declares that it is the policy of this State to provide for the administration of environmental health services by county departments of health throughout the State in a manner which is consistent with certain overall performance standards to be promulgated by the Department of Environmental Protection. The environmental health services shall include the monitoring and enforcement of environmental health standards, the operation of a technical resource center and the enactment and enforcement of environmental health ordinances to control air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution, to protect workers and the public from hazardous substances and toxic catastrophes, and to protect against other threats to environmental health.

2. Section 3 of P.L.1977, c.443 (C.26:3A2-23) is amended to read as follows:

C.26:3A2-23 Definitions.

3. As used in this act unless otherwise specifically indicated:

a. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to the human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property anywhere in the

State as may be affected thereby, but excludes all aspects of employer-employee relationships with respect to health and safety hazards within the confines of a place of employment.

b. "County board" means a county board of health established pursuant to P.L.1975, c.329 (C.26:3A2-1 et seq.) and having all the powers of a county board of health provided pursuant to law.

c. "County department" means a county department of health established pursuant to P.L.1975, c.329 (C.26:3A2-1 et seq.) with the purpose of providing environmental health programs throughout the county and other local health programs in any municipality which contracts therefor with the county board.

d. "Environmental health" means those health and environmental programs relating to the control of air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution and to protect workers and the public from hazardous substances and toxic catastrophes, or to such other health and environmental programs as may be designated by the commissioner.

e. "Monitor" means check, test, observe, survey or inspect to determine compliance with environmental health standards.

f. "Noise" means any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the State or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

g. "Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

h. "Water pollution" means the presence in or upon the surface or ground waters of this State of one or more contaminants, including any form of solid or liquid waste of any composition whatsoever, in such quantities and duration as are, or tend to be, injurious to the human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property within any portion of the State.

i. "Certified local health agency" means a local health agency satisfying the performance and administrative standards authorized in section 15 of P.L.1977, c.443 (C.26:3A2-33).

j. "Commissioner" means the Commissioner of Environmental Protection.

k. "Department" means the Department of Environmental Protection.

l. "Local health agency" means a county department, or regional or municipal health agency responsible, pursuant to law, for the conduct, within its area of jurisdiction, of a public health program administered by a full-time health officer.

m. "Pesticides" means "pesticides" as defined in section 3 of P.L.1971, c.176 (C.13:1F-3).

n. "Radiation" means "unnecessary radiation" as defined in section 2 of P.L.1958, c.116 (C.26:2D-2); radon gas and radon progeny; "low-level radioactive waste" as defined in section 3 of P.L.1987, c.333 (C.13:1E-179), or as defined by the Commissioner of Environmental Protection pursuant to regulation.

o. "State statutes concerning environmental health" or "environmental health laws" means the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.), the "Noise Control Act of 1971," P.L.1971, c.418 (C.13:1G-1 et seq.), the "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1 et seq.), the "Environmental Cleanup Responsibility Act," P.L.1983, c.330 (C.13:1K-6 et seq.), the "Toxic Catastrophe Prevention Act," P.L.1985, c.403 (C.13:1K-19 et seq.), the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), and any other State environmental health law that the commissioner deems appropriate.

3. Section 7 of P.L.1977, c.443 (C.26:3A2-25) is amended to read as follows:

C.26:3A2-25 Powers and duties of certified local health agency.

7. A certified local health agency shall investigate citizen complaints; provide public information and citizen education services in all matters concerning environmental health; monitor the various State statutes concerning environmental health, or any rule or regulation adopted pursuant thereto, or any ordinance adopted pursuant to section 9 of P.L.1977, c.443 (C.26:3A2-27); report any violation of those statutes, rules and regulations to the department; gather evidence of violations as required; and provide witnesses for any resultant court action as needed. A certified

local health agency may maintain an action in a court of competent jurisdiction to enforce, or to restrain the violation of, any environmental health law, rule or regulation, or ordinance adopted hereunder, which violation occurs, or threatens to occur, within the geographical jurisdiction of a certified local health agency.

A certified local health agency may initiate legal proceedings for a violation of any environmental health law, rule, regulation, or ordinance, including the making and issuing of complaints and summonses by serving the summons upon the violator and filing the complaint promptly with a court having jurisdiction. The county counsel or the prosecutor of the municipality in which a violation has occurred shall be authorized to act as counsel to the certified local health agency for prosecution of the violation, and any penalties collected from the prosecution shall be deposited in the "Environmental Quality and Enforcement Fund" established pursuant to section 8 of P.L.1991, c.99 (C.26:3A2-35) for use by the certified local health agency of the county or municipality prosecuting such violations.

Unless specifically precluded by State statute, penalties for a violation prosecuted under this section shall be collected pursuant to the "penalty enforcement law," N.J.S.2A:58-1 et seq.

4. Section 9 of P.L.1977, c.443 (C.26:3A2-27) is amended to read as follows:

C.26:3A2-27 Environmental health ordinances; adoption; enforcement.

9. A board of health of a county or municipality, or a regional health commission, with, or that is, a certified local health agency, or the governing body of any such county or municipality without a board of health or that is not a member of a regional health commission, may, in accordance with this section, formulate, adopt, amend, repeal and enforce environmental health ordinances to control air pollution, solid waste, hazardous waste, noise, pesticides, radiation, or water pollution, to protect workers and the public from hazardous substances and toxic catastrophes, or to protect against any other threat to environmental health for which authority has been delegated pursuant to section 10 of P.L.1977, c.443 (C.26:3A2-28), within the territorial area of the certified local health agency. Ordinances adopted pursuant to this section shall be consistent with all applicable federal and State statutes, rules and regulations and with any areawide water quality, air quality, solid waste, or other applicable management plan adopted pursuant to law and approved by the Commissioner of

Environmental Protection. Each ordinance shall be mailed to the commissioner within five working days of adoption, and shall take effect within 90 days of adoption, unless the commissioner disapproves the ordinance during that period. Model ordinances developed pursuant to subsection c. of section 10 of P.L.1977, c.443 (C.26:3A2-28) and adopted in full and without alteration by the appropriate governmental entity shall not be mailed to the commissioner and shall take effect immediately. An ordinance adopted and approved by the board of health or governing body of a county hereunder shall supersede any environmental health ordinance inconsistent therewith on the same subject adopted by the individual municipalities or a regional health commission within the county, and shall be implemented in accordance with approved interagency agreements between the certified local health agency and the department.

A board of health of a county or municipality, or a regional health commission with, or that is, a certified local health agency, or the governing body of any such county or municipality without a board of health or that is not a member of a regional health commission may adopt an environmental health ordinance that is more stringent than the federal or State statute, rule, regulation, or management plan upon which it is based provided that the federal or State statute, rule, regulation, or management plan allows for the adoption of more stringent ordinances.

Notwithstanding any law, rule, or regulation to the contrary, an environmental health ordinance may provide for penalties for its violation consistent with the penalties established therefor in the applicable environmental health law, or any penalty schedule adopted by the department in accordance therewith.

5. Section 10 of P.L.1977, c.443 (C.26:3A2-28) is amended to read as follows:

C.26:3A2-28 Promulgation of environmental health performance standards and standards of administrative procedure; delegation of powers; comprehensive model ordinances.

10. a. The commissioner shall promulgate, after consultation with the Commissioner of Health, environmental health performance standards and standards of administrative procedure for certified local health agencies pursuant to the "Administrative Procedure Act" (P.L.1968, c.410; C.52:14B-1 et seq.). The standards shall include provisions for the delivery to the department

of periodic reports on the results of the monitoring and enforcement activities of the certified local health agencies.

b. The commissioner may, in the same manner, delegate the administration of one or more aspects of the environmental health laws of this State or of the rules and regulations adopted thereto, which are administered by the department, to a certified local health agency, after he has adopted specific standards and guidelines for the administration of such programs by certified local health agencies, for so long as he determines that a certified local health agency has the capability and determination to adhere to those specific standards and guidelines. In determining whether to delegate authority to administer all or a portion of any program, or whether a certified local health agency has the capability or determination to assume or retain delegation of program administration, the commissioner shall consider:

(1) The consistency of the delegation with applicable federal or State law;

(2) The probable effects of the delegation on the effectiveness and efficiency of program administration, and the need for uniform program administration;

(3) The availability of technical expertise, adequate staff levels and other resources needed to adequately perform program administration.

Under a delegation of program administration for the "Toxic Catastrophe Prevention Act," P.L.1985, c.403 (C.13:1K-19 et seq.) and the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), delegation may not include authority to require documentation that is in addition to that required to be retained by an employer under those laws.

c. The commissioner shall develop one or more comprehensive model ordinances dealing with the control of air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution, the protection of workers and the public from hazardous substances and toxic catastrophes, or other threats to environmental health for which authority has been delegated, for use by the appropriate local governmental entity, and to provide technical assistance to the certified local health agencies.

6. Section 11 of P.L.1977, c.443 (C.26:3A2-29) is amended to read as follows:

C.26:3A2-29 Grants to local agencies; conditions; environmental health fund.

11. a. The commissioner is authorized to make grants to certified local health agencies for the provision of environmental

health services. The commissioner shall prescribe procedures for applying for the grant, and terms and conditions for receiving the grant. The State's contribution shall not exceed 50% of the cost of any undertaking for which a grant is made.

b. There is established in the department a non-lapsing environmental health fund that shall consist of all revenues appropriated or otherwise made available for the purpose of making grants on a non-matching basis to certified local health agencies, including such monies from fees, fines and penalties collected by the department in implementing environmental health laws as the department may deposit in the fund. Non-matching grants shall be used by certified local health agencies in the administration or implementation of environmental health laws, or rules or regulations adopted pursuant thereto, for which delegation of program administration has been received, or for implementation of local ordinances adopted in accordance therewith. Non-matching grant monies may be used only for new or for expanding programs, or for development of technical and administrative procedures and protocols, training and personnel development, special projects and equipment, or other similar purposes approved by the commissioner. Non-matching grants made pursuant to this subsection shall be in addition to grants made pursuant to subsection a. of this section.

c. Monies in the fund may be used by the commissioner to provide training, equipment or other services to certified local health agencies for the purpose of assisting them in carrying out their responsibilities under P.L.1977, c.443 (C.26:3A2-21 et seq.).

C.26:3A2-34 Certified local health agency service fees.

7. Notwithstanding any law to the contrary, a certified local health agency, if authorized by ordinance, may charge a reasonable fee for any service provided in connection with an environmental health ordinance, but such fee shall not exceed the estimated cost of providing that service. All fees collected pursuant to this section shall be deposited in the "Environmental Quality and Enforcement Fund," created pursuant to section 8 of P.L.1991, c.99 (C.26:3A2-35). Authorization to charge service fees shall be provided, as appropriate, by ordinance of any county or municipal board of health, or regional health commission, with a county department or that is a certified local health agency, or, in the case of any such county or municipality without a board of health or that is not a member of a regional health commission, of the governing body of that county or municipality.

C.26:3A2-35 County, municipality to establish Environmental Quality and Enforcement Fund.

8. Each county and municipality with a certified local health agency, shall establish an "Environmental Quality and Enforcement Fund." Any fees, fines or penalties collected pursuant to P.L.1977, c.443 (C.26:3A2-21 et seq.) shall be deposited into the respective county or municipal fund, and shall be dedicated to the use of the county department or certified local health agency in carrying out its responsibilities under that act.

9. Within 90 days of the effective date of this act, the Department of Environmental Protection shall review, and revise if necessary, regulations adopted pursuant to P.L.1977, c.443 (C.26:3A2-21 et seq.), to reflect the provisions of P.L.1991, c.99 (C.26:3A2-34 et al.).

10. This act shall take effect immediately.

Approved April 15, 1991.

CHAPTER 100

AN ACT designating May 7th of each year as "Vietnam Veterans' Remembrance Day" in the State of New Jersey and providing for a proclamation therefor by the Governor.

WHEREAS, Over 300,000 residents of the State of New Jersey saw duty during the Vietnam conflict; and

WHEREAS, Of this number, 1,473 died and 62 are still listed as missing in action; and

WHEREAS, This State's veterans of the conflict have not received the recognition that they deserve for the hardships that they endured or for the courage they displayed; and

WHEREAS, It is proper that all the citizens of this State recognize and pay tribute to the heroism shown and the sacrifices made by the men and women of New Jersey who served in Vietnam; and

WHEREAS, May 7th marks the anniversary of the day that the Vietnam conflict officially ended; and

WHEREAS, It is fitting that this day be set aside this year and each year as a time to honor those veterans who served in Vietnam with valor and to remember the heroic men and women from New Jersey who lost their lives in the service of their country; now, therefore,

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

C.36:2-18 “Vietnam Veterans’ Remembrance Day” designated.

1. May 7th of each year shall be designated as “Vietnam Veterans’ Remembrance Day” in the State of New Jersey to honor those veterans who served in Vietnam with valor and to remember the heroic men and women from this State who lost their lives in the service of their country.

C.36:2-19 Observance of “Vietnam Veterans’ Remembrance Day”.

2. The Governor shall annually issue a proclamation designating May 7th as “Vietnam Veterans’ Remembrance Day” and with the Legislature call upon the citizens of this State to recognize this day with appropriate observances.

3. This act shall take effect immediately.

Approved April 16, 1991.

CHAPTER 101

AN ACT authorizing the sale of certain surplus real property owned by the State.

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

1. The Department of Military and Veterans’ Affairs is authorized to sell and convey all of the State’s interest in 2.91± acres of surplus real property located in the City of Long Branch, Monmouth County. The property and buildings situated on the property are located on Ocean Avenue and designated as Block 301, Lot 8, on the City of Long Branch tax map. The sale shall be upon terms and conditions as approved by the State House Commission.

2. The proceeds of the sale of property under section 1 of this act shall be deposited in the General Fund of the State.

3. This act shall take effect immediately.

Approved April 17, 1991.

CHAPTER 102

AN ACT concerning district boards of registry and election and supplementing article 1 of chapter 6 of Title 19 of the Revised Statutes.

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

C.19:6-9.1 Conduct of election may be divided into two shifts.

1. Notwithstanding any other provision of this Title to the contrary, in any election the county board may direct that responsibility for the conduct of that election in an election district shall be divided between a first shift and a second shift of the district board of that district, provided that the responsibility for performance of the duties of judge and inspector of any such district board shall not be so divided between shifts, and the members of such a board who shall have been selected as judge and inspector thereof shall serve on both shifts of that board. Whenever a county board shall have determined to direct such a division of responsibility in an election district, it shall, not later than the second day preceding the election, appoint such additional members to the district board of the district as may be required, in the same manner as provided for the appointment of district board members under R.S.19:6-1, provided that no additional members shall be appointed for the purpose of dividing responsibility for performance of the duties of judge or inspector of that district board. The county board shall also, at the same time at which any such appointment of additional members is made, designate each member of the district board other than the judge or inspector of the board, whether that member was appointed under R.S.19:6-1 or appointed as an additional member under this section, to serve either on the first or the second shift of the board; in making this designation, the county board of elections shall give due consideration to ensuring that district board members with experience in the conduct of elections are included in the membership of each shift. With respect to any district board of elections for which shifts have been established hereunder, the provisions of this section shall not be construed to prevent a county board of elections from designating a clerk member of that board to serve on both shifts of the board, or from establishing a preference, in appointing the clerk members of that board, for the selection of individuals who are available to serve on both shifts of the board.

The county board shall establish the hours during which each shift shall serve, and shall timely notify the judge and inspector of the district board of the hours of the two shifts and the respec-

tive members of each shift of the hours of that shift's service. The two shifts shall be as nearly equal in duration as is practicable. The members of the second shift shall be required to be present at the polls not later than one-half hour prior to the end of the first shift, and the responsibility for the conduct of the election in the election district shall be transferred from the first shift to the second shift during that last half-hour period of the first shift's service under such rules as the county board shall prescribe.

The members of each shift of a district board of elections designated under this section shall have all of the responsibilities prescribed by law for the conduct of the election during the period in which that shift serves. In addition, the members of the first shift shall have responsibility, subject to the several duties specifically conferred by law upon the judge and inspector of the district board, for the receipt and custody, prior to the election, of election supplies and equipment; for preparation of the polling place for the election; and for the performance of all other duties relating to the election which are required by law to be carried out prior to the commencement of the balloting, up to and including the opening of the polls. Likewise, the members of the second shift shall have responsibility, subject to the several duties specifically conferred by law upon the judge and inspector of the district board, for closing the polls; for counting the votes cast in the election and ascertaining the results thereof; for the preparation and delivery of statements of those results; for the proper disposition of ballots in accordance with law; for the securing of the ballot boxes or voting machines; for the return of all election equipment and supplies; and for the performance of all other duties relating to the election which are required by law to be carried out following the closing of the polls.

The compensation of a member of a shift of the district board payable with respect to the member's service on that shift shall be equal to one-half of the amount, pursuant to R.S.19:45-6, payable to members of a district board for which no division of responsibilities between a first shift and second shift, as provided by this section, has been established.

2. This act shall take effect immediately.

Approved April 17, 1991.

CHAPTER 103

AN ACT establishing procedures for bail in domestic violence cases and amending P.L.1981, c.426.

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

1. Section 10 of P.L.1981, c.426 (C.2C:25-10) is amended to read as follows:

C.2C:25-10 Restrictions on defendant.

10. a. When a defendant charged with a crime or offense involving domestic violence is released from custody before trial on bail or personal recognizance, the court authorizing the release may as a condition of release issue an order prohibiting the defendant from having any contact with the victim including, but not limited to, restraining the defendant from entering the victim's residence, place of employment or business, or school, and from harassing the victim or victim's relatives in any way.

b. The written court order releasing the defendant shall contain the court's directives restricting the defendant's ability to have contact with the victim or the victim's relatives. Information regarding the address or residence of the victim shall be kept confidential, if such information is unknown to the defendant. The clerk of the court or other person designated by the court shall provide a copy of this order to the victim forthwith.

c. Before bail is set, the defendant's prior record shall be determined by the court.

d. After bail has been set, the following procedures shall apply:

(1) Bail shall not be reduced without prior notice to the county prosecutor; and

(2) Bail shall not be reduced by a judge other than the judge who ordered bail, unless the reasons for the higher amount of bail are set forth in the record.

2. This act shall take effect immediately.

Approved April 17, 1991.

CHAPTER 104

AN ACT concerning the practice of professional planning and amending and supplementing P.L.1962, c.109.

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

1. Section 9 of P.L.1962, c.109 (C.45:14A-9) is amended to read as follows:

C.45:14A-9 Minimum evidence to qualify for license.

9. The following shall be considered as minimum evidence satisfactory to the board that an applicant is qualified for license as a professional planner.

- (a) The applicant for license as a professional planner shall:
 - (1) Be of good moral character;
 - (2) Be a citizen of the United States or have declared his intention to become a citizen of the United States;
 - (3) Pass the required examinations.
- (b) The applicant for license as a professional planner shall submit the following minimum educational and experience qualifications:
 - (1) A graduate degree in professional planning from an accredited college or university in a curriculum offering instruction in such recognized planning subjects as principles of land use planning, history of city planning, planning project design, and planning law and administration, as shall be approved by the board; with a minimum of three years' experience in the full-time practice of professional planning; or
 - (2) An undergraduate degree from an accredited college or university in a curriculum offering a major or option comprising a minimum of 21 credit hours in such recognized planning subjects as shall be approved by the board; with a minimum of four years' experience in the full-time practice of professional planning; or
 - (3) Graduation from a secondary school and at least 12 years of professional planning experience acceptable to the board; or
 - (4) For a period of eight years only subsequent to July 1, 1963, a degree in a closely related course of study such as architecture, landscape architecture, engineering, law, sociology, geography, public administration, political science or economics, with a minimum of 18 credit hours in recognized planning subjects included as part of or in addition to such courses of study in an accredited

college or university, with a minimum of five years' experience in the full-time practice of professional planning.

(c) The applicant for license as a professional planner shall obtain a passing grade, as determined by the board, upon a qualifying written examination. Such examination shall comprise subject matter covering:

- (1) History of urban, rural, and regional planning.
- (2) Fundamental theories, research methods and common basic standards in professional planning.
- (3) Administrative and legal problems, instruments and methods.
- (4) Current planning design and techniques.
- (5) Planning law, procedures and practices as contained in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

In considering the qualifications of applicants, the teaching of recognized planning subjects may be construed as planning experience.

Any person having the necessary qualifications prescribed in this act to entitle him to license as a professional planner shall be eligible for such license even though he may not be practicing his profession at the time of making application.

2. Section 11 of P.L.1962, c.109 (C.45:14A-11) is amended to read as follows:

C.45:14A-11 Annual examinations; re-examination; issuing license.

11. Examinations for license as a professional planner or certificate of registration as a planner-in-training shall be offered at least once annually at such times and places as the board shall determine. Such examination shall be prepared by the board or by such qualified experts as the board may choose, and may cover any and all aspects of planning, previously described herein. The examinations shall be administered by such qualified expert examiners as may be appointed by the board.

An applicant who has failed to obtain a passing grade in an examination may be examined again upon filing a new application and the payment of the application fee fixed by this act, provided that a period of at least six months has elapsed before re-examination.

The board, upon application therefor on its prescribed form and the payment of the application and license fees fixed by this act, may issue a certificate of license as a professional planner without written examination to any person holding a certificate of license as a professional planner issued to him by any state, when the applicant's qualifications meet the requirements of this act and the rules established by the board.

The board upon application therefor and the payment of the application and license fees fixed by this act shall issue a certificate of license as a professional planner to any duly licensed professional engineer, licensed land surveyor, registered architect, or certified landscape architect of New Jersey who obtains a passing grade, as determined by the board, upon a qualifying written examination on planning law, procedures and practices as contained in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

Any applicant who has passed the examination and has otherwise qualified hereunder as a professional planner, upon payment of the license fee fixed by this act, shall have a certificate of license issued to him as a professional planner, signed by the president and secretary-director of the board under the seal of the board. The certificate of license shall authorize the practice of the applicant as a "professional planner." Certificates of licenses shall show the full name of the licensee and shall have a license number. The issuance of a license certificate by this board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed professional planner while such certificate remains unrevoked or unexpired.

C.45:14A-9.1 Previously licensed professional planners not affected.

3. The provisions of sections 9 and 11 of P.L.1962, c.109 (C.45:14A-9 and 45:14A-11) with respect to examination on planning law, procedures and practices as contained in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), shall not apply to or affect the license of any person licensed as a professional planner on or before the effective date of this 1991 amendatory and supplementary act.

4. This act shall take effect immediately.

Approved April 17, 1991.

CHAPTER 105

AN ACT providing for the incorporation of registered professional nurses and amending P.L.1969, c.232.

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

1. Section 3 of P.L.1969, c.232 (C.14A:17-3) is amended to read as follows:

C.14A:17-3 Terms defined.

3. Terms defined. As used in this act, the following words shall have the meanings indicated:

(1) The term "professional service" shall mean any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which prior to the passage of this act and by reason of law could not be performed by a corporation. By way of example and without limiting the generality thereof, the personal services which come within the provisions of this act are the personal services rendered by certified public accountants, architects, optometrists, professional engineers, land surveyors, land planners, chiropractors, physical therapists, registered professional nurses, dentists, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, veterinarians and, subject to the Rules of the Supreme Court, attorneys-at-law;

(2) The term "professional corporation" means a corporation which is organized under this act for the sole and specific purpose of rendering the same or closely allied professional service as its shareholders, each of whom must be licensed or otherwise legally authorized within this State to render such professional service;

(3) "Closely allied professional service" means and is limited to the practice of (a) architecture, professional engineering, land surveying and land planning and (b) any branch of medicine and surgery, optometry, physical therapy, registered professional nursing, and dentistry.

2. Section 7 of P.L.1969, c.232 (C.14A:17-7) is amended to read as follows:

C.14A:17-7 Authority to render services; limitations; charges.

7. Rendering of professional service limited to licensed personnel; charges authorized. No professional corporation may render professional services except through its officers, employees and agents who are duly licensed or otherwise legally authorized to render such professional services within this State; provided, however, that this provision shall not be interpreted to include in the term "employee" as used herein clerks, secretaries, administrators, bookkeepers, technicians and other assistants who

are not usually and ordinarily considered by law, custom and practice to be rendering professional service to the public for which a license or other legal authorization is required in connection with the profession to be practiced, nor does the term "employee" include any other person who performs all his employment under the direct supervision and control of an officer, agent or employee who is himself rendering professional service to the public on behalf of the professional corporation; provided, that no person shall, under the guise of employment, practice a profession unless duly licensed to practice that profession under the laws of this State. Notwithstanding any other or contrary provisions of the laws of the State, a professional corporation may charge for its services, may collect such charges, and may compensate its officers, employees and agents, including those persons excluded from the term "employee" as used herein.

3. This act shall take effect on the 90th day after enactment.

Approved April 17, 1991.

CHAPTER 106

AN ACT authorizing the borough of Pine Beach, in the county of Ocean, to make permanent the appointment of Merton W. Crosby to the police department of the borough of Pine Beach.

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 Pine Beach, in the county of Ocean, is authorized to make permanent the appointment of Merton W. Crosby to its police department in the classified service notwithstanding that his age is greater than the maximum age limit set out in N.J.S.40A:14-127.

2. This act shall take effect upon due adoption of an ordinance by the borough of Pine Beach for the purpose of adopting it.

Approved April 17, 1991.

CHAPTER 107

AN ACT to validate certain proceedings for the issuance of bonds 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 meeting or 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 meeting or election, are hereby ratified, validated and confirmed, notwithstanding that notices to persons desiring military service and civilian absentee ballots were not published as required by the provisions of N.J.S.18A:14-19; provided however that the notices were published prior to the election and notwithstanding that the supplemental debt statement required by N.J.S.18A:24-16 was not prepared and filed in accordance with the provisions of N.J.S.18A:24-17; provided, however, that the supplemental debt statement has heretofore been made, sworn to, and filed in the place or places required by N.J.S.18A:24-16 and N.J.S.18A:24-17; and provided further, that no action, suit, or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved April 17, 1991.

CHAPTER 108

AN ACT concerning cruelty to animals, and amending R.S.4:22-20 and R.S.4:22-26.

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

1. R.S.4:22-20 is amended to read as follows:

Abandonment of animals.

4:22-20. a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a disorderly persons offense.

b. A person who shall abandon a domesticated animal shall be guilty of a disorderly persons offense. The violator shall be subject to the maximum \$1,000 penalty.

2. R.S.4:22-26 is amended to read as follows:

Penalty for acts constituting cruelty in general.

4:22-26. A person who shall:

a. Overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature;

b. Cause or procure to be done by his agent, servant, employee or otherwise an act enumerated in subsection "a." of this section;

c. Inflict unnecessary cruelty upon a living animal or creature of which he has charge or custody either as owner or otherwise, or unnecessarily fail to provide it with proper food, drink, shelter or protection from the weather;

d. Receive or offer for sale a horse which by reason of disability, disease or lameness, or any other cause, could not be worked without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection "e." of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection "e." of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhuman manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall

fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in his possession sheep or cattle, which he claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature; or

w. Gamble on the outcome of a fight involving a living animal or creature—

Shall forfeit and pay a sum not to exceed \$250.00, except in the case of a violation of subsection “t.” a mandatory sum of \$500, and \$1,000 if the violation occurs on or near a roadway, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals.

3. This act shall take effect immediately.

Approved April 19, 1991.

CHAPTER 109

AN ACT concerning water pollution control and supplementing P.L.1977, c.74 (C.58:10A-1 et seq.).

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

C.58:10A-10.10 Commissioner to take action against owner of municipal treatment works exceeding effluent limitations.

1. Whenever the commissioner finds that effluent limitations under a discharge permit, issued pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), are being exceeded by a county or municipal utilities authority organized pursuant to P.L.1957, c.183 (C.40:14B-1 et seq.), which provides disposal or discharge but not

treatment of the effluent of one or more municipal treatment works, and the commissioner further finds that the violation of the effluent limitation is caused by effluents discharged by one or more municipal treatment works into the disposal facilities of the county or municipal utilities authority, the commissioner shall, in accordance with the provisions of subsection a. of section 10 of P.L.1977, c.74 (C.58:10A-10), issue an order for compliance to, or take such other action authorized thereunder against, the owner or operator of the municipal treatment works determined to be discharging pollutants into the utilities authority's facilities in violation of the discharge permit limitations of the municipal treatment works. The commissioner shall prescribe uniform sampling and reporting requirements for the county or municipal utilities authority and each of the municipal treatment works discharging effluents into the disposal facilities of the authority for the purpose of determining the source and extent of violation of permit requirements.

2. This act shall take effect immediately.

Approved April 19, 1991.

CHAPTER 110

AN ACT concerning the appointment of corrections officers and supplementing chapter 1B and chapter 8 of Title 30 of the Revised Statutes.

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

C.30:4-3.11 Requirements for corrections officer at State institution.

1. No person shall be appointed as a corrections officer of any correctional institution assigned, maintained or operated by the Department of Corrections unless that person:
 - a. Is a citizen of the United States;
 - b. Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
 - c. Is sound in body and of good health;
 - d. Is of good moral character;
 - e. Has not been convicted of any offense which would make him unfit to perform the duties of his office.

C.30:8-18.1 Requirements for corrections officer at county correctional institution.

2. No person shall be appointed as a corrections officer of any county correctional institution unless that person:

- a. Is a citizen of the United States;
- b. Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
- c. Is sound in body and of good health;
- d. Is of good moral character;
- e. Has not been convicted of any offense which would make him unfit to perform the duties of his office.

3. This act shall take effect on the first day of the fourth month following enactment, but its provisions shall not apply to any corrections officer appointed before that date.

Approved April 19, 1991.

CHAPTER 111

AN ACT concerning mortgage escrow accounts and amending
P.L.1990, c.69.

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

1. Section 10 of P.L.1990, c.69 (C.17:16F-23) is amended to read as follows:

C.17:16F-23 Written notice of property tax delinquency to mortgagor.

10. a. The tax collector of a taxing district shall send a written notice of a property tax delinquency to the mortgagor and the applicable servicing organization within 60 days after the tax payment on the property is delinquent. However, the validity of the tax delinquency and the time it is due shall not be affected by the failure of the mortgagor or the servicing organization to receive the notice.

b. If the tax payments of the mortgagor are to be made by the mortgagee or its servicing organization from an escrow account; the mortgagee or its servicing organization has been authorized to receive and has been sent the original tax bill in time to make the property tax payment without being delinquent; the mortgagor has made escrow account payments in accordance with the schedule pro-

vided by the mortgagee or its servicing organization; the mortgagor and the mortgagee or its servicing organization have received notice pursuant to subsection a. of this section; and at least 21 days have elapsed since the mortgagor and the mortgagee or its servicing organization have received that notice, a mortgagor may:

(1) Pay the delinquent property taxes including interest using the copy of the tax bill sent him pursuant to R.S.54:4-64;

(2) Notify the mortgagee or its servicing organization in writing that payment for the mortgagor's property taxes has been made and include a copy of the paid tax bill which includes the interest paid; and

(3) Stop making scheduled payments into the escrow account until the total amount paid by the mortgagor pursuant to paragraph (1) of this subsection is equaled.

c. If the mortgagor makes a tax payment and notifies the mortgagee or servicing organization pursuant to paragraphs (1) and (2) of subsection b. of this section, the mortgagee or its servicing organization, upon receipt of the notice and a copy of the paid tax bill, shall credit the mortgagor's mortgage escrow account in an amount equal to the interest paid by the mortgagor and provide the mortgagor a notice to that effect.

2. Section 12 of P.L.1990, c.69 (C.17:16F-25) is amended to read as follows:

C.17:16F-25 Failure to resolve tax payment delinquency.

12. a. Upon failure by the mortgagee or its servicing organization to resolve the tax payment delinquency within 30 days of the date of the notice provided pursuant to section 11 of P.L.1990, c.69 (C.17:16F-24) a mortgagor may:

(1) Pay the delinquent property taxes including interest using the notice sent the mortgagor pursuant to subsection b. of section 11 of P.L.1990, c.69 (C.17:16F-24); and

(2) Make arrangements to make all future payments for property taxes, insurance and other charges with respect to the real property which secures the mortgage loan, and make payments to the mortgagee or its servicing organization only for the principal, interest and other non-escrow charges required by the mortgage loan documents.

b. If a mortgagor takes the actions permitted under subsection a. of this section, the mortgagor shall:

(1) Send a copy of the paid tax bill to the mortgagee or its servicing organization along with a notice that, pursuant to subsection a. of this section:

(a) The mortgagor is no longer required to make payments into the mortgage escrow account; and

(b) The mortgagor will make all future payments for property taxes, insurance and other charges with respect to the real property which secures the mortgage loan, and will make payments to the mortgagee or its servicing organization only for the principal, interest and other non-escrow charges required by the mortgage loan documents.

(2) Forward to the mortgagee or its servicing organization, on at least an annual basis, copies of paid tax, insurance and other charges with respect to the real property which secures the mortgage loan.

c. Within 10 days of receipt of the copy of the paid tax bill and the notice required pursuant to subsection b. of this section, the mortgagee or its servicing organization shall remit the existing escrow account balance to the mortgagor;

d. If, subsequent to taking the actions permitted under subsection a. and required under subsection b. of this section, the mortgagor fails to pay property taxes, insurance or other charges with respect to the real property which secures the mortgage loan, the mortgagee or its servicing organization may, at its sole discretion, pay any delinquent property taxes, insurance or other charges with respect to the real property which secures the mortgage loan and recover from the mortgagor any amount so paid with interest. Such payment by the mortgagee or its servicing organization shall be without prejudice to the rights the mortgagee may have, by contract or law, with regard to the enforcement of its mortgage agreement concerning nonpayment of property taxes, insurance or other charges with respect to the real property which secures the mortgage loan.

3. Section 6 of P.L.1990, c.69 (C.17:16F-20) is amended to read as follows:

C.17:16F-20 Periodic analysis of mortgage escrow account.

6. a. Not later than the end of the second loan year, the mortgagee or servicing organization shall establish a system for the periodic analysis of the mortgage escrow account, which analysis shall be accomplished at least once a year thereafter. After such analysis, and subject to the limitations set forth in subsection b. of section 2 of P.L.1990, c.69 (C.17:16F-16), the scheduled escrow account payments shall be adjusted to provide a sufficient accumulation of funds in the escrow account to make anticipated

disbursements on the appropriate dates during the ensuing year. The mortgagor shall be given 10 days' advance notice of any adjustment in scheduled payments to the escrow account and shall be provided a full explanation of the reasons for any change. When the escrow account is analyzed in accordance with this subsection, any surplus or shortage shall be refunded to or collected from the mortgagor as provided by the contract. If there is a surplus in the escrow account, application of the surplus to delinquent payments shall be considered a cash refund to the mortgagor.

b. Notwithstanding the provisions of subsection a. of this section or any other law to the contrary, a mortgagee or its servicing organization shall make any adjustments required by law in the amount of a mortgagor's scheduled escrow account payments within 60 days of receipt of the tax bill sent out by the collector of the taxing district pursuant to subsection a. of R.S. 54:4-64.

4. This act shall take effect immediately.

Approved April 19, 1991.

CHAPTER 112

AN ACT temporarily making permissive the implementation of a revaluation of real property in certain cities.

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

1. The Legislature finds and declares that:

a. Within certain cities in this State in which property revaluation has not been performed for twenty years or more there have developed substantial assessment discrepancies causing high relative tax burdens in some neighborhoods and low relative tax burdens in other neighborhoods.

b. These assessment discrepancies have evolved gradually, and have been exacerbated by factors such as the abandonment by industry of the cities in favor of the suburbs or other states.

c. The implementation of a revaluation in these cities would have the effect of immediately shifting relative tax burdens from properties which, prior to the revaluation, were comparatively over-taxed, to those which were comparatively under-taxed. This

immediate and substantial burden shift will cause a sudden severe fiscal shock to many property taxpayers, and especially impact on the poor, and on the elderly on fixed incomes who have lived in their homes for many decades.

d. The severe fiscal shock that will occur from the implementation of a revaluation in these cities will not give homeowners time to adjust their household finances accordingly to meet substantially higher tax obligations, and will threaten home ownership among the poor, lower-middle class and elderly. Loss of home ownership by these people will threaten neighborhood stability and viability and ultimately jeopardize the city's property tax base.

e. Recently enacted property tax reform laws are designed to lessen the tax burden on most of New Jersey's property taxpayers. Postponing the implementation of a revaluation until the new reforms have taken effect will lessen the severe fiscal shock that will be suffered by poor, lower-middle class and elderly property taxpayers.

f. It is therefore a compelling public purpose to allow a delay of the implementation of a revaluation so that the benefits of the recent property tax reform laws can offset the severe fiscal shock of a property tax revaluation. This compelling public purpose far outweighs the effect of a brief further delay in meeting the constitutional requirement of uniformity in assessment.

2. Notwithstanding any provision of law, rule, regulation or judicial order to the contrary, no city which has not implemented a revaluation of real property since January 1, 1970, shall be required to implement a revaluation of real property until January 1, 1992. The determination of a city not to implement a revaluation pursuant to this act shall not prevent the city from conducting and implementing any partial or complete reassessment of real property in the city during the time covered by the act.

3. This act shall take effect immediately.

Approved April 19, 1991.

CHAPTER 113

AN ACT concerning county voter registration lists and amending P.L.1947, c.347.

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

1. Section 2 of P.L.1947, c.347 (C.19:31-18.1) is amended to read as follows:

C.19:31-18.1 Registry lists; distribution.

2. a. The county clerk in all counties shall cause copies of the registry lists, certified and transmitted under R.S.19:31-18, to be printed in handbill form, and shall furnish to any voter applying for the same such copies, charging therefor \$0.25 per copy of the list of voters of each election district. He shall also furnish five printed copies thereof to each district board, which shall within two days post two such registry lists, one in the polling place and one in another conspicuous place within the election district. The county clerk shall also forthwith deliver to the superintendent of elections of the county, if any there be, and to the chairmen of the county committees of each of the several political parties in the county, five copies of the lists of voters of each election district in the county; and to the municipal clerk of each of the municipalities in the county five copies of the lists of voters of each election district in such municipality; and to the county board 10 copies of the lists of voters of each election district in each of such municipalities. The county clerk shall also, upon the request of the chairman of the State committee of any of the several political parties, but not more than once in each calendar year, forthwith deliver a copy of the lists of voters of each election district in each of the municipalities in his county. In any county where the voter registration lists are recorded on magnetic tape, the county clerk shall satisfy the request by delivery of a copy of the magnetically recorded lists, including with the tape, where available, a statement of the number of records on the tape and the length, layout and block size of those records.

b. In any county where the voter registration lists are recorded on magnetic tape or electronic data processing cards, the commissioner of registration shall furnish a copy of such tape or cards to any voter requesting such tape or cards, for which copy such commissioner shall make a charge which shall be uniform in any calendar year and which shall reflect only the cost of reproducing such tape or cards, but which in any case shall not exceed \$375.

c. No person shall use voter registration lists or copies thereof prepared pursuant to this section as a basis for commercial solici-

tation of the voters listed thereon. Any person making such use of such lists or copies thereof shall be a disorderly person, and shall be punished by a fine not exceeding \$500.00.

2. This act shall take effect immediately.

Approved April 19, 1991.

CHAPTER 114

AN ACT concerning agricultural science education and supplementing P.L.1979, c.241 (C.18A:7C-1 et seq.).

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

C.18A:35-4.11 Findings, declarations.

1. The Legislature finds and declares that agriculture is an applied science and that certified agriculture teachers have strong scientific educational backgrounds which qualify them to teach agricultural science courses. The Legislature further finds that recent changes in the State high school graduation requirements have increased the number of science credits needed for graduation thereby reducing student opportunities to participate in agricultural education courses such as plant science, animal science, agricultural biology, and agricultural science.

C.18A:35-4.12 Curriculum guidelines for agricultural science education programs.

2. The Department of Education, in consultation with teachers who hold an instructional certificate with an agriculture endorsement, shall develop curriculum guidelines for agricultural science education programs appropriate for use in grades 9 through 12 of the public schools. The department shall make these curriculum guidelines available to all school districts in the State.

C.18A:35-4.13 Evaluation of agricultural science courses, programs.

3. The Department of Education shall establish a standardized process for the evaluation of agricultural science courses and programs offered by local school districts for the purpose of identifying the science skills that are taught in the course or program. Any student who satisfactorily completes an agricultural science course or program which is determined to contain appropriate science skills

shall receive credit toward meeting high school graduation requirements for science established by statute or regulation.

C.18A:35-4.14 Agricultural science proficiencies included in science core courses.

4. In the event that the State Board of Education develops Statewide core course proficiencies in science, the State board shall include the agricultural science proficiencies contained in the curriculum guidelines established pursuant to section 2 of this act in those proficiencies.

5. This act shall take effect immediately.

Approved April 19, 1991.

CHAPTER 115

AN ACT changing the equipment length requirements of certain motor-drawn vehicles and amending R.S.39:3-84.

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

1. R.S.39:3-84 is amended to read as follows:

Maximum 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. As used herein, the term "recycling vehicle" means a commercial motor vehicle used for the collection or transportation of recyclable material; or any truck, trailer or other vehicle approved by the New Jersey Office of Recycling for use by persons engaging in the business of recycling or otherwise providing recycling services in this State; and "recyclable material" means those materials which would otherwise become solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(1) The maximum outside width of any vehicle or combination of 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, 6 inches.

(3) The maximum overall length of any vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 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 53 feet when operated as part of a combination of vehicles consisting of one motor-drawn vehicle and a drawing or power unit vehicle not designed, built or otherwise capable of carrying cargo or loads, except that a motor-drawn vehicle, the overall length of which is greater than 48 feet and not more than 53 feet, shall be constructed so that the distance between the kingpin of the motor-drawn vehicle and the centerline of its rear axle or rear axle group does not exceed 41 feet; the motor-drawn vehicle shall be equipped with a rear-end protection device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the motor-drawn vehicle and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface; the kingpin of the trailer shall not be set back further than 3.5 feet from the front of the semitrailer; the rear overhang, measured from the center of the rear tandem axles to the rear of the semitrailer shall not exceed 35% of the semitrailer's wheelbase; the tractor wheelbase shall not exceed 20 feet between the center of the front axle and the center of the rear single axle or tandem axles; the width of the semitrailer and the distance between the outside edges of the trailer tires shall be 102 inches; and the vehicle shall be equipped with such reflectorization, including but not limited to side-marker reflectorization strips located between the rear axle and the rear of the motor-

drawn vehicle, as shall be prescribed by the Division of Motor Vehicles, and as is consistent with any applicable federal standards concerning reflectorization. The overall length of a motor-drawn vehicle otherwise subject to the provisions of this paragraph shall not exceed 63 feet when transporting poles, pilings, structural units or other articles that cannot be dismembered, dismantled or divided. The provisions of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the 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 the combination of vehicles as described in this paragraph may lawfully operate. The commissioner shall promulgate rules and regulations within 120 days after the effective date of this amendatory act to identify a network of roads with reasonable access for motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length. The commissioner shall, in establishing this network, consider all portions of the network for 48 foot long and 102 inch wide motor-drawn vehicles and specify those routes or portions thereof where motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length shall be excluded from lawful operation for reasons of safety.

(5) No combination of vehicles, including load or contents, consisting of more than two motor-drawn vehicles, as set forth in this subsection, and any other vehicle, shall be found or operated on any public road, street or highway or any public or quasi-public property in this State.

(6) The maximum overall length of a motor-drawn vehicle, as set forth in this section, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, when operated as part of a combination of vehicles consisting of two motor-drawn vehicles and a drawing or power unit vehicle which is not designed, built or otherwise capable of carrying cargo or loads, shall not exceed 28 feet for each motor-drawn vehicle in the combination of vehicles. The provision of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with

the 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.

(12) The provisions of this subsection pertaining to width shall not apply to a recycling vehicle when that vehicle is used for the collection of recyclable material on a street or highway other than a highway which is designated part of the National System of Interstate and Defense Highways in this State or as a freeway or parkway as provided by law. The maximum outside width of any recycling vehicle so used, including load or contents of any part or portion thereof, shall be no more than 96 inches, except that the width may be up to 105 inches whenever that vehicle is operating at 15 miles per hour or less, and access steps are deployed and recyclable materials are actually being collected.

b. No vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or any public or quasi-public property in this State shall exceed the weight limitations set forth in this Title. Violations shall be enforced pursuant to subsection j. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

Where enforcement of a weight limit provision of this Title requires a measurement of length between axle centers, the distance between axle centers shall be measured to the nearest whole foot or whole inch, whichever is applicable, and when the measurement includes a fractional part of a foot equaling six inches or more or a fractional part of an inch equaling one-half inch or more, the next larger whole foot or whole inch, whichever is applicable, shall be utilized. The term "tandem axle" as used in this act is defined as a combination of consecutive axles, consisting of only two axles, where the distance between axle centers is 40 inches or more but no more than 96 inches.

In addition to the other requirements of this section and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents, shall be operated in this State, unless by special permit authorized by this Title, with a gross weight, single or multiple axle weight, or gross weight of two or more consecutive axles, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

(1) The gross weight imposed on the highway or other surface by the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds.

For the purpose of this Title the combined gross weight imposed on the highway or other surface by all the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall be deemed to mean the total gross weight of all wheels whose axle centers are spaced less than 40 inches apart.

(2) The gross weight imposed on the highway or other surface by all the wheels of all consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 34,000 pounds where the distance between consecutive axle centers is 40 inches or more, but no more than 96 inches apart.

(3) The combined gross weight imposed on the highway or other surface by all the wheels of consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds for each single axle where the distance between consecutive axle centers is more than 96 inches; except that on any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. §103(e), this single axle limitation shall not apply and in those instances the provisions of this Title as set forth at R.S.39:3-84b.(5) shall apply.

(4) The maximum total gross weight imposed on the highway or other surface by a vehicle or combination of vehicles, including load or contents, shall not exceed 80,000 pounds.

(5) On any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. §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 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the combined gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

In all cases the combined gross weight for a vehicle or combination of vehicles, including load or contents, or the maximum gross weight for any axle or combination of axles of the vehicle or combination of vehicles, including load or contents, shall not exceed that which is permitted pursuant to this paragraph or R.S.39:3-84b.(2); R.S.39:3-84b.(3); or R.S.39:3-84b.(4) of this act, whichever is the lesser allowable gross weight.

TABLE OF MAXIMUM GROSS WEIGHTS

Distance in feet
between axle
centers of first
and last axles
of any group
of two or more
consecutive axles

	2	3	4	5	6	7
	axles	axles	axles	axles	axles	axles
3	22400	22400	22400	22400	22400	22400
4	34000	34000	34000	34000	34000	34000
5	34000	34000	34000	34000	34000	34000
6	34000	34000	34000	34000	34000	34000
7	34000	34000	34000	34000	34000	34000
8	34000	34000	34000	34000	34000	34000
9	39000	42500	42500	42500	42500	42500
10	40000	43500	43500	43500	43500	43500
11	41000	44000	44000	44000	44000	44000
12	42000	45000	50000	50000	50000	50000
13	43000	45500	50500	50500	50500	50500
14	44000	46500	51500	51500	51500	51500
15	44800	47000	52000	52000	52000	52000
16	44800	48000	52500	58000	58000	58000
17	44800	48500	53500	58500	58500	58500
18	44800	49500	54000	59000	59000	59000
19	44800	50000	54500	60000	60000	60000
20	44800	51000	55500	60500	66000	66000
21	44800	51500	56000	61000	66500	66500
22	44800	52500	56500	61500	67000	67000
23	44800	53000	57500	62500	68000	68000

Distance in feet
between axle
centers of first
and last axles
of any group
of two or more
consecutive axles

	2	3	4	5	6	7
	axles	axles	axles	axles	axles	axles
24	44800	54000	58000	63000	68500	74000
25	44800	54500	58500	63500	69000	74500
26	44800	55500	59500	64000	69500	75000
27	44800	56000	60000	65000	70000	75500
28	44800	57000	60500	65500	71000	76500
29	44800	57500	61500	66000	71500	77000
30	44800	58500	62000	66500	72000	77500
31	44800	59000	62500	67500	72500	78000
32	44800	60000	63500	68000	73000	78500
33	44800	60500	64000	68500	74000	79000
34	44800	61500	64500	69000	74500	80000
35	44800	62000	65500	70000	75000	80000
36	44800	63000	66000	70500	75500	80000
37	44800	63500	66500	71000	76000	80000
38	44800	64500	67500	71500	77000	80000
39	44800	65000	68000	72500	77500	80000
40	44800	66000	68500	73000	78000	80000
41	44800	66500	69500	73500	78500	80000
42	44800	67200	70000	74000	79000	80000
43	44800	67200	70500	75000	80000	80000
44	44800	67200	71500	75500	80000	80000
45	44800	67200	72000	76000	80000	80000
46	44800	67200	72500	76500	80000	80000
47	44800	67200	73500	77500	80000	80000
48	44800	67200	74000	78000	80000	80000
49	44800	67200	74500	78500	80000	80000
50	44800	67200	75500	79000	80000	80000
51	44800	67200	76000	80000	80000	80000
52	44800	67200	76500	80000	80000	80000
53	44800	67200	77500	80000	80000	80000
54	44800	67200	78000	80000	80000	80000
55	44800	67200	78500	80000	80000	80000
56	44800	67200	79500	80000	80000	80000
57	44800	67200	80000	80000	80000	80000
58	44800	67200	80000	80000	80000	80000
59	44800	67200	80000	80000	80000	80000
60	44800	67200	80000	80000	80000	80000
61	44800	67200	80000	80000	80000	80000
62	44800	67200	80000	80000	80000	80000
63	44800	67200	80000	80000	80000	80000
64	44800	67200	80000	80000	80000	80000

Distance in feet
between axle
centers of first
and last axles
of any group
of two or more
consecutive axles

	2	3	4	5	6	7
	axles	axles	axles	axles	axles	axles
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.

2. This act shall take effect immediately.

Approved April 19, 1991.

CHAPTER 116

AN ACT to authorize the borough of Newfield in the county of Gloucester to make permanent the appointment of William Long to the police department of the borough of Newfield as its chief of police.

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 Newfield in the county of Gloucester is authorized to make permanent the appointment of William Long as its chief of police, notwithstanding his age is greater than the maximum age for appointment thereto set forth in N.J.S.40A:14-127 and he has not served as a patrolman in the police department for at least three years, as set forth in N.J.S.40A:14-129 and N.J.S.40A:14-130.

2. This act shall take effect upon due adoption of an ordinance of the borough of Newfield for the purpose of adopting same.

Approved April 22, 1991.

CHAPTER 117

AN ACT concerning the enrollment of certain employees in the Police and Firemen's Retirement System of New Jersey and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

1. Notwithstanding the provisions of section 3 of P.L.1944, c.255 (C.43:16A-3) or any other law or regulation to the contrary, a full-time employee of a part-paid fire department in a borough which has adopted the retirement system and which is located in a county of the third class with a population in excess of 150,000 according to the 1980 federal decennial census, who was appointed to full-time employment immediately following four years of part-time service in the department, shall be enrolled in the retirement system, provided the employee furnishes such evidence of good health at the time of becoming a member as the retirement system shall require. Employee and employer contributions shall be due and payable from the date of full-time employment.

2. This act shall take effect immediately and shall expire 60 days thereafter.

Approved April 23, 1991.

CHAPTER 118

AN ACT concerning credit involuntary unemployment insurance and amending P.L.1962, c.159, P.L.1970, c.205, P.L.1979, c.493 and the title and body of P.L.1963, c.103.

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

1. Section 16 of P.L.1970, c.205 (C.17:11A-49) is amended to read as follows:

C.17:11A-49 Purchase of loan insurance.

16. a. A borrower shall not be compelled to purchase credit life or accident and health insurance or credit involuntary unemployment insurance in connection with a secondary mortgage loan. If, however, the borrower elects to obtain such insurance, the borrower or borrowers shall, in a separate instrument, consent thereto, in writing, and, provided further:

(1) The credit life and accident and health insurance shall be obtained in accordance with the provisions of N.J.S.17B:29-4, and the regulations promulgated by the Commissioner of Insurance pursuant thereto and the credit involuntary unemployment insurance shall be obtained in accordance with forms and rates

filed and approved by the Commissioner of Insurance pursuant to applicable regulations.

(2) The premium for any such insurance shall be deducted from the amount of the secondary mortgage loan requested by the borrower in the case of a closed-end loan or charged monthly in the case of an open-end loan.

(3) The term of any credit insurance provided pursuant to paragraph (1) of this subsection may be for a period less than the term of the credit transaction to provide modified or partial coverage, provided however, whenever the term of such insurance is less than the term of the loan, that information shall be stated on the face of the individual policy or group certificate in not less than ten point bold face type.

b. Notwithstanding any provisions of P.L.1970, c.205 (C.17:11A-34 et seq.) to the contrary, a licensee may require a borrower to demonstrate that the real property securing the loan is insured against damage or loss due to fire and other perils, including those of extended coverage, for a term not to exceed the term of the loan and in an amount not to exceed the amount of the loan together with an amount needed to satisfy all prior liens on that property.

c. Nothing in this act or in any other law of this State shall prohibit a licensee or any employee, affiliate, subsidiary, or associate of said licensee, from collecting the premium or identifiable charge for insurance permitted by this act and from receiving or retaining any dividend, or any other gain or advantage resulting from such insurance; subject, however, to the authority of the commissioner to promulgate such rules and regulations with regard to such dividend, gain or advantage as he may deem necessary.

2. Section 1 of P.L.1962, c.159 (C.17:10-14.1) is amended to read as follows:

C.17:10-14.1 Credit life, involuntary unemployment insurance with small loans.

1. a. When the borrower consents thereto in writing, a licensee may obtain or provide:

(1) Insurance on the life and on the health or disability, or both, of one obligor, and on the lives of two obligors if spouses, pursuant to the provisions of N.J.S.17B:29-1 et seq.; and

(2) Credit involuntary unemployment insurance in accordance with forms and rates filed and approved by the Commissioner of Insurance pursuant to applicable regulations.

b. If a licensee obtains or provides any credit insurance for a borrower pursuant to subsection a. of this section, a licensee may deduct from the principal of a loan and retain an amount equal to the premium lawfully charged by the insurance company. The amount so deducted and retained shall not be considered a prohibited charge or amount of any examination, service, brokerage, commission, expense, fee or bonus or other thing or otherwise.

c. If a borrower obtains such insurance from or through a licensee, the statement required by R.S.17:10-15 shall show the amount of the charge therefor, and the licensee shall cause to be delivered to the borrower a copy of the policy, certificate or other evidence of such insurance when the loan is made. Nothing in the "Consumer Loan Act" shall prohibit the licensee, or any employee, affiliate, subsidiary or associate of the licensee, from collecting the premium or identifiable charge for insurance permitted by this section and from receiving and retaining any dividend, or any other gain or advantage resulting from such insurance, nor shall the sale or provision of such insurance be deemed to require prior authorization under the provisions of R.S.17:10-13.

3. Section 5 of P.L.1979, c.493 (C.17:10-14.2) is amended to read as follows:

C.17:10-14.2 Definitions.

5. a. As used in this amendatory and supplementary act:

(1) "Open-end loan" means a loan made by a licensee pursuant to an agreement between the licensee and the borrower whereby:

(i) 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;

(ii) 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;

(iii) Interest is computed on the unpaid principal balance or balances of the account from time to time;

(iv) 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

(v) The agreement expressly states that it covers open-end loans pursuant to this chapter.

(2) "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 such date.

b. Open-end loans shall be subject to the following:

(1) A licensee may make open-end loans and may contract for and receive thereon interest as set forth in R.S.17:10-14 of this chapter.

(2) A licensee shall not compound interest by adding any unpaid interest authorized by this section to the unpaid principal balance of the borrower's account; provided, however, the unpaid principal balance may include the additional charges authorized by R.S.17:10-14 and P.L.1962, c.159 (C.17:10-14.1).

(3) Interest authorized by this section shall be deemed not to exceed the maximum interest permitted by this chapter if such interest is computed in each billing cycle by any of the following methods:

(i) By converting each yearly rate to a daily rate and multiplying such daily rate by the applicable portion of the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing each yearly rate by 365; or

(ii) By multiplying one-twelfth of each yearly 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 cycle divided by the number of days in the cycle; or

(iii) By converting each yearly rate to a daily rate and multiplying such 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 each yearly rate by 365, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

(4) For all of the above methods of computation, the billing cycle shall be monthly and 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. 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 subsection.

Minimum monthly payments shall be in such amount as would result in the full repayment of the initial loan advance, exclusive of any interest, within the maximum term set forth for other loans of the same amount in section 6 of this amendatory and supplementary act. This minimum payment shall continue at that amount until such time as an additional advance to the borrower is made, other than for permitted charges, at which time the minimum monthly payment shall be determined and shall be in such amount as would result in the full repayment of the unpaid principal balance of the loan, after the advance and including the advance, within the maximum term set forth for the other loans of the same amount. Minimum payments after each subsequent advance shall be determined in the same manner. No minimum payment shall exceed the amount required to pay the balance in full, including unpaid interest and charges to date.

d. In addition to the interest permitted under subsection b., a licensee may contract for and receive the other charges permitted by this chapter on other loans, subject to all the conditions and restrictions set forth in those sections with the following variations:

(1) If credit life, disability or involuntary unemployment insurance is provided and if the insured dies or becomes disabled or involuntarily unemployed 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, all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance or all covered minimum payments which become due on the loan during the covered period of involuntary unemployment in the case of involuntary unemployment insurance. The additional charge for credit life insurance, credit disability insurance or credit involuntary unemployment insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as the rate may be determined by the Commissioner of Insurance, to the unpaid balances in the borrower's account, using any of the methods specified in subsection b.(3) for the calculation of interest.

(2) No credit life, disability or involuntary unemployment 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.

e. A licensee may take a security interest in personal property to secure an open-end loan. Any security interest may be retained until the open-end account is terminated, provided that if the security interest covers consumer goods, then within one month or within 10 days following written demand by the borrower after there is no outstanding balance in the account and no commitment by the licensee to make advances, the licensee shall release the security interest. If the security interest covers personal property other than consumer goods, whenever there is no outstanding balance in the account and no commitment by the licensee to make advances, the licensee shall within 10 days following written demand by the borrower release the security interest. If a security interest is taken, the open-end loan agreement shall state the nature and extent of such security interest.

f. R.S.17:10-15 shall not apply to open-end loans made under this chapter, except that no licensee shall take any confession of judgment or power of attorney in connection with an open-end loan, or take any instrument in which blanks are left to be filled in after the loan is made.

g. 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 R.S.17:10-12.

4. The title of P.L.1963, c.103 is amended to read as follows:

Title amended.

An act concerning credit insurance on certain borrowers from banking institutions, and supplementing P.L.1948, c.67 (C.17:9A-1 et seq.).

5. Section 1 of P.L.1963, c.103 (C.17:9A-70.1) is amended to read as follows:

C.17:9A-70.1 Definitions.

1. As used in this act:

"Banking institution" means a banking institution as defined in section 1 of P.L.1948, c.67 (C.17:9A-1);

"Credit insurance" means credit life insurance and credit health insurance issued pursuant to chapter 29 of Title 17B of the New Jersey Statutes, and credit involuntary unemployment insurance issued in accordance with forms and rates filed with and approved by the Commissioner of Insurance pursuant to applicable regulations.

6. Section 2 of P.L.1963, c.103 (C.17:9A-70.2) is amended to read as follows:

C.17:9A-70.2 Credit insurance on borrower.

2. When a banking institution makes a loan pursuant to P.L.1948, c.67 (C.17:9A-1 et seq.), P.L.1985, c.81 (C.17:3B-4 et seq.), or any other law or regulation authorizing the loan, the banking institution may, subject to the provisions of this act, obtain or provide credit insurance on the borrower or borrowers and, if the borrower or borrowers consent in writing to the obtaining or providing of such insurance, the banking institution may deduct and retain from the proceeds of any such loan an amount equal to the premium lawfully charged by the insurer issuing such insurance. If such premium charge is so deducted and retained, (a) such deduction and retention shall not be deemed an interest or other charge or demand prohibited by the law authorizing the loan; and (b) the banking institution shall deliver or cause to be delivered to the insured borrower at the time when a loan is made a copy of the insurance policy, or certificate therefor, or a copy of the application for such policy, or a notice of proposed insurance, as required by law. Nothing in the act to which this act is a supplement or in any other law of this State shall prohibit a banking institution, or any employee of a banking institution, from collecting the premium or identifiable charge for insurance obtained or provided as authorized by this act, or prevent a banking institution from receiving or retaining any dividend or any other gain or advantage resulting from such insurance.

7. This act shall take effect immediately.

Approved April 24, 1991.

CHAPTER 119

AN ACT concerning the organization and administration of the court system, revising portions of the statutory law and enacting a new title known as Title 2B, Court Organization and Civil Code.

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

1. An additional title, Title 2B, is added to the New Jersey Statutes as follows:

TITLE 2B
COURT ORGANIZATION AND CIVIL CODE
TABLE OF CONTENTS
CHAPTER 1. GENERAL

- 2B:1-1. Seals.
- 2B:1-2. Preservation of Court Records.
- 2B:1-3. Criminal History Record Information.

CHAPTER 2. JUDGES

- 2B:2-1. Number of Judges.
- 2B:2-2. Assignment of Superior Court Judges.
- 2B:2-3. Judge Seeking Elective Office.
- 2B:2-4. Judicial Salaries.
- 2B:2-5. Responsibility for Judicial Salaries.

CHAPTER 3. CLERKS

- 2B:3-1. Appointment of Court Clerks.
- 2B:3-2. Clerks, Offices and Duties.
- 2B:3-3. Instruments Executed by Clerk of Superior Court
in Connection with Property held by Superior
Court; Signatures.
- 2B:3-4. Clerk of Superior Court as Named Party.

CHAPTER 4. OTHER EMPLOYEES

- 2B:4-1. Special Counsel.
- 2B:4-2. Appointment of Additional Employees.
- 2B:4-3. Appointment of Staff of Justices and Judges.

CHAPTER 5. PAYMENT OF SALARIES AND OTHER COSTS,
PROVISION OF SERVICES

- 2B:5-1. Secretarial and Legal Staff of Justices and Judges.
- 2B:5-2. Administrative Staff for Superior Court.
- 2B:5-3. Compensation of Employees.

CHAPTER 6. EQUIPMENT AND SERVICES; EXPENSES

- 2B:6-1. Courtrooms and Equipment; Security.

- 2B:6-2. Rental of Chambers.
- 2B:6-3. Service of Process.
- 2B:6-4. Multi-county Vicinage; Apportionment of Costs.
- 2B:6-5. Expenses Incurred by Order of Supreme Court.

CHAPTER 7. REPORTING OF COURT PROCEEDINGS

- 2B:7-1. Reporting of Court Proceedings; Court Reporters.
- 2B:7-2. Assignment; Designation of Supervisors.
- 2B:7-3. Temporary Service.
- 2B:7-4. Transcript; Fees.
- 2B:7-5. Employment of Court Reporters.
- 2B:7-6. Records and Reports.

CHAPTER 8. INTERPRETERS AND TRANSLATORS

- 2B:8-1. Interpreters.

CHAPTER 9. ABOLITION OF COURTS AND TRANSFER OF CASES

- 2B:9-1. Effect of Abolition of Particular Courts.

CHAPTER 1. GENERAL

- 2B:1-1. Seals.
- 2B:1-2. Preservation of Court Records.
- 2B:1-3. Criminal History Record Information.

Seals.

2B:1-1. Seals. The Supreme Court shall prescribe the form of its seal and the seals of the Superior Court and Tax Court. Each municipal court shall prescribe the form of its seal with the approval of the Supreme Court.

Source: N.J.S.2A:6-7; N.J.S.2A:11-1.

Preservation of court records.

2B:1-2. Preservation of Court Records. The Supreme Court may adopt regulations governing the retention, copying and disposal of records and files of any court or court support office.

Source: N.J.S.2A:6-45, N.J.S.2A:6-46; N.J.S.2A:11-48 through N.J.S.2A:11-53; C.2A:11-53.1 to 2A:11-53.3 (P.L.1957, c.50, s.6-8).

Criminal history record information.

2B:1-3. Criminal History Record Information. The Supreme Court is authorized to receive criminal history record information from the Federal Bureau of Investigation for use in licensing and disciplining attorneys-at-law of this State.

CHAPTER 2. JUDGES

- 2B:2-1. Number of Judges.
 2B:2-2. Assignment of Superior Court Judges.
 2B:2-3. Judge Seeking Elective Office.
 2B:2-4. Judicial Salaries.
 2B:2-5. Responsibility for Judicial Salaries.

Number of judges.

2B:2-1. Number of Judges. a. The Superior Court shall consist of 366 judges.

b. (1) The Superior Court shall at all times consist of the following number of judges, who at the time of their appointment and reappointment were resident of each county:

Atlantic	10
Bergen	26
Burlington	7
Camden	14
Cape May	4
Cumberland	6
Essex	28
Gloucester	8
Hudson	22
Hunterdon	3
Mercer	8
Middlesex	20
Monmouth	16
Morris	14
Ocean	14
Passaic	14
Salem	2
Somerset	6
Sussex	3
Union	18
Warren	3

(2) Additionally, the following number of those judges of the Superior Court satisfying the residency requirements set forth above shall at all times sit in the county in which they reside:

Atlantic	4
Bergen	12
Burlington	4
Camden	8
Cape May	2

Cumberland.....	4
Essex.....	14
Gloucester.....	6
Hudson.....	6
Hunterdon.....	2
Mercer.....	6
Middlesex.....	8
Monmouth.....	4
Morris.....	6
Ocean.....	8
Passaic.....	6
Salem.....	2
Somerset.....	4
Sussex.....	2
Union.....	6
Warren.....	2

Source: N.J.S.2A:2-1

Assignment of Superior Court judges.

2B:2-2. Assignment of Superior Court Judges. A judge of the Superior Court may be assigned temporarily by the Chief Justice to any court established by statute and exercise all the powers of that court.

Source: N.J.S.2A:3-7, C.2A:3A-21 (P.L.1978, c.33, s.21); N.J.S.2A:6-11; N.J.S.2A:8-11

Judge seeking elective office.

2B:2-3. Judge Seeking Elective Office. A justice or judge of any court of this State, who becomes a candidate for an elective public office, thereby forfeits judicial office, but this section shall not apply to a surrogate.

Source: N.J.S.2A:11-2

Judicial salaries.

2B:2-4. Judicial Salaries. Annual salaries of justices and judges shall be:

Chief Justice of the Supreme Court	\$120,000
Associate Justice of the Supreme Court	112,000
Judge of the Superior Court, Appellate Division	108,000
Judge of the Superior Court, Assignment Judge	105,000
Judge of the Superior Court; Judge of the Tax Court	100,000

Source: C.2A:1A-6 (P.L.1974, c.57, s.1)

Responsibility for judicial salaries.

2B:2-5. Responsibility for Judicial Salaries. The State shall be responsible for the cost of the salaries of the justices of the Supreme Court, judges of the Superior Court and judges of the Tax Court, except that where the number of Superior Court judges restricted as to residence or assignment by paragraph (1) or (2) of subsection b. of N.J.S.2B:2-1 is 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.

Source: C.2A:2-1.3 (P.L.1983, c.405, s.11)

CHAPTER 3. CLERKS

- 2B:3-1. Appointment of Court Clerks.
- 2B:3-2. Clerks, Offices and Duties.
- 2B:3-3. Instruments Executed by Clerk of Superior Court in Connection with Property held by Superior Court; Signatures.
- 2B:3-4. Clerk of Superior Court as Named Party.

Appointment of court clerks.

2B:3-1. Appointment of Court Clerks. a. The Supreme Court shall appoint to serve at its pleasure, and shall fix the salary of, the Clerk and a Deputy Clerk of the Supreme Court, neither of whom shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes.

b. The Supreme Court shall appoint to serve at its pleasure, and shall fix the salaries of, the Clerk and Deputy Clerks of the Superior Court and the Clerk and Deputy Clerks of the Appellate Division of the Superior Court, none of whom shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes unless the Supreme Court directs otherwise.

c. The clerks of the Supreme Court, the Superior Court, and the Appellate Division of the Superior Court shall select and employ other necessary assistants in accordance with the provisions of Title 11A, Civil Service, of the New Jersey Statutes.

Source: N.J.S.2A:1-2; N.J.S.2A:1-6; N.J.S.2A:2-3; N.J.S.2A:2-7; N.J.S.2A:6-23

Clerks, offices and duties.

2B:3-2. Clerks, Offices and Duties. a. The offices of the Clerk of the Supreme Court, the Clerk of the Superior Court, and the

Clerk of the Appellate Division of the Superior Court shall be in the City of Trenton. The offices of the Deputy Clerks of the Superior Court shall be in places selected by the Supreme Court as convenient for performance of the deputy clerks' duties except that any office of any deputy clerk subject to Title 11A, Civil Service, shall be in the county in which the deputy clerk previously served unless the deputy clerk consents to transfer.

b. The clerk of each court shall be the custodian of the property, records and seal of the court.

c. Any duties performed by a county clerk for any court shall be in the capacity of Deputy Clerk of the Superior Court as provided by the Constitution.

Source: N.J.S.2A:1-4; N.J.S.2A:2-5; N.J.S.2A:6-20; N.J.S.2A:11-1

Instruments executed by clerk of Superior Court in connection with property held by Superior Court; signatures.

2B:3-3. Instruments Executed by Clerk of Superior Court in Connection with Property held by Superior Court; Signatures. All drafts, checks and other instruments executed in connection with any property held by the Superior Court shall be signed by the Clerk of the Superior Court and countersigned by an official designated by the Chief Justice of the Supreme Court by order in writing.

Source: N.J.S.2A:2-10; N.J.S.2A:2-11

Clerk of the Superior Court as named party.

2B:3-4. Clerk of the Superior Court as Named Party. The Superior Court of New Jersey may be sued by naming the Clerk of the Superior Court as the representative of the court. The Clerk shall not be individually liable for any costs or fees, nor subject to a personal judgment.

Source: N.J.S.2A:2-9

CHAPTER 4. OTHER EMPLOYEES

2B:4-1. Special Counsel

2B:4-2. Appointment of Additional Employees.

2B:4-3. Appointment of Staff of Justices and Judges.

Special counsel.

2B:4-1. Special Counsel. a. In any action involving the constitutionality or validity of a statute providing for the expenditure of public moneys by the State or any instrumentality thereof, where the legal issues concerning the constitutionality or validity are genuine, and a question arises as to whether the interests of the parties may not be truly adverse, and the issues are of public importance, and an adjudication is in the public interest, the Chief Justice of the

Supreme Court, or the Supreme Court en banc, may appoint counsel specially to represent any party or interest as may be deemed necessary and appropriate to assure the full presentation of adversary positions and interests with respect to the issues.

b. The Supreme Court, upon petition of special counsel, shall allow such fees and expenses as the court deems adequate and reasonable. The allowances shall be paid from any available funds by the chief financial officer of the governmental agency involved in the action. When more than one governmental body or agency is involved, the court may direct the allocation of the allowable fees and expenses between the bodies or agencies in proportionate amounts as it considers appropriate.

Source: C.2A:1-10 (P.L.1967, c.9, s.1)

Appointment of additional employees.

2B:4-2. Appointment of Additional Employees. The Supreme Court may appoint subordinate officers and employees necessary for the convenient performance of the duties of the Supreme Court and the Superior Courts.

Source: N.J.S.2A:11-31

Appointment of staff of justices and judges.

2B:4-3. Appointment of Staff of Justices and Judges. A justice of the Supreme Court or a judge of the Superior Court may appoint secretaries, law clerks and other confidential assistants. These employees shall serve at the pleasure of the appointing justice or judge.

Source: N.J.S.2A:11-6; N.J.S.2A:11-7; N.J.S.2A:11-9

**CHAPTER 5. PAYMENT OF SALARIES AND OTHER COSTS,
PROVISION OF SERVICES**

2B:5-1. Secretarial and Legal Staff of Justices and Judges.

2B:5-2. Administrative Staff for Superior Court.

2B:5-3. Compensation of Employees.

Secretarial and legal staff of justices and judges.

2B:5-1. Secretarial and Legal Staff of Justices and Judges. a. The State shall be responsible for the cost of secretarial and legal staff employees appointed by justices of the Supreme Court, judges of the Appellate Division, and judges of the Chancery Division other than the Family Part.

b. The counties shall be responsible for the cost of secretarial and legal staff employees appointed by judges of the Law Division and of the Family Part of the Chancery Division. For the

purpose of determining their compensation, these employees shall be considered to be county employees.

Source: N.J.S.2A:11-8; N.J.S.2A:11-10

Administrative staff for Superior Court.

2B:5-2. Administrative Staff for Superior Court. a. The State shall be responsible for the cost of employees necessary for the operation, management and recordkeeping of the Supreme Court, the Appellate Division, the Chancery Division other than the Family Part, and the Office of the Clerk of the Superior Court.

Each county shall provide employees necessary for the operation, management and recordkeeping of the Law Division and Family Part of the Chancery Division of the Superior Court assigned to cases from that county. For the purpose of providing their compensation only, these employees shall be considered to be county employees. Employees responsible for overall operation and management of the court system who are direct and confidential support employees to judges, or who perform duties of a highly technical or specialized nature shall be in the unclassified service.

Source: N.J.S.2A:4-41; N.J.S.2A:11-10; N.J.S.2A:11-31

Compensation of employees administering trust fund.

2B:5-3. Compensation of Employees Administering Trust Fund. The Clerk of the Superior Court shall pay to the State Treasurer out of the income of the Superior Court Trust Fund, an amount equal to all payments made from the State Treasury as compensation for salaries, services and supplies furnished for administration of the fund.

Source: N.J.S.2A:2-8

CHAPTER 6. EQUIPMENT AND SERVICES; EXPENSES

- 2B:6-1. Courtrooms and Equipment; Security.
- 2B:6-2. Rental of Chambers.
- 2B:6-3. Service of Process.
- 2B:6-4. Multi-county Vicinage; Apportionment of Costs.
- 2B:6-5. Expenses Incurred by Order of Supreme Court.

Courtrooms and equipment; security.

2B:6-1. Courtrooms and Equipment; Security. Suitable courtrooms, chambers, equipment and supplies for the Supreme Court, the Appellate Division of the Superior Court and the Chancery Division, other than the Family Part of the Chancery Division, of the Superior Court shall be provided at the expense of the State by the Administrative Director in cooperation with the Director of

the Division of Purchase and Property in the Department of the Treasury. These courtrooms and chambers shall be located in a courthouse or other public building so far as practicable.

Source: N.J.S.2A:3-22; N.J.S.2A:4-41; N.J.S.2A:11-3; N.J.S.2A:11-4

Rental of chambers.

2B:6-2. Rental of Chambers. Any justice of the Supreme Court may rent convenient and appropriate chambers for use as a study and library and for other official needs, subject to approval by the Chief Justice. If a lease is required, it may be entered into by the Director of the Division of Purchase and Property in the Department of the Treasury or by the justice with the Director's written approval. The rental of the chambers shall be certified by the Director and paid by the State Treasurer.

Source: N.J.S.2A:1-9

Service of process.

2B:6-3. Service of Process. a. The sheriff shall be responsible for service, or execution and return of process, orders, warrants and judgments directed to the sheriff, and shall be entitled to the compensation provided for by law and subject to the regulations and penalties pertaining to this service, execution and return.

b. In counties where there are officers of the Special Civil Part of the Law Division of the Superior Court, those officers shall be responsible for any personal service or execution and return of process, orders, warrants and judgments of the Special Civil Part as provided by court rule and shall be entitled to the compensation provided by law. If no Special Civil Part officers are available, these services shall be performed by the sheriff as provided by subsection a. of this section. The sheriff shall receive the same compensation for performing these services as is provided by law for Special Civil Part Officers.

Source: N.J.S.2A:3-22; N.J.S.2A:3-24; N.J.S.2A:6-15; N.J.S.2A:6-25; N.J.S.2A:6-29

Multi-county vicinage; apportionment of costs.

2B:6-4. Multi-County Vicinage; Apportionment of Costs. Where a judge of the Law Division or of the Family Part of the Chancery Division is assigned to cases from a vicinage including more than one county, the salary of that judge and of any employee of that judge and any expenses related to that judge shall be apportioned between the counties composing the vicinage

in the manner determined by the assignment judge for that vicinage after consultation and negotiation with the governing body of each of the counties comprising the vicinage.

Source: N.J.S.2A:11-10

Expenses incurred by order of Supreme Court.

2B:6-5. Expenses Incurred by Order of Supreme Court. Expenses incurred by order of the Supreme Court in the execution of its duties, the payment of which is not otherwise provided by law, shall be paid by the State Treasurer, from any appropriation available to the court, when directed by the order of the court, which order shall be attested by the justice presiding in the court at the time the order is made.

Source: N.J.S.2A:1-8.

CHAPTER 7. REPORTING OF COURT PROCEEDINGS

- 2B:7-1. Reporting of Court Proceedings; Court Reporters.
- 2B:7-2. Assignment; Designation of Supervisors.
- 2B:7-3. Temporary Service.
- 2B:7-4. Transcript; Fees.
- 2B:7-5. Employment of Court Reporters.
- 2B:7-6. Records and Reports.

Reporting of court proceedings; court reporters.

2B:7-1. Reporting of Court Proceedings; Court Reporters. a. The Supreme Court shall provide for the reporting of all proceedings in the Superior Court and any other proceedings it directs by the use of court reporters or any other means it directs. Court reporters shall be appointed by the Administrative Director of the Courts.

b. Except as provided by N.J.S.2B:7-3, official court reporters appointed shall be certified shorthand reporters holding certificates issued by the State Board of Shorthand Reporting.

Source: N.J.S.2A:11-11; N.J.S.2A:11-12

Assignment; designation of supervisors.

2B:7-2. Assignment; Designation of Supervisors. a. A reporter shall be assigned by the Administrative Director of the Courts with the approval of the Chief Justice, to report proceedings as the Supreme Court may direct. Such an assignment may be changed from time to time as occasion may require.

b. With the approval of the Chief Justice, the Director may designate, from among the reporters, supervisors and assistant supervisors for specified districts as may be necessary in maintaining efficient reporting service. The supervisors and assistant supervisors may

arrange, subject to the control of the Director, for the temporary transfer of one or more reporters to meet special requirements in any court, and employ and assign reporters for temporary service either on a full-time or part-time basis. A reporter designated as a supervisor or assistant supervisor shall perform these services in addition to regular duties, and for these additional services, shall be compensated in an amount fixed by the Supreme Court, which amount shall be added to and become part of the reporter's annual salary and be paid as such.

Source: N.J.S.2A:11-13

Temporary service.

2B:7-3. Temporary Service. The Administrative Director of the Courts may appoint and assign reporters for temporary service on a full-time basis, not to exceed six consecutive months at any one time, whenever the need may appear. These temporary appointments shall be subject to the approval of the Chief Justice. If a certified shorthand reporter, as defined by law, is not available for this purpose, then a reporter otherwise qualified may be appointed until a certified shorthand reporter is available.

Source: N.J.S.2A:11-14

Transcript; fees.

2B:7-4. Transcript; Fees. a. When a transcript of a stenographic record or other recording in any court or in any other proceeding recorded at the direction of the Supreme Court is made, at the request of any person, the original and copies thereof shall be prepared in the manner prescribed by Administrative Office of the Courts' regulations and paid for at the rate of \$1.50 for each page of the original and \$0.50 for each of the copies. If the transcript is furnished to a judge of the court, by court order, the reporter shall be paid at the same rates, and in the same manner and from the same sources as the reporter's salary or per diem fees are paid.

b. Except as to transcripts that are to be paid for by the State or county, the person preparing the transcripts may require any person requesting a transcript to prepay the estimated fee therefor in advance of delivery of the transcript.

Source: N.J.S.2A:11-15

Employment of court reporters.

2B:7-5. Employment of Court Reporters. a. Except as provided in this section, court reporters appointed to serve on a full-time basis pursuant to this chapter shall receive an annual salary to be fixed from time to time by the Supreme Court.

b. In lieu of an annual salary, a reporter employed on a part-time or temporary basis as provided in this chapter may be paid such a per diem fee rate as may be fixed from time to time by the Supreme Court. Such per diem fees shall be paid by the State upon certification of the Administrative Director of the Courts.

c. In addition to salary or per diem fees, a reporter may, upon the certification of the Director, be reimbursed for necessary travel and other expenses when assigned to serve in a county other than the one in which the reporter resides.

d. Each county shall pay annually to the State Treasurer, in equal quarterly installments, as its share of reporter expenses for the State fiscal year an amount equal to the net cost to such county for such expenses for each preceding fiscal year. Such net cost shall include only the amount paid for salaries and expenses of court reporters in the fiscal year ending June 30, 1948, transcripts furnished to a judge pursuant to N.J.S.2B:7-4 and employer's contribution to the Public Employees' Retirement System and social security paid in the fiscal year ending June 30, 1967, which net cost shall be certified by the Director.

e. Every reporter shall be entitled to retain the fees collected for transcripts. All transcript supplies and equipment shall be furnished by the reporter at his or her own expense.

f. Reporters appointed to serve on a full-time basis shall be deemed to be State employees eligible for membership in the Public Employees' Retirement System; except, however, that reporters who prior to July 1, 1966, were members of any county employees' retirement system pursuant to P.L.1943, c.160 (C.43:10-18.1 et seq.) shall continue therein as county employees for the purposes of that enactment.

Source: N.J.S.2A:11-16

Records and reports.

2B:7-6. Records and Reports. The Administrative Director of the Courts, subject to the approval of the Chief Justice, shall prescribe records which shall be maintained and reports to be filed by the reporter. These records shall be open to inspection by the Supreme Court, the Chief Justice and the Director, and may include records showing: a. the quantity of transcripts prepared, b. the fees charged and the fees collected for transcripts, c. any expenses incurred by the reporter in connection with transcripts, d. the amount of time the reporter is in attendance upon the court

for the purpose of recording proceedings, and e. other information as the Director may determine.

Source: N.J.S.2A:11-17

CHAPTER 8. INTERPRETERS AND TRANSLATORS

2B:8-1. Interpreters.

Interpreters.

2B:8-1. Interpreters. Each county shall provide interpreting services necessary for cases from that county in the Law Division and the Family Part of the Chancery Division. A county may provide interpreting services through the use of persons hired for that purpose. If interpreters are employed, they shall be appointed and shall perform their duties in the manner established by the Chief Justice, and shall serve at the pleasure of the appointing authority. For the purpose of determining their compensation, these employees shall be considered county employees.

Source: N.J.S.2A:11-28 to N.J.S.2A:11-30

CHAPTER 9. ABOLITION OF COURTS AND TRANSFER OF CASES

2B:9-1. Effect of Abolition of Particular Courts.

Effect of abolition of particular courts.

2B:9-1. Effect of Abolition of Particular Courts. a. Where any court has been or is abolished:

1. Its property shall be the property of the court succeeding to its jurisdiction;
2. Its pending cases shall be cases of the court succeeding to its jurisdiction and thereafter shall be treated in the same manner as if originally brought in the court to which they are transferred;
3. Its records shall be disposed of in the manner determined by the Supreme Court.

b. A judgment of a court which has been abolished may be enforced in the court to which its jurisdiction has been transferred, but no abolition of any court or transfer to another court shall change the effect of a judgment of that court in any way.

c. No abolition of any court or any transfer of operations, management, or recordkeeping duties shall affect the position, title, compensation or rights under Civil Service laws of any employee of the courts or of any other government employee whose position included performance of work for the courts. To the extent compatible with efficient administration of the courts,

employees who performed work for abolished courts shall be transferred to perform equivalent functions in existing courts.

d. Any reference in a statute, ordinance or regulation to a court which has been abolished shall be given effect as if the reference were to the court to which the jurisdiction of the abolished court has been transferred.

Source: N.J.S.2A:2-16; N.J.S.2A:1-17; N.J.S.2A:2-18; C.2A:6-1a (P.L.1983, c.405, s.7); N.J.S.2A:6-37; N.J.S.2A:11-57; N.J.S.2A:11-58

2. Section 4 of P.L.1983, c.207 (C.2A:8-24.1) is amended to read as follows:

C.2A:8-24.1 Municipal housing court jurisdiction.

4. Municipal housing courts in municipalities in counties of the first class that have established full-time municipal housing courts shall have exclusive jurisdiction over actions for eviction involving property in those municipalities transferred to the municipal housing court by the special civil part of the Superior Court pursuant to the provisions of subsection b. of N.J.S.2A:6-34; and shall have concurrent jurisdiction to appoint receivers pursuant to section 6 of P.L.1966, c.168 (C.2A:42-79) and to enforce the provisions of P.L.1971, c.224 (C.2A:42-85 et seq.).

3. Section 1 of P.L.1982, c.81 (C.2A:4A-70) is amended to read as follows:

C.2A:4A-70 County court intake services.

1. County court intake services. a. Each county shall establish 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 be less than a master's degree from an accredited institution in 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 year's experience working with troubled youth and their families. Intake personnel should also receive training in drug and alcohol abuse.

b. The court intake service shall make arrangements for the receipt of complaints, on a continuous basis, in situations where the subject of the complaint is a juvenile, or referrals through crisis intervention units where a juvenile-family crisis may exist. It shall assist the court in screening referrals for court intervention, making referrals to appropriate agencies, reviewing and approving alternative living arrangements as provided by law, determining that jurisdiction for juvenile-family crisis proceedings may exist prior to filing a petition, and in monitoring referrals for development and implementation of family service plans. Every complaint or juvenile-family crisis petition shall be reviewed by the court intake service unless otherwise ordered by the court.

c. The court intake service shall have the responsibility for monitoring, on a 24-hour a day, 7-day a week basis, the admission of alleged delinquents to the detention or shelter care facilities and no juvenile may be admitted to a detention or shelter care facility without its approval.

d. The Supreme Court shall have the authority to issue rules governing the duties, responsibilities, and practices of court intake services as it deems necessary to effectuate the purposes of this act; establish guidelines and procedures for the training of intake services staff; establish reporting procedures to be followed by court intake services in providing data for its evaluation; and conduct, at least annually, an evaluation of all intake services.

Repealer.

4. All acts and parts of acts inconsistent with this act are hereby superseded and repealed, and without limiting the general effect of this act in superseding and repealing acts so inconsistent herewith, the following sections, acts and parts of acts, together with all amendments and supplements thereto, are specifically repealed:

New Jersey Statutes sections:

N.J.S.2A:1-1 to N.J.S.2A:1-9 both inclusive;

N.J.S.2A:2-1;

N.J.S.2A:2-2 to N.J.S.2A:2-19 both inclusive;

N.J.S.2A:3-1 to N.J.S.2A:3-12 both inclusive;

N.J.S.2A:3-15 to N.J.S.2A:3-18 both inclusive;

N.J.S.2A:3-19;

N.J.S.2A:3-20 and N.J.S.2A:3-21;

N.J.S.2A:3-22 to N.J.S.2A:3-27 both inclusive;

N.J.S.2A:4-10 and N.J.S.2A:4-11;

N.J.S.2A:6-1;

N.J.S.2A:6-2 and N.J.S.2A:6-3;

N.J.S.2A:6-4 to N.J.S.2A:6-8 both inclusive;

N.J.S.2A:6-9 to N.J.S.2A:6-31 both inclusive;
N.J.S.2A:6-32 and N.J.S.2A:6-33;
N.J.S.2A:6-34;
N.J.S.2A:6-35 to N.J.S.2A:6-46 both inclusive;
N.J.S.2A:11-1 to N.J.S.2A:11-5 both inclusive;
N.J.S.2A:11-6 to N.J.S.2A:11-10 both inclusive;
N.J.S.2A:11-11 to N.J.S.2A:11-36 both inclusive;
N.J.S.2A:11-37 to N.J.S.2A:11-53 both inclusive;
N.J.S.2A:11-55 to N.J.S.2A:11-58;
N.J.S.2A:18-16.
Pamphlet Laws:
Laws of 1967, c.9 (C.2A:1-10 and C.2A:1-11);
Laws of 1979, c.370 (C.2A:1-12);
Laws of 1974, c.57 (C.2A:1A-6 to C.2A:1A-8 both inclusive);
Laws of 1970, c.151 (C.2A:1B-1 to C.2A:1B-11 both inclusive);
Laws of 1983, c.405, ss.9-11 (C.2A:2-1.1 to C.2A:2-1.3 both inclusive);
Laws of 1983, c.405, s.5 (C.2A:2-20);
Laws of 1956, c.36 (C.2A:3-13.5);
Laws of 1971, c.465 (C.2A:3-13.11);
Laws of 1953, c.222 (C.2A:3-18.1 and C.2A:3-18.2);
Laws of 1956, c.203 (C.2A:3-18.3);
Laws of 1955, c.3 (C.2A:3-19.1);
Laws of 1963, c.36 (C.2A:3-21.1);
Laws of 1983, c.405, ss. 1-4,6 (C.2A:4-3a to C.2A:4-3e both inclusive);
Laws of 1983, c.405, s.7 (C.2A:6-1a);
Laws of 1955, c.178, s.3 (C.2A:6-3.7);
Laws of 1970, c.155 (C.2A:6-8.1);
Laws of 1955, c.178, s.2 (C.2A:6-31.1);
Laws of 1975, c.227 (C.2A:6-33.1);
Laws of 1965, c.103 (C.2A:6-34.1);
Laws of 1954, c.2 (C.2A:9-9 to C.2A:9-14 both inclusive);
Laws of 1973, c.271 (C.2A:11-5.1 and C.2A:11-5.2);
Laws of 1952, c.67 (C.2A:11-10.1);
Laws of 1953, c.310 (C.2A:11-36.1 to C.2A:11-36.3 both inclusive);
Laws of 1957, c.50, ss.6-8 (C.2A:11-53.1 to C.2A:11-53.3 both inclusive).

5. This act shall take effect immediately.

Approved April 25, 1991.

CHAPTER 120

AN ACT concerning the establishment of certain traffic signs 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.39:4-183.1b Designation of "Older and Walking Impaired Persons Crossing" areas.

1. The Commissioner of Transportation, with reference to State highways, may by regulation and the local authorities, with reference to any highway under their jurisdiction, may by ordinance or resolution, subject to the approval of the commissioner, designate "Older and Walking Impaired Persons Crossing" areas and erect appropriate signs.

2. This act shall take effect immediately.

Approved April 25, 1991.

CHAPTER 121

AN ACT concerning certain anachronistic laws pertaining to trespasses by swine, and repealing R.S.4:21-8 through 4:21-10 inclusive.

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

Repealer.

1. R.S.4:21-8 through R.S.4:21-10 inclusive are repealed.

2. This act shall take effect immediately.

Approved April 25, 1991.

CHAPTER 122

AN ACT concerning credit card fraud and amending N.J.S.2C:21-6.

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

1. N.J.S.2C:21-6 is amended to read as follows:

Credit cards.

2C:21-6. Credit Cards.

a. Definitions. As used in this section:

(1) "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(2) "Credit card" means any tangible or intangible instrument or device issued with or without fee by an issuer that can be used, alone or in connection with another means of account access, in obtaining money, goods, services or anything else of value on credit, including credit cards, credit plates, account numbers, or any other means of account access.

(3) "Expired credit card" means a credit card which is no longer valid because the term shown either on it or on documentation provided to the cardholder by the issuer has elapsed.

(4) "Issuer" means the business organization or financial institution which issues a credit card or its duly authorized agent.

(5) "Receives" or "receiving" means acquiring possession or control or accepting a credit card as security for a loan.

(6) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

b. False statements made in procuring issuance of credit card. A person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm or corporation, or his financial condition or that of any other person, firm or corporation, for the purpose of procuring the issuance of a credit card is guilty of a crime of the fourth degree.

c. Credit card theft.

(1) A person who takes or obtains a credit card from the person, possession, custody or control of another without the cardholder's consent or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or

to transfer it to a person other than the issuer or the cardholder is guilty of a crime of the fourth degree. Taking a credit card without consent includes obtaining it by any conduct defined and prescribed in Chapter 20 of this title, Theft and Related Offenses.

A person who has in his possession or under his control (a) credit cards issued in the names of two or more other persons or, (b) two or more stolen credit cards is presumed to have violated this paragraph.

(2) A person who receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of a crime of the fourth degree.

(3) A person other than the issuer who sells a credit card or a person who buys a credit card from a person other than the issuer is guilty of a crime of the fourth degree.

(4) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, obtains control over a credit card as security for debt is guilty of a crime of the fourth degree.

(5) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card is guilty of a third degree offense. A person other than the purported issuer who possesses two or more credit cards which are falsely made or falsely embossed is presumed to have violated this paragraph. A person "falsely makes" a credit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued. A person "falsely embosses" a credit card when, without the authorization of the named issuer, he completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder.

(6) A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a person or organization providing money, goods, services or anything else of value, or any other person, signs a credit card, is guilty of a crime of the fourth degree. A person who possesses two or more credit cards which are so signed is presumed to have violated this paragraph.

d. Intent of cardholder to defraud; penalties; knowledge of revocation. A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, (1) uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of subsection c. of this section or a credit card which he knows is forged, expired or revoked, or (2) obtains money, goods, services or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, is guilty of a crime of the third degree. Knowledge of revocation shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than 500 miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received 10 days after mailing by registered or certified mail.

e. Intent to defraud by person authorized to furnish money, goods, or services; penalties.

(1) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, services or anything else of value upon presentation of a credit card obtained or retained in violation of subsection c. of this section or a credit card which he knows is forged, expired or revoked violates this paragraph and is guilty of a crime of the third degree.

(2) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished is guilty of a crime of the fourth degree.

f. Incomplete credit cards; intent to complete without consent. A person other than the cardholder possessing two or more incomplete credit cards, with intent to complete them without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates or any other contrivance designed to reproduce instruments purporting to be the credit cards of an issuer who has not consented to the preparation of such credit

cards, is guilty of a crime of the third degree. A credit card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the credit card, before it can be used by a cardholder, has not yet been stamped, embossed, imprinted or written on it.

g. Receiving anything of value knowing or believing that it was obtained in violation of subsection d. of N.J.S.2C:21-6. A person who receives money, goods, services or anything else of value obtained in violation of subsection d. of this section, knowing or believing that it was so obtained is guilty of a crime of the fourth degree. A person who obtains, at a discount price a ticket issued by an airline, railroad, steamship or other transportation company which was acquired in violation of subsection d. of this section without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it shall be presumed to know that such ticket was acquired under circumstances constituting a violation of subsection d. of this section.

h. Fraudulent use of credit cards.

A person who knowingly uses any counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained credit card to obtain money, goods or services, or anything else of value; or who, with unlawful or fraudulent intent, furnishes, acquires, or uses any actual or fictitious credit card, whether alone or together with names of credit cardholders, or other information pertaining to a credit card account in any form, is guilty of a crime of the third degree.

2. This act shall take effect immediately.

Approved April 25, 1991.

CHAPTER 123

AN ACT concerning underground storage tanks and supplementing P.L.1986, c.102 (C.58:10A-21 et seq.).

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

C.58:10A-24.1 No tank services on underground storage tank.

1. One year from the effective date of this act, no person shall perform, except in accordance with the provisions of this act, tank services on an underground storage tank at an underground stor-

age tank site required for purposes of complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), including, but not limited to, tank testing, tank installation, tank removal, tank repair, installation of monitoring systems, and subsurface evaluations for corrective action, closure, and corrosivity.

C.58:10A-24.2 Services on underground storage tanks by certified persons; exemptions.

2. a. No business firm shall engage in the business of performing services on underground storage tanks at underground storage tank sites for purposes of complying with the requirements of P.L.1986, c.102 (C.58:10A-21 et seq.) unless the business firm has been certified in accordance with section 3 of this act, by certification of the owner, or, in the case of partnership, a partner in the firm, or, in the case of a corporation, an executive officer of the corporation.

b. Any service performed on an underground storage tank at an underground storage tank site for the purpose of complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), shall be performed by, or under the immediate on-site supervision of, a person certified by the department in accordance with section 3 of this act.

c. A business firm or other person performing well drilling or pump installation services at the site of an underground storage tank who is licensed to perform such services pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11), shall not be required to be certified pursuant to section 3 of this act, or to perform those services under the supervision of a person certified thereunder.

d. Professional engineers licensed pursuant to P.L.1938, c.342 (C.45:8-27 et seq.) shall be exempt from the certification requirements of section 3 of this act and from the payment of a recertification or renewal fee required pursuant to section 4 of this act, but shall be required to obtain a certification card issued by the department at no charge and to make the card available for inspection by a State or local official when performing tank services on an underground storage tank at an underground storage tank site. Professional engineers exempt pursuant to this subsection shall be required to attend a department approved training course on the department's rules and regulations concerning underground storage tanks within one year of certification or recertification.

e. A plumbing contractor, as defined pursuant to section 2 of P.L.1968, c.362 (C.45:14C-2), engaged in the installation, repair, testing, or closure of a waste oil underground storage tank shall

be exempt from the certification requirements of section 3 of this act and from payment of a recertification or renewal fee required pursuant to section 4 of this act, but shall be required to obtain a certification card issued by the department at no charge and to make the card available for inspection by a State or local official when performing tank services on an underground storage tank. Plumbing contractors exempt pursuant to this subsection shall be required to attend a department approved training course on the department's rules and regulations concerning underground storage tanks within one year of certification or recertification. A plumbing contractor engaged in the installation, repair, testing, or closure of an underground storage tank that is not a waste oil tank shall be required to comply with section 3 of this act.

C.58:10A-24.3 Examinations for certification to perform services on underground storage tanks.

3. a. The department shall establish and conduct examinations for certifying that a person is qualified to perform services on underground storage tanks at underground storage tank sites for purposes of complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et seq.). Application to the department for examination for certification shall be made in a manner and on such forms as may be prescribed by the department. The department may prescribe training or continuing education, experience or other requirements as a condition for taking a certification examination, or for recertification. The filing of an application shall be accompanied by a nonrecoverable application fee of \$35.00 to cover the costs of processing the application and conducting examinations. No person shall be certified by the department unless he or she satisfactorily completes the examination and satisfies any other requirements of this act, or of the department adopted pursuant thereto.

b. Notwithstanding the provisions of subsection a. of this section, any person who files, within 300 days of the effective date of this act, an application for certification under this subsection, and demonstrates to the department that he or she has adequately performed services on underground storage tanks at underground storage tank sites for at least five consecutive years immediately preceding the filing of the application, shall be certified without examination upon payment of an application and certification fee. Within one year of certification, a person certified pursuant to this subsection shall submit to the department evidence of attendance at a department approved training course on the department's rules

and regulations concerning underground storage tanks. One year from the effective date of this act, no person applying for certification pursuant to this subsection shall perform services requiring certification until certified by the department.

c. A person certified pursuant to subsection b. of this section shall comply with the examination and other requirements adopted by the department pursuant to subsection a. of this section as a precondition for filing for a renewal of a certification issued pursuant to subsection b. of this section.

d. The department may establish a general certification for tank services and on-site supervisory responsibilities, and such other classes of certification for particular tank services or for on-site supervisory responsibilities as it deems appropriate, and may establish separate training, examination and working experience requirements therefor.

C.58:10A-24.4 Certification, renewal.

4. a. Certification shall be for a three-year period. Renewal of a certification, or recertification, shall be made to the department at least 60 days prior to the expiration date of the certification, and shall be accompanied by evidence of attendance at a department approved training course, within the preceding 12 months, on the department's rules and regulations concerning underground storage tanks. Certification shall not be transferable. No certification or recertification shall be issued until a certification fee of \$250.00 has been paid in full to the department. Application and certification fees shall be in an amount sufficient to cover the costs to the department of administering and enforcing the provisions of this act and may be adjusted by the department through the adoption of rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). A person shall have 90 days from the expiration date of a certification to renew an expired certification, after which date the person shall be required to apply for a new certification. The 90-day grace period shall not entitle a person to perform any services for which certification is required.

b. As a condition of certification or recertification, a business firm shall be required to provide the department with evidence of financial responsibility for the performance of services provided pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.) and for the cleanup or mitigation of a hazardous substance discharge resulting from the performance of such services. Financial

responsibility shall be in an amount to be determined by the department but in no case less than \$250,000. Financial responsibility may be in the form of insurance, a surety bond, letter of credit, or other security posted with the department, or self-insurance, as may be prescribed by the department. If the financial responsibility is in the form of insurance, a surety bond, or similar device, the business firm shall promptly notify the department of any cancellation or change in coverage. Financial responsibility in the amount and form required by the department shall be maintained for the term of certification by the business firm.

A copy of the certification shall be conspicuously displayed for public review in the business office of a firm engaged in providing services for underground storage tanks at underground storage tank sites. If a firm maintains a business office at more than one location, the certification shall be conspicuously displayed at each location.

C.58:10A-24.5 Denial, revocation, etc. of certification.

5. a. The department may deny, suspend, revoke, or refuse to renew a certification for good cause, including:

(1) a violation, or abetting another to commit a violation, of any provision of this act, or of P.L.1986, c.102 (C.58:10A-21 et seq.), or rule or regulation adopted, or order issued under either act;

(2) making a false statement on an application for certification or other information required by the department pursuant to this act, or P.L.1986, c.102;

(3) misrepresentation or the use of fraud in obtaining certification or performing underground storage tank services.

b. Before suspending, revoking, or refusing to renew a certification, the department shall afford the applicant or certificate holder an opportunity to be heard in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. Suspension, revocation, or refusal to renew a certification shall not bar the department from pursuing against the applicant or certificate holder any other lawful remedy available to the department.

d. Any business firm or person whose certification is revoked shall be ineligible to apply for certification for three years from the date of the revocation.

e. If the department has reason to believe that a condition exists that poses an imminent threat to the public health, safety or welfare, it may order the certificate holder to cease operations pending the outcome of the hearing.

C.58:10A-24.6 Violations, penalties.

6. a. If a person violates any of the provisions of this act, or any rule or regulation adopted, or order issued, thereunder, the department may institute a civil action in a court of competent jurisdiction for injunctive or other appropriate relief to prohibit and prevent the violation, and the court may proceed in the action in a summary manner.

b. Any person who violates the provisions of this act, or any rule or regulation adopted, or order issued, hereunder, is liable to a civil administrative penalty of not more than \$5,000 for the first offense, not more than \$10,000 for the second offense, and \$25,000 for the third and each subsequent offense. If the violation is of a continuing nature, each day of violation subsequent to receipt of an order to cease the violation constitutes 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 penalty to be imposed; and a statement of the violator's right to a hearing. The violator shall have 20 days from receipt of notice within which to deliver to the department a written request for a hearing. Subsequent to the hearing and upon a finding that a violation has occurred, the department may issue a final order assessing the amount of the penalty. 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. Agreement to, or 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. Any person who violates the provisions of this act is liable to a civil penalty of not more than \$5,000 for the first offense, not more than \$10,000 for the second offense, and \$25,000 for the third and each subsequent offense. Any person violating 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 when due and owing as provided in subsection b. of this section, is subject to a civil penalty not to exceed \$25,000 per day of the violation. Each day's continuance of a violation constitutes a sep-

arate 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 Law Division of the Superior Court shall have jurisdiction to enforce "the penalty enforcement law."

d. The department may compromise and settle any claim for a penalty under this section in such amount as the department may determine to be appropriate and equitable under all of the circumstances.

e. Any person who fails to contest or to pay, in whole or in part, a penalty imposed pursuant to this section, or who fails to agree to a payment schedule therefor, within 30 days of the date that the penalty is due and owing, shall be subject to an interest charge on the amount of the penalty from the date that the amount was due and owing. The rate of interest shall be that established by the New Jersey Supreme Court for interest rates on judgments, as set forth in the Rules Governing the Courts of the State of New Jersey.

f. The penalty provisions of this section shall be in addition to such penalties as may be assessable pursuant to section 12 of P.L.1986, c.102 (C.58:10A-32) for violations of that act.

g. All penalties, monies, and any interest thereon, assessed and collected pursuant to this section shall be deposited into the "New Jersey Spill Compensation Fund," established pursuant to section 10 of P.L.1976, c.141 (C.58:10-23.11i) for use for any of the authorized purposes of the fund. The provisions of this subsection shall not apply to penalties assessed and collected pursuant to section 12 of P.L.1986, c.102 (C.58:10A-32).

7. Within 18 months of the effective date of this act, the department shall adopt, in accordance with 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.

8. This act shall take effect immediately.

Approved April 25, 1991.

CHAPTER 124

AN ACT to authorize the borough of Brooklawn in the county of Camden to make permanent the appointment of Raymond McIntyre to the police department of the borough of Brooklawn.

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 Brooklawn in the county of Camden is authorized to make permanent the appointment of Raymond McIntyre as a full-time police officer, without his having to take a Civil Service Open Competitive Examination, and notwithstanding his age is greater than the maximum age for appointment thereto permitted by N.J.S.40A:14-127.

2. This act shall take effect upon due adoption of an ordinance of the borough of Brooklawn for the purpose of adopting same.

Approved April 25, 1991.

CHAPTER 125

AN ACT concerning the commercial trade in unlawful recorded devices, supplementing Title 2C of the New Jersey Statutes and repealing N.J.S.2A:111-52 through N.J.S.2A:111-55.

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

C.2C:21-21 Short title; definitions; offenses; punishment.

1. a. This act shall be known and may be cited as the "New Jersey Anti-Piracy Act."

b. As used in this act:

(1) "Sound recording" means any phonograph record, disc, tape, film, wire, cartridge, cassette, player piano roll or similar material object from which sounds can be reproduced either directly or with the aid of a machine.

(2) "Owner" means (a) the person who owns the sounds fixed in any master sound recording on which the original sounds were fixed and from which transferred recorded sounds are directly or indirectly derived; or (b) the person who owns the rights to record or authorize the recording of a live performance.

(3) "Audiovisual work" means any work that consists of a series of related images which are intrinsically intended to be

shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material object, such as film or tape, in which the work is embodied.

c. A person commits an offense who:

(1) Knowingly transfers, without the consent of the owner, any sounds recorded on a sound recording with intent to sell the sound recording onto which the sounds are transferred or to use the sound recording to promote the sale of any product, provided, however, that this paragraph shall only apply to sound recordings initially fixed prior to February 15, 1972.

(2) Knowingly transports, advertises, sells, resells, rents, or offers for rental, sale or resale, any sound recording or audiovisual work that the person knows has been produced in violation of this act.

(3) Knowingly manufactures or transfers, directly or indirectly by any means, or records or fixes a sound recording or audiovisual work, with the intent to sell or distribute for commercial advantage or private financial gain, a live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner of the live performance.

(4) For commercial advantage or private financial gain, knowingly advertises or offers for sale, resale or rental, or sells, resells, rents or transports, a sound recording or audiovisual work or possesses with intent to advertise, sell, resell, rent or transport any sound recording or audiovisual work, the label, cover, box or jacket of which does not clearly and conspicuously disclose the true name and address of the manufacturer, and, in the case of a sound recording, the name of the actual performer or group.

d. Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3:

(1) Any offense set forth in this act which involves at least 1,000 unlawful sound recordings or at least 65 audiovisual works within any 180-day period shall be punishable as a crime of the third degree and a fine of up to \$250,000 may be imposed.

(2) Any offense which involves more than 100 but less than 1,000 unlawful sound recordings or more than 7 but less than 65 unlawful audiovisual works within any 180-day period shall be punishable as a crime of the third degree and a fine of up to \$150,000 may be imposed.

(3) Any offense punishable under the provisions of this act not described in paragraphs (1) or (2) of this subsection shall be punishable for the first offense as a crime of the fourth degree and a fine of up to \$25,000 may be imposed. For a second and subsequent offense

pursuant to this paragraph, a person shall be guilty of a crime of the third degree. A fine of up to \$50,000 may be imposed for a second offense pursuant to this paragraph and a fine of up to \$100,000 for a third and subsequent offense may be imposed.

e. All unlawful sound recordings and audiovisual works and any equipment or components used in violation of the provisions of this act shall be subject to forfeiture in accordance with the procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.

f. The provisions of this act shall not apply to:

(1) Any broadcaster who, in connection with or as part of a radio or television broadcast transmission, or for the purposes of archival preservation, transfers any sounds or images recorded on a sound recording or audiovisual work;

(2) Any person who, in his own home, for his own personal use, and without deriving any profit, transfers any sounds or images recorded on a sound recording or audiovisual work.

Repealer.

2. N.J.S.2A:111-52 through N.J.S.2A:111-55 are repealed.

3. This act shall take effect on the 60th day after enactment.

Approved April 25, 1991.

CHAPTER 126

AN ACT concerning exemptions from the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986" and amending P.L.1989, c.164.

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

1. Section 1 of P.L.1989, c.164 (C.39:3-10j) is amended to read as follows:

C.39:3-10j Findings, declaration.

1. The Legislature finds that:

a. On September 20, 1988, the Secretary of the United States Department of Transportation granted the states of this nation the authority to exempt certain drivers from the licensing provisions

of the "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. §2701 et seq.).

b. The "Commercial Motor Vehicle Safety Act of 1986" requires a commercial driver's license for anyone who operates a vehicle that has a gross weight rating in excess of 26,000 pounds, carries 15 or more passengers or transports hazardous materials.

c. While that act's objectives to regulate and improve the traffic safety of the commercial trucking industry are laudable, it could have an unintended, and largely adverse, impact upon certain non-commercial drivers.

d. Unless the State of New Jersey, in accordance with the Secretary of the United States Department of Transportation's directive, exercises its exemption authority, certain operators of firefighting apparatus, operators of emergency or rescue equipment operated for the purposes of a first aid, ambulance or rescue squad, non-civilian operators of military vehicles owned or operated by the United States Department of Defense or the National Guard, and farmers operating farm vehicles will be obligated to secure commercial driver's licenses under that act.

e. There appears to be no significant evidence that the operators of firefighting apparatus, operators of emergency or rescue equipment operated for the purposes of a first aid, ambulance or rescue squad, non-civilian operators of military vehicles owned or operated by the United States Department of Defense or the National Guard, or farmers operating farm vehicles in and about their regular agricultural activities pose or have created any safety hazards on the public highways which would warrant their being licensed under the provisions of the "Commercial Motor Vehicle Safety Act of 1986."

The Legislature, therefore, declares that it is altogether fitting and proper to authorize, in accordance with the directives issued by the Secretary of the United States Department of Transportation, that the designated operators of firefighting apparatus, operators of emergency or rescue equipment operated for the purposes of a first aid, ambulance or rescue squad, non-civilian operators of military vehicles owned and operated by the United States Department of Defense or the National Guard, and operators of farm vehicles under certain circumstances be exempted from the licensing requirements set forth in the "Commercial Motor Vehicle Safety Act of 1986."

2. Section 2 of P.L.1989, c.164 (C.39:3-10k) is amended to read as follows:

C.39:3-10k Exemption of certain operators of fire, military, farm vehicles.

2. Unless otherwise required by federal law or regulation, and subject to any rules and regulations promulgated pursuant to the provisions of this act, no (1) designated operator of firefighting apparatus, (2) non-civilian operator of a military vehicle owned or operated by the United States Department of Defense or the National Guard, (3) operator of a farm vehicle controlled and operated by a farmer, used to transport agricultural products, farm machinery or farm supplies to or from a farm, operated within 150 miles of a person's farm, and not used in the operation of a common or contract motor carrier, or (4) operator of emergency or rescue equipment operated for the purposes of a first aid, ambulance or rescue squad, shall be subject to the licensing provisions of the "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. §2701 et seq.).

Notwithstanding the provisions of this section, a waiver shall not be granted if the granting of the waiver would place the State in a position of not being in substantial compliance with the requirements of the federal act.

3. This act shall take effect immediately.

Approved April 25, 1991.

CHAPTER 127

AN ACT concerning representation on regional health commissions and amending P.L.1938, c.67.

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

1. Section 3 of P.L.1938, c.67 (C.26:3-85) is amended to read as follows:

C.26:3-85 Composition of commission.

3. A regional health commission shall consist of two members from each board of health participating therein except that when

more than seven boards of health participate, the commission shall consist of one member, or a designated representative, from each board. When an independent local board of health is in place, the members or representatives to serve on a regional commission shall be appointed by the board of health. In municipalities having no independent local board of health, members of regional health commissions shall be appointed by the local governing body. Members shall serve on regional health commissions at the pleasure of the appointing authority.

2. This act shall take effect immediately.

Approved April 29, 1991.

CHAPTER 128

AN ACT concerning State aid for certain nonpublic school students and amending P.L.1990, c.52, P.L.1977, c.192 and P.L.1977, c.193.

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

1. Section 16 of P.L.1990, c.52 (C.18A:7D-18) is amended to read as follows:

C.18A:7D-18 State aid for transportation.

16. Each district's State aid for transportation shall equal the sum of A1, A2 and A3 determined as follows:

$$A1 = R \times C + (R \times D \times W)$$

$$A2 = RS \times CS + (RS \times DS \times WS)$$

$$A3 = (R + RS) \times ((P \times PM) + (E \times EM))$$

where

R is the number of pupils eligible for transportation pursuant to N.J.S.18A:39-1 as of the last school day prior to October 16 of the prebudget year;

C is the per pupil constant, which shall equal 502.27 for school districts located in very high cost counties, shall equal 365.10 for school districts located in high cost counties and shall equal 254.41 for school districts located in any other county;

D is the average distance between the home and school of the pupils eligible for transportation pursuant to N.J.S.18A:39-1;

W is the regular transportation mileage weight, which shall equal 21.57 for school districts located in the very high cost counties and high cost counties and shall equal 14.19 for school districts located in any other county;

RS is the number of pupils eligible for transportation pursuant to N.J.S.18A:46-23 as of the last school day prior to October 16 of the prebudget year;

CS is the per pupil constant for N.J.S.18A:46-23 transportation, which shall equal 1051.72 for school districts located in very high cost counties, shall equal 914.55 for school districts located in high cost counties and shall equal 803.86 for school districts located in any other county;

PM means the population density multiplier, which equals .00541;

P means population density, calculated as the district's population according to the most recent data available from the Bureau of the Census divided by the number of square miles in the school district;

DS is the average distance between the home and school of the pupils eligible for transportation pursuant to N.J.S.18A:46-23;

WS is the mileage weight for N.J.S.18A:46-23 transportation, which shall equal 64.05 for school districts located in very high cost counties and high cost counties and shall equal 56.68 for school districts located in any other county;

EM means the district size multiplier, which equals .00762; and

E means the resident enrollment of the district.

As used in this section a high cost county is a county in which for the 1988-89 school year the average cost per pupil mile for approved transportation, other than for handicapped pupils or pupils whose parent or guardian receives a payment in lieu of transportation pursuant to N.J.S.18A:39-1, exceeded the State-wide average by more than 15%.

As used in this section a very high cost county is a county in which for the 1988-89 school year the average cost per pupil mile for approved transportation, other than for handicapped pupils or pupils whose parent or guardian receives a payment in lieu of transportation pursuant to N.J.S.18A:39-1, exceeded the State-wide average by more than 85%.

Whenever a pupil receives transportation to and from a remote nonpublic school pursuant to N.J.S.18A:39-1 or whenever the parent or guardian of a pupil receives a payment in lieu of transportation pursuant to N.J.S.18A:39-1, the State aid for

transportation received by the district for that pupil shall not exceed \$675 or the amount determined pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), whichever is the greater amount.

County vocational school districts shall be eligible to receive State aid for purposes of this section beginning with the 1992-93 school year.

County special services school districts shall be ineligible to receive State aid for purposes of this section.

For any school year in which the numerical values in this section have not been altered pursuant to section 17 of P.L.1990, c.52 (C.18A:7D-19), the State aid amount calculated for a district pursuant to this section shall be increased by the product of the amount calculated and the CPI.

2. Section 2 of P.L.1977, c.192 (C.18A:46A-2) is amended to read as follows:

C.18A:46A-2 Definitions.

2. As used in this act:

a. "Commissioner" means the State Commissioner of Education.

b. "Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the Civil Rights Act of 1964 (P.L.88-352).

c. "Auxiliary services" means compensatory education services for the improvement of students' computation skills; compensatory education services for the improvement of students' communication skills; supportive services for acquiring communication proficiency in the English language for children of limited English-speaking ability; and home instruction services.

d. (Deleted by P.L.1990, c.52).

e. "Compensatory education services" means preventive and remedial programs offered during the normal school day, or in programs offered beyond the normal school day or during summer vacation, which are integrated and coordinated with programs operated during the regular school day and year. The programs shall be approved by the State Board of Education, supplemental to the regular programs and designed to assist pupils who have academic needs that prevent them from succeeding in regular school programs.

3. Section 9 of P.L.1977, c.192 (C.18A:46A-9) is amended to read as follows:

C.18A:46A-9 Apportionment of State aid; calculation.

9. The apportionment of State aid among local school districts shall be calculated by the commissioner as follows:

a. The per pupil aid amount for providing the equivalent service to children enrolled in the public schools, shall be determined by multiplying the bilingual program weight from section 81 of P.L.1990, c.52 (C.18A:7D-21) or the appropriate cost factor from section 14 of P.L.1990, c.52 (C.18A:7D-16) by the State foundation amount as defined in section 6 of P.L.1990, c.52 (C.18A:7D-6). The appropriate per pupil aid amount for compensatory education shall be determined by multiplying the per pupil amount of compensatory education aid in the prebudget year by the PCI as defined by section 3 of P.L.1990, c.52 (C.18A:7D-3).

b. The appropriate per pupil aid amount shall then be multiplied by the number of auxiliary services received for each pupil enrolled in the nonpublic schools who were identified as eligible to receive each auxiliary service as of the last school day of June of the prebudget year, to obtain each district's State aid for the next school year.

c. The per pupil aid amount for home instruction shall be determined by multiplying the State foundation amount as defined in section 6 of P.L.1990 c.52 (C.18A:7D-6) by a cost factor of 0.0037 by the number of hours of home instruction actually provided in the prior school year.

4. Section 6 of P.L.1977, c.193 (C.18A:46-19.4) is amended to read as follows:

C.18A:46-19.4 Provision for speech language specialist.

6. Each board of education shall provide for the services of a certified speech-language specialist for each child attending a nonpublic school located in the school district and classified pursuant to N.J.S.18A:46-8 as requiring the services of a certified speech-language specialist.

5. Section 14 of P.L.1977, c.193 (C.18A:46-19.8) is amended to read as follows:

C.18A:46-19.8 Estimated cost of services; inclusion in budget; State aid.

14. On November 5 of each year, each board of education shall forward to the commissioner an estimate of the cost of providing,

during the next school year, examination, classification and speech correction services to nonpublic school children who attend a nonpublic school located within the district who were identified as eligible to receive each of these services pursuant to this act during the previous school year. Each board of education shall report the number of nonpublic school children who attended a nonpublic school located within the district, who were identified as eligible for supplementary instruction services during the preceding school year. The number of these pupils shall be multiplied by the appropriate cost factor from section 14 of P.L.1990, c.52 (C.18A:7D-16) and by the State foundation amount as defined in section 6 of P.L.1990, c.52 (C.18A:7D-6). This product shall be added to the estimated cost for providing examination, classification and speech correction services.

In preparing its annual budget, each board of education shall include as an expenditure the estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

In preparing its annual budget, each board of education shall include as a revenue State aid in an amount equal to such estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

During each school year, each district shall receive an amount of State aid equal to 10% of such estimated cost on the first day in September and on the first day of each month during the remainder of the school year. If a board of education requires funds prior to September, the board shall file a written request with the Commissioner of Education stating the need for the funds. The commissioner shall review each request and forward those for which need has been demonstrated to the appropriate officials for payment.

In the event the expenditures incurred by any district are less than the amount of State aid received, the district shall refund the unexpended State aid after completion of the school year. The refunds shall be paid no later than December 1. In any year, a district may submit a request for additional aid pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.). If the request is approved and funds are available from refunds of the prior year, payment shall be made in the current school year.

6. This act shall take effect immediately.

Approved May 2, 1991.

CHAPTER 129

AN ACT appropriating monies from the "Petroleum Overcharge Reimbursement Fund."

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 \$6,000,000 from the "Petroleum Overcharge Reimbursement Fund," established pursuant to section 1 of P.L.1987, c.231, (C.52:18A-209 et seq.) to provide energy assistance to households eligible for the low-income energy assistance program established pursuant to the "Low-Income Home Energy Assistance Act of 1981," Pub.L. 97-35, Title XXVI (42 U.S.C. §8621 et seq.).

2. a. The Commissioner of Human Services shall issue guidelines concerning the eligibility for available funds and procedures for the distribution of funds, and may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

b. The sums appropriated pursuant to this act shall be obligated by the department within three years of the effective date of this act.

c. Within two years of the effective date of this act, the commissioner shall submit to the Governor and the Legislature a report detailing the proposed and actual expenditure of the sums appropriated.

3. This act shall take effect immediately.

Approved May 2, 1991.

CHAPTER 130

AN ACT concerning certain new motor vehicle warranties and amending P.L.1988, c.123.

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

1. Section 2 of P.L.1988, c.123 (C.56:12-30) is amended to read as follows:

C.56:12-30 Definitions.

2. As used in this act:

“Consumer” means a buyer or lessee, other than for purposes of resale or sublease, of a motor vehicle; a person to whom a motor vehicle is transferred during the duration of a warranty applicable to the motor vehicle; or any other person entitled by the terms of the warranty to enforce the obligations of the warranty.

“Dealer” means a person who is actively engaged in the business of buying, selling or exchanging motor vehicles at retail and who has an established place of business.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, or his designee.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Lease agreement” means a contract or other written agreement in the form of a lease for the use of a motor vehicle by a person for a period of time exceeding 60 days, whether or not the lessee has the option to purchase or otherwise become the owner of the motor vehicle at the expiration of the lease.

“Lessee” means a person who leases a motor vehicle pursuant to a lease agreement which provides that the lessee is responsible for repairs to the motor vehicle.

“Lessor” means a person who holds title to a motor vehicle leased to a lessee under a lease agreement or who holds the lessor’s rights under such an agreement.

“Lien” means a security interest in a motor vehicle.

“Lienholder” means a person with a security interest in a motor vehicle pursuant to a lien.

“Manufacturer” means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least 10 new motor vehicles.

“Manufacturer’s informal dispute settlement procedure” means an arbitration process or procedure by which the manufacturer attempts to resolve disputes with consumers regarding motor vehicle nonconformities and repairs that arise during the vehicle’s warranty period.

“Manufacturer’s warranty” or “warranty” means any warranty, whether express or implied of the manufacturer, of a new motor vehicle

of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under the warranty.

“Motor vehicle” means a passenger automobile or motorcycle as defined in R.S.39:1-1 which is purchased or leased in the State of New Jersey or which is registered by the Division of Motor Vehicles in the Department of Law and Public Safety, except the living facilities of motor homes.

“Nonconformity” means a defect or condition which substantially impairs the use, value or safety of a motor vehicle.

“Reasonable allowance for vehicle use” means the mileage at the time the consumer first presents the motor vehicle to the dealer or manufacturer for correction of a nonconformity times the purchase price, or the lease price if applicable, of the vehicle, divided by one hundred thousand miles.

2. This act shall take effect on the 90th day following enactment and shall apply to all new motor vehicles purchased or leased on or after that date.

Approved May 6, 1991.

CHAPTER 131

AN ACT concerning blood transfusions and supplementing Title 26 of the Revised Statutes.

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

C.26:2A-13 Short title.

1. This act shall be known and may be cited as the “Blood Safety Act of 1991.”

C.26:2A-14 Patient to be informed of blood transfusion options.

2. a. Whenever a blood transfusion may be necessary during a surgical procedure, a physician or surgeon shall inform the surgery patient, prior to performing the surgical procedure, of the options of receiving autologous blood transfusions, designated blood transfusions or homologous blood transfusions.

b. The physician or surgeon who will perform the surgery shall note on the patient’s medical record that the patient was advised of

the opportunity to receive an autologous, designated or homologous blood transfusion, if a transfusion becomes necessary.

c. The physician or surgeon who will perform the surgery shall not be required to provide his patient with an explanation of the transfusion options pursuant to this section, if medical contraindications exist or the surgery is performed on an emergency basis.

d. If there are no medical contraindications or the surgery is not performed on an emergency basis, the physician or surgeon shall allow adequate time, prior to surgery, for predonation to occur. If the patient waives the option to predonate blood, the physician or surgeon shall not incur any liability for his failure to allow the predonation to occur.

C.26:2A-15 Health care facility required to accept autologous, designated blood.

3. a. A health care facility which performs a transfusion shall be required to accept autologous or designated blood for a potential transfusion to a patient, if the blood is received from a blood bank licensed by the Department of Health, and has been tested and prepared in accordance with standards approved by the department.

b. A health care facility which accepts autologous or designated blood and similar blood components shall pay a service fee to the blood bank which provides the blood or blood components, equal to the price it is charged for homologous blood or blood components.

C.26:2A-16 Blood bank to inform donor, patient of fees.

4. A blood bank which collects autologous or designated blood shall inform the donor of the blood or the intended recipient of the blood, in the case of a designated blood transfusion, of all fees that the blood bank charges to process, store, transport or otherwise prepare the blood for transfusion.

5. This act shall take effect on the 90th day following enactment.

Approved May 6, 1991.

CHAPTER 132

AN ACT transferring the Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans and amending and supplementing P.L.1987, c.323.

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

1. The Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans, established pursuant to section 2 of P.L.1987, c.323, together with all its powers, functions, duties, and members is continued and transferred to the Department of Military and Veterans' Affairs.

2. Section 2 of P.L.1987, c.323 is amended to read as follows:

2. There is established in the Department of Military and Veterans' Affairs a commission to be known as the "Commission for the Study and Treatment of Post-traumatic Stress Disorder in Vietnam Veterans," consisting of nine members as follows:

a. The Commissioner of Corrections and the Adjutant General of the Department of Military and Veterans' Affairs or their respective designees;

b. The Director of the Division of Mental Health and Hospitals in the Department of Human Services or his designee;

c. Two public members to be appointed by the Governor, who shall be of different political parties and who shall have served in the Vietnam conflict;

d. Two public members to be appointed by the President of the Senate, who shall be of different political parties and who shall have served in the Vietnam conflict; and

e. Two public members to be appointed by the Speaker of the General Assembly, who shall be of different political parties and who shall have served in the Vietnam conflict.

Vacancies in the membership shall be filled in the same manner as the original appointments were made. Members of the commission shall serve without compensation, but shall be reimbursed for their expenses actually incurred in the performance of their duties.

3. Section 9 of P.L.1987, c.323 is amended to read as follows:

9. This act shall take effect immediately and shall expire on December 31, 1991.

4. This act shall take effect immediately.

Approved May 6, 1991.

New Jersey State Library

CHAPTER 133

AN ACT concerning the prompt payment of certain subcontractors.

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

C.2A:30A-1 Definitions.

1. As used in this act:

“General contractor” means a person who contracts with an owner to improve real property.

“Improve” means: to build, alter, repair or demolish any structure upon, connected with, on or beneath the surface of any real property; to excavate, clear, grade, fill or landscape any real property; to construct driveways and private roadways on real property; to furnish construction related materials, including trees and shrubbery, for any of the above purposes; or to perform any labor upon a structure, including any design, professional or skilled services furnished by an architect, engineer, land surveyor or landscape architect licensed or registered pursuant to the laws of this State.

“Structure” means all or any part of a building and other improvements to real property.

“Owner” means any person, including any public or governmental entity, who has an interest in the real property to be improved and who has contracted with a general contractor for such improvement to be made. “Owner” shall be deemed to include any successor in interest or agent acting on behalf of an owner.

“Prime rate” means the base rate on corporate loans at large United States money center commercial banks.

“Real property” means the real estate that is improved upon or to be improved upon.

“Subcontractor” means any person who has contracted to furnish labor, materials or other services to a general contractor in connection with a contract to improve real property.

“Subsubcontractor” means any person who has contracted to furnish labor, materials or other services to a subcontractor in connection with a contract to improve real property.

C.2A:30A-2 Payment to subcontractor, subsubcontractor within 10 calendar days.

2. If a subcontractor or subsubcontractor has performed in accordance with the provisions of his contract with the general contractor or subcontractor and the work has been accepted by the owner or general contractor, as applicable, and the parties have

not otherwise agreed in writing, the contractor shall pay to his subcontractor and the subcontractor shall pay to his subsubcontractor within 10 calendar days of the receipt of each periodic payment, final payment or receipt of retainage monies, the full amount received for the work of the subcontractor or subsubcontractor based on the work completed or the services rendered under the applicable contract. In the case of ongoing work on the same project for which partial payments are made, the amount of money owed for work already completed shall only be payable if the subcontractor or subsubcontractor is performing to the satisfaction of the contractor or subcontractor, as applicable.

If a payment due pursuant to the provisions of this section is not made in a timely manner, the delinquent party shall be liable for the amount of money owed under the contract, plus interest at a rate equal to the prime rate plus 1%. Interest on amounts due pursuant to this section shall be paid to the subcontractor or subsubcontractor for the period beginning on the day after the required payment date and ending on the day on which the check for payment has been drawn.

3. This act shall take effect immediately and shall be applicable to all contracts to improve real property entered into on or after the effective date.

Approved May 6, 1991.

CHAPTER 134

AN ACT to certify and license social workers, creating a State Board of Social Work Examiners, and revising various parts of the statutory law.

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

C.45:15BB-1 Short title.

1. This act shall be known and may be cited as the "Social Workers' Licensing Act of 1991."

C.45:15BB-2 Declarations.

2. The Legislature declares that the profession of social work profoundly affects the lives of the people of New Jersey. The

Legislature further declares that this act is intended to protect the people of New Jersey by setting standards of qualification, education, training and experience for those persons seeking to practice and be certified or licensed as social workers and by promoting high standards of professional performance for those presently practicing as social workers and for those who will be certified or licensed to practice social work in this State.

C.45:15BB-3 Definitions.

3. As used in this act:

“Board” means the State Board of Social Work Examiners, established in section 10 of this act.

“Certified social worker” means a person who holds a current, valid certificate issued pursuant to subsection c. of section 6 or subsection c. of section 8 of this act.

“Clinical social work” means the professional application of social work methods and values in the assessment and psychotherapeutic counseling of individuals, families, or groups. Clinical social work services shall include, but shall not be limited to: assessment; psychotherapy; client-centered advocacy; and consultation.

“Director” means the Director of the Division of Consumer Affairs.

“Licensed clinical social worker” means a person who holds a current, valid license issued pursuant to subsection a. of section 6 or subsection a. or d. of section 8 of this act.

“Licensed social worker” means a person who holds a current, valid license issued pursuant to subsection b. of section 6 or subsection b. of section 8 of this act.

“Social work” means the activity directed at enhancing, protecting or restoring a person’s capacity for social functioning, whether impaired by physical, environmental, or emotional factors. The practice of social work shall include, but shall not be limited to: policy and administration; clinical social work; planning and community organization; social work education; and research.

“Supervision” means the direct review of a supervisee for the purpose of teaching, training, administration, accountability or clinical review by a supervisor in the same area of specialized practice.

C.45:15BB-4 Certification or license required.

4. a. No person shall engage in the practice of social work as a certified or licensed social worker or present, call or represent himself as a certified or licensed social worker unless certified or licensed under this act.

b. No person shall assume, represent himself as, or use the title or designation "social worker," "licensed clinical social worker," "licensed social worker," "certified social worker," "medical social worker," "social work technician" or any other title or designation which includes the words "social worker" or "social work," or any of the abbreviations "SW," "LCSW," "LSW," "CSW," "SWT" or similar abbreviations, unless certified or licensed under this act, and unless the title or designation corresponds to the certification or license held by the person pursuant to this act.

c. No person shall engage in the independent practice of clinical social work for a fee unless the person is licensed under this act as a licensed clinical social worker.

d. No certified social worker shall practice clinical social work and a licensed social worker may only practice clinical social work under the supervision of a licensed clinical social worker.

C.45:15BB-5 Nonapplicability of act.

5. The provisions of this act shall not apply to the following persons:

a. A person authorized by the laws of this State to practice medicine and surgery, psychology, marriage counselling, chiropractic, acupuncture, physical therapy, occupational therapy, speech pathology and audiology, nursing or any other profession licensed by the State, when acting within the scope of the person's profession or occupation and doing work of a nature consistent with the person's training, if the person does not hold himself out to the public as possessing a license or certificate issued pursuant to this act;

b. A student enrolled in an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education, if the student is practicing as part of a supervised course of study and is clearly designated by the title "social work intern;"

c. A primary, middle or secondary school social worker certified as a school social worker by the State Department of Education, but only in the course of this employment and only when designated by the title "school social worker;"

d. A rabbi, priest, minister, Christian Science practitioner or clergyman of any religious denomination or sect, when engaging in activities, which are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or

sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering services remains accountable to the established authority thereof;

e. A person engaged in the practice of alcohol or drug abuse intervention, prevention, or treatment if the person does not advertise or use any title, name, or description, the use of which is restricted by section 4 of this act; and

f. An employee of the State or a political subdivision thereof which is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, but only in the course of this employment.

C.45:15BB-6 Licensing of “licensed clinical social worker,” “licensed social worker;” certification of social worker.

6. a. The board shall issue a license as a “licensed clinical social worker” to an applicant who has:

(1) Received a master’s degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education, or a doctorate in social work from an accredited institution of higher education;

(2) Had at least two years of full-time experience in the practice of clinical social work under the supervision of a clinical social worker licensed by this State or who, by virtue of the supervisor’s education and experience, is eligible for licensure in this State as a licensed clinical social worker, or any other supervisor who may be deemed acceptable to the board;

(3) Satisfactorily completed minimum course requirements established by the board to ensure adequate training in methods of clinical social work practice; and

(4) Passed an appropriate examination provided by the board for this purpose.

b. The board shall issue a license as a “licensed social worker” to an applicant who has:

(1) Received a master’s degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education or a doctorate in social work from an accredited institution of higher education; and

(2) Passed an appropriate examination provided by the board for this purpose.

c. The board shall certify an applicant who has received a baccalaureate degree in social work from an educational program

accredited, or in candidacy for accreditation, by the Council on Social Work Education.

C.45:15BB-7 Exemptions from examination requirements.

7. An applicant may be exempted from the requirement of taking and passing any examination provided for in this act if the applicant satisfies the board that the applicant is licensed or registered under the laws of a state, territory or jurisdiction of the United States, which in the opinion of the board imposes substantially the same educational and experiential requirements as this act, and, pursuant to the laws of the state, territory, or jurisdiction, has taken and passed an examination similar to that from which exemption is sought.

C.45:15BB-8 Substitution of work experience for certain license or certification requirements, grandfathering.

8. a. For 180 days after the date procedures are established by the board for applying for licensure under subsection a. of section 6 of this act, any person who engaged in full-time clinical social work for three of the last five years immediately preceding the enactment date of this act, including clinical social work in a career service in civil service or social work certified by the State Department of Education, and who meets the educational and experiential requirements set forth in subsection a. of section 6 of this act, may acquire a license as a licensed clinical social worker without sitting for a board approved examination.

b. For 180 days after the date procedures are established by the board for applying for licensure under subsection b. of section 6 of this act, any person who engaged in full-time social work for three of the last five years immediately preceding the enactment date of this act, including social work in a career service in civil service or social work certified by the State Department of Education, and who meets the educational requirements set forth in subsection b. of section 6 of this act, may acquire a license as a licensed social worker without sitting for a board approved examination.

c. For 180 days after the date procedures are established by the board for applying for certification under subsection c. of section 6 of this act, any person who engaged in full-time social work for two of the last five years immediately preceding the enactment date of this act, including social work in career service in civil service or social work certified by the State Department of Education, may acquire a certificate as a certified social worker without proof to the board that the person has met the educational criteria set forth in subsection c. of section 6 of this act.

d. For 180 days after the date procedures are established by the board for applying for licensure under section 6 of this act, any person who does not meet the educational and experiential requirements set forth in subsection a. of section 6 of this act may acquire a license as a licensed clinical social worker without sitting for a board approved examination if the applicant: (1) has a baccalaureate degree in social work or in a closely related field from an accredited institution of higher education; (2) has at least 20 years of professional experience of which at least 10 have been in the full-time practice of social work; and (3) is a certified school social worker and a certified instructor in parent effectiveness training, has a background and experience in medical social work, has worked for the State as a caseworker dealing with youth and family services, has experience and training in crisis intervention, and is recognized by the courts in the State as a qualified expert witness as a social worker.

C.45:15BB-9 Requirements for renewal of license or certificate.

9. a. In addition to any other requirements for licensure or certification, at the time of renewal an applicant shall execute and submit a sworn statement made on a form provided by the board that the certification or license for which renewal is sought has not been revoked, suspended or not renewed by the board or any other jurisdiction.

b. Each applicant shall present satisfactory evidence when seeking certification or license renewal that in the period since the certificate or license was issued or last renewed any continuing education requirements have been completed as specified by the board.

C.45:15BB-10 State Board of Social Work Examiners created.

10. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Social Work Examiners. The board shall consist of nine members who are residents of the State, two of whom shall be public members appointed pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and one of whom shall be the Commissioner of Human Services, or his designee, appointed in fulfillment of the requirement of subsection c. of that section. Of the six remaining members, three shall have been actively engaged in the practice of social work for at least five years immediately preceding their appointment, and, except for the members first appointed, one shall be a licensed clinical social worker, one shall be a licensed social worker, and one shall be a certified social worker pursuant to this act. Of the three remaining members, two shall be social work educators, one of whom shall represent a bac-

calauareate level program and one of whom shall represent a master's level program; and one shall be a social worker with a doctorate level degree, and, all of whom, except for the members first appointed, shall be licensed or certified pursuant to this act.

The Governor shall appoint each member, other than the State executive department member, for terms of three years, except that of the social worker members first appointed, two shall serve for a term of three years, two shall serve for terms of two years and two shall serve for terms of one year. Any vacancy in the membership shall be filled for the unexpired term in the manner provided by the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove any member of the board, other than the State executive department member, for cause.

C.45:15BB-11 Powers, duties of board.

11. The board shall, in addition to such other powers and duties as it may possess by law:

- a. Administer the provisions of this act;
- b. Examine and pass on the qualifications of all applicants for license or certification under this act, and issue a license or certificate to each qualified successful applicant, therefor attesting to the applicant's professional qualification to practice as a certified social worker, as a licensed social worker or as a licensed clinical social worker;
- c. Examine, evaluate and supervise all examinations and procedures;
- d. Adopt a seal which shall be affixed to all licenses and certificates issued by it;
- e. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it may deem necessary to enable it to perform its duties under and to enforce the provisions of this act;
- f. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) that set professional practice standards for licensed clinical social workers in the independent practice of clinical social work for a fee;
- g. Annually publish a list of the names and addresses of all persons who are licensed or certified under this act as licensed clinical, licensed or certified social workers, as the case may be;
- h. Establish standards for the continuing education of social workers; and

i. Prescribe or change the charges for examinations, certifications, licensures, renewals and other services performed pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.).

C.45:15BB-12 Appointment of Executive Director.

12. The Executive Director of the board shall be appointed by the director and shall serve at the director's pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants as are necessary to administer this act.

C.45:15BB-13 Disclosure of confidential information by social worker.

13. A social worker licensed or certified pursuant to the provisions of this act shall not be required to disclose any confidential information that the social worker may have acquired from a client or patient while performing social work services for that client or patient unless:

- a. Disclosure is required by other State law;
- b. Failure to disclose the information presents a clear and present danger to the health or safety of an individual;
- c. The social worker is a party defendant to a civil, criminal or disciplinary action arising from the social work services provided, in which case a waiver of the privilege accorded by this section shall be limited to that action;
- d. The patient or client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or the right to present testimony and witnesses on that person's behalf; or
- e. A patient or client agrees to waive the privilege accorded by this section, and, in circumstances where more than one person in a family is receiving social work services, each such member agrees to the waiver. Absent a waiver from each family member, a social worker shall not disclose any information received from any family member.

14. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by or through such boards: the New Jersey State Board of Accountancy, the

New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

15. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

16. Section 2 of P.L.1971, c.60 (C.45:1-2.2) is amended to read as follows:

C.45:1-2.2 Membership of certain boards and commissions; appointment, removal, quorum.

2. a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage Counselor Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member

thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

17. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board

of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage Counselor Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

18. This act shall take effect immediately, except that section 4 of this act shall take effect on the 360th day after the date of enactment.

Approved May 6, 1991.

CHAPTER 135

AN ACT concerning the regulation of swimming, supplementing Title 26 of the Revised Statutes and repealing P.L.1946, c.172, P.L.1981, c.216, P.L.1989, c.61 and P.L.1989, c.140.

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

C.26:4A-4 Definitions.

1. As used in this act:

“Campground” means a plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for children or adults, or both, for a total of 15 days or more in any calendar year, for recreation, education, or vacation purposes.

“Common interest community” means:

a. property subject to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) or the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

b. a housing corporation or association, commonly known as a cooperative, which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association; or

c. real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in the instrument, however denominated, which creates the common interest community. Ownership of a unit does not include holding a leasehold interest of less than 20 years in a unit, including renewal options;

"Hotel" or "motel" means a commercial establishment with a building of four or more dwelling units or rooms used for rental and lodging by guests.

"Mobile home park" means a parcel of land, or two or more contiguous parcels of land, containing at least 10 sites equipped for the installation of mobile or 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 mobile or manufactured home for the installation thereof, and where the owner provides 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:

- a. Construction and maintenance of streets;
- b. Lighting of streets and other common areas;
- c. Garbage removal;
- d. Snow removal; and
- e. Provision for the drainage of surface water from home sites and common areas.

"Private lake, river or bay or private community lake, river or bay association" means an organization of property owners within a fixed or defined geographical area with deeded or other rights to utilize, with similarly situated owners, various lakefront, riverfront or bayfront properties, which properties are not open to the general public, other than bona fide guests of a member of the private lake, river or bay or private community lake, river or bay association.

“Retirement community” means a retirement community which is registered with the Division of Housing and Development in the Department of Community Affairs pursuant to “The Planned Real Estate Development Full Disclosure Act,” P.L.1977, c.419 (C.45:22A-21 et seq.).

“Specially exempt facility” means a private lake, river or bay or private community lake, river or bay association, or private nonprofit common interest community which restricts the use of its lake, river, bay or pool, as appropriate, to the owners of units thereof and their invited guests. Specially exempt facility also includes a campground, hotel, motel, mobile home park, or retirement community which restricts the use of its pool to renters of the lodging units or owners of the dwelling units, as appropriate, and their invited guests.

C.26:4A-5 Exemptions from mandatory compliance.

2. Notwithstanding the provisions of section 7 of P.L.1947, c.177 (C.26:1A-7) or any rules or regulations promulgated pursuant thereto to the contrary, a specially exempt facility shall be exempt from mandatory compliance with the first aid personnel and lifeguard requirements of N.J.A.C.8:26-5 et seq., except that a campground, hotel, motel, mobile home park or retirement community which does not voluntarily comply with these requirements shall have a manager or owner on the premises when its swimming area is open for use.

C.26:4A-6 Signs posted at specially exempt facility.

3. A specially exempt facility which does not voluntarily comply with the first aid and lifeguard requirements of N.J.A.C.8:26-5 et seq., shall post a sign not less than three feet by four feet which shall be prominently displayed at the entrance to each swimming area stating: “No lifeguard on duty. Persons under the age of 16 must be accompanied by an adult. No swimming alone.” In the case of a campground, hotel, motel, mobile home park or retirement community, the sign shall also state: “This pool (or swimming area) shall be closed when the owner or manager is not on the premises.” The notice shall also be posted on a sign not less than eight inches by 10 inches at the registration desk of the campground, hotel or motel, and in each room or suite of the campground, hotel or motel used for occupancy by guests.

C.26:4A-7 Rules, regulations.

4. Notwithstanding any provisions of this act to the contrary, the Department of Health may adopt rules and regulations pursu-

ant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), requiring that first aid personnel or a life-guard, or both, be on the premises of a specially exempt facility in those cases in which the facility has a functional diving board, water slide or other recreational appurtenance that may present an increased safety risk or hazard.

Repealer.

5. P.L.1946, c.172 (C.26:4A-1 et seq.), P.L.1981, c.216 (C.26:4A-1.1), P.L.1989, c.61 and P.L.1989, c.140 are repealed.

6. This act shall take effect immediately.

Approved May 10, 1991.

CHAPTER 136

AN ACT concerning the dates of certain State payments to municipalities and certain payments by municipalities, and amending P.L.1966, c.135 and P.L.1944, c.255.

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

1. Section 6 of P.L.1966, c.135 (C.54:11D-6) is amended to read as follows:

C.54:11D-6 Distribution.

6. The distribution required to be made by the State Treasurer under this act shall be made annually as follows: 50 percent of the amount appropriated shall be payable annually on July 5, 25 percent on August 1 and 25 percent on November 1 of each year.

2. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to read as follows:

C.43:16A-15 Contributions; expenses of administration.

15. (1) The contributions required for the support of the retirement system shall be made by members and their employers.

(2) The uniform percentage contribution rate for members shall be 8.5% of compensation.

(3) (Deleted by amendment, P.L.1989, c.204).

(4) Each employer shall make contributions equal to the percentage of compensation of members in its employ as certified by the board of trustees based on annual actuarial valuations. The percentage rate of contribution payable by employers shall be determined initially on the basis of the entry age normal cost method. This shall be known as the "normal contribution."

(5) (Deleted by amendment, P.L.1989, c.204).

(6) The percentage rates of contribution payable by employers pursuant to subsection (4) of this section shall be subject to adjustment from time to time by the board of trustees with the advice of the actuary on the basis of annual actuarial valuations and experience investigations as provided under section 13, so that the value of future contributions of members and employers, when taken with present assets, shall be equal to the value of prospective benefit payments.

(7) Each employer shall cause to be deducted from the salary of each member the percentage of earnable compensation prescribed in subsection (2) of this section. To facilitate the making of deductions, the retirement system may modify the amount of deduction required of any member by an amount not to exceed 1/10 of 1% of the compensation upon which the deduction is based.

(8) The deductions provided for herein shall be made notwithstanding that the minimum salary provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The chief fiscal officer of each employer shall certify to the retirement system in such manner as the retirement system may prescribe, the amounts deducted; and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose salary said deduction was made.

(9) Upon the basis of such tables recommended by the actuary as the board adopts and regular interest, the actuary shall compute the amount of the unfunded liability as of June 30, 1988 which has accrued on the basis of service rendered prior to July 1, 1988 by all members, which amount shall remain frozen and shall be amortized over a period not to exceed 40 years as determined by the State Treasurer. Using the total amount of this unfunded

accrued liability, the actuary shall compute an increasing amount of annual payment, which is estimated to remain a level percentage of prospective total compensation and which, if paid in each succeeding fiscal year commencing with July 1, 1989, for the period determined by the State Treasurer, will provide for this liability. This shall be known as the "accrued liability contribution."

The normal and accrued liability contributions as certified by the retirement system shall be included in the budget of the employer and levied and collected in the same manner as any other taxes are levied and collected for the payment of the salaries of members.

(10) The treasurer or corresponding officer of the employer shall pay on or before July 1 in each year to the State Treasurer the amount so certified as payable by the employer, and shall pay monthly to the State Treasurer the amount of the deductions from the salary of the members in the employ of the employer, and the State Treasurer shall credit such amount to the appropriate fund or funds, of the retirement system.

If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by this act, interest at the rate of 10% per annum shall commence to run against the unpaid balance thereof on the first day after such 30th day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 10% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such 15th day.

(11) The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employer bears to the total number of members in the system. The pro rata share of the cost of administrative expense shall be included with the certification by the retirement system of the employer's contribution to the system.

(12) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pension or other benefits on account of the employees or beneficiaries of any employer participating in the retirement system, for which reserves have not been previously created from funds, contributed by such employer or its employees for such benefits.

(13) The Legislature shall annually appropriate and the State Treasurer shall pay into the pension accumulation fund of the

retirement system an amount equal to 1.8% of the compensation of the members of the system upon which the normal contribution rate is based to fund the benefits provided by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

3. This act shall take effect immediately and be applicable to payments in the 1991 calendar year and thereafter.

Approved May 10, 1991.

CHAPTER 137

AN ACT concerning retirement benefits for certain State employees.

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

1. A State employee who:

a. is 50 or more years of age and has 25 or more years of service credit under the Public Employees' Retirement System (PERS) or the Teachers' Pension and Annuity Fund (TPAF), or service with public employers in this State participating in the Alternate Benefit Program (ABP) for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire on or before August 1, 1991; and

c. retires under the retirement system on or after April 1, 1991, but not later than September 1, 1991, other than a veteran who retires on a special veteran's retirement, shall receive an additional five years of service credit under PERS or TPAF, or an amount equal to 100% of the employee's base annual salary at the time of retirement from the employer for members of ABP. An employee who meets the age and service credit requirements under this act and retires on a special veteran's retirement under PERS or TPAF shall receive an additional pension under the retirement system in the amount of 5/60 of final year compensation. A full-time employee of the Rutgers University Cooperative Extension Service who meets the age and service requirements based upon service credited in the federal Civil Service Retirement System or the Federal Employees Retirement System earned as a result of full-time employment at Rutgers University alone, or in combination with service credit under PERS or qualifying

service under ABP, and is eligible to retire under the federal Civil Service Retirement System or the Federal Employees Retirement System within the time period set forth in subsection c., shall receive the benefits provided by this section. If the employee is a member of the federal Civil Service Retirement System or the Federal Employees Retirement System, the employee shall receive an amount equal to 100% of the employee's base annual salary at the time of retirement from the employer. The amount payable to retirees under ABP and the federal retirement systems shall be paid in two equal installments with the first installment due not later than the thirtieth day after the effective date of retirement, and the second due not later than the same calendar day in the following calendar year. The additional retirement benefit provided under this section is applicable only to the full-time State employment from which an eligible employee retires to receive the benefit and the compensation for that employment.

2. For a State employee who:

a. is 60 or more years of age and has 20 or more years of service credit under the Public Employees' Retirement System (PERS) or the Teachers' Pension and Annuity Fund (TPAF), or service with public employers in this State participating in the Alternate Benefit Program (ABP) for which contributions were made by the employee under the program before the effective date of retirement;

b. files an application to retire on or before August 1, 1991; and

c. retires under the retirement system on or after April 1, 1991, but not later than September 1, 1991, the retirement system for PERS or TPAF members, or the State for ABP members shall pay the premium or periodic charges for benefits provided to the retired State employee and the employee's dependents, but not including survivors, under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), in the same manner provided for State payment of premiums or periodic charges for retired State employees under subsection c. of section 8 of that act (C.52:14-17.32). A full-time employee of the Rutgers University Cooperative Extension Service who meets the age and service requirements based upon service credited in the federal Civil Service Retirement System or the Federal Employees Retirement System earned as a result of full-time employment at Rutgers University alone, or in combination with service credit under PERS or qualifying service under ABP, and is eligible to retire under the federal Civil Service Retirement System or the Federal Employees Retirement System within the time period set forth in subsection c.,

shall receive the benefits provided by this section. The State shall pay the premium or periodic charges for the benefits if the employee is a member of the federal Civil Service Retirement System or the Federal Employees Retirement System.

3. The actuaries for PERS and TPAF shall determine the liabilities of the retirement systems for the additional service credit or pensions and health benefits payments provided under this act and for the early retirement of employees in accordance with the tables of actuarial assumptions adopted by the boards of trustees of the retirement systems. These liabilities shall be added to the unfunded accrued liabilities of the State under the retirement systems and shall be paid in the same manner and over the remaining time periods provided for the State's unfunded accrued liability under section 24 of P.L.1954, c.84 (C.43:15A-24) and N.J.S.18A:66-18, respectively. The State shall pay the cost of the actuarial work to determine the additional liabilities of the retirement systems for the benefits under this act.

4. The cost of the cash payments to members of ABP, the federal Civil Service Retirement System and the Federal Employees Retirement System under this act shall be funded by the employer from annual appropriations to the employer in the State Budget or from funds otherwise available for payment of operating expenditures.

5. A State employee who receives a benefit under this act shall forfeit all tenure rights.

6. Where the needs of State government or a State college or university require the services of an employee who elects to retire and receive a benefit under this act, a State department or a State college or university may delay, with the consent of the employee, the effective retirement date of the employee until the first day of any calendar month after September 1, 1991, but not later than September 1, 1992. The effective retirement date of an employee of the Legislative or Judicial Branch of State government who elects to retire and receive a benefit under this act may be similarly delayed with the consent of the employee and with the approval of the Senate President in the case of an employee of the Senate, the Speaker of the General Assembly in the case of an employee of the General Assembly, the Legislative Services Commission in the case of an employee of the Office of Legislative Services, and the Chief Justice of the Supreme Court in the case of an employee of the Judicial Branch. A delay in the effective retirement date of an

employee shall not extend the dates set forth in sections 1 and 2 to qualify for benefits under this act.

For a member of PERS or TPAF whose effective retirement date is delayed under this section and who dies before the retirement becomes effective, the retirement shall be effective as of the first day of the month after the date of death of the member if the member's surviving beneficiary requests in writing to the board of trustees of the retirement system that the retirement be effective under the option settlement selected by the member, or under Option 3 if the member did not select an option.

7. A State employee retiring under PERS or TPAF with a benefit under this act who has not repaid the full amount of a loan from the retirement system by the effective date of retirement, may repay the loan through deductions from the member's retirement benefit payments in the same monthly amount which was deducted from the member's compensation immediately preceding retirement until the balance of the amount borrowed together with interest at the statutory rate is repaid. If the retiree dies before the outstanding balance of the loan and interest is repaid, the remaining amount shall be repaid as provided in section 2 of P.L.1981, c.55 (C.43:15A-34.1) or section 2 of P.L.1981, c.212 (C.18A:66-35.1), as appropriate.

8. For the purposes of this act:

a. "State employee" means a full-time employee, eligible to participate in the New Jersey State Health Benefits Program, of the State of New Jersey, or Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, or a State college. It does not include an employee of an authority, board, commission, corporation, or other agency or instrumentality, other than Rutgers, The State University, authorized to participate in PERS under section 73 of P.L.1954, c.84 (C.43:15A-73) or P.L.1990, c.25 (C.43:15A-73.2 et seq.), or a public agency or organization as defined in section 71 of P.L.1954, c.84 (C.43:15A-71).

b. "Final year compensation" means the compensation received in the last 12 months immediately preceding retirement in which compensation is received and upon which contributions are made by the employee to the retirement system.

9. The Director of the Division of Pensions may promulgate rules and regulations which the director deems necessary for the effective implementation of this act.

10. This act shall take effect immediately.

Approved May 13, 1991.

CHAPTER 138

AN ACT concerning the purchase of pension credit for public employment in this State in the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, and the Police and Firemen's Retirement System, amending N.J.S.18A:66-8, N.J.S.18A:66-9, N.J.S.18A:66-10, N.J.S.18A:66-14, N.J.S.18A:66-15.1, P.L.1954, c.84, P.L.1944, c.255, P.L.1973, c.63, and P.L.1981, c.479 and supplementing P.L.1944, c.255.

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

1. N.J.S.18A:66-8 is amended to read as follows:

Continuance of membership.

18A:66-8. a. If a teacher:

(1) is dismissed by an employer by reason of reduction in number of teachers employed in the school district, institution or department when in the judgment of the employer it is advisable to abolish any office, position or employment for reasons of a reduction in the number of pupils, economy, a change in the administrative or supervisory organization or other good cause; or becomes unemployed by reason of the creation of a regional school district or a consolidated school district; or has been discontinued from service without personal fault or through leave of absence granted by an employer or permitted by any law of this State; and

(2) has not withdrawn the accumulated member's contributions from the retirement system, the teacher's membership may continue, notwithstanding any provisions of this article, if the member returns to service within a period of 10 years from the date of discontinuance from service. No credit for retirement purposes shall be allowed to the member covering the period of discontinuance, except as provided in this section. In computing the service or in computing final compensation, no time after September 1, 1919, during which a member shall have been employed as a teacher at an annual salary or remuneration fixed

at less than \$500.00 shall be credited, except that in the case of a veteran member credit shall be given for service rendered prior to January 1, 1955, in an employment, office or position if the annual salary or remuneration therefor was fixed at not less than \$300.00 and the service consisted of the performance of the full duties of the employment, office or position.

b. A teacher may purchase credit for time during which the teacher shall have been absent on an official leave without pay. The credit shall be purchased for a period of time equal to:

- (1) three months or the duration of the leave, whichever is less; or
- (2) if the leave was due to the member's personal illness, two years or the duration of the leave, whichever is less; or
- (3) the period of leave that is specifically allowed for retirement purposes by the provisions of any law of this State.

The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

2. N.J.S.18A:66-9 is amended to read as follows:

Resumption of discontinued membership.

18A:66-9. If a teacher who has withdrawn the accumulated member's contributions from the retirement system as provided in N.J.S.18A:66-34 is reenrolled as a member, that teacher may purchase credit for all of the 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 the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions shall have been made during any fiscal year of membership or to the highest annual compensation for service in this State during any fiscal year for which credit is purchased, whichever is highest. The purchase may be made in regular installments, equal to at least one half the full normal contribution to the retirement system, over a maximum period of 10 years.

Any member electing to purchase service credit hereunder who retires prior to completing the payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump-sum payment required at that time to provide full credit.

3. N.J.S.18A:66-10 is amended to read as follows:

Nonmembers may join.

18A:66-10. Any person who was employed as a teacher prior to January 2, 1955 and who did not join the Teachers' Pension and Annuity Fund may join at any time. The person shall have the option of joining the retirement system as a new member upon proper application with no credit for previous service, or of purchasing membership credit for this previous service. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

Any person coming under the provisions of this section shall not be allowed any of the death benefits established by N.J.S.18A:66-38, N.J.S.18A:66-41, N.J.S.18A:66-42, N.J.S.18A:66-44, N.J.S.18A:66-46 and N.J.S.18A:66-53 unless he becomes a member within 12 months after January 1, 1956, or furnishes satisfactory evidence of insurability.

4. N.J.S.18A:66-14 is amended to read as follows:

Credit for temporary service.

18A:66-14. Any person employed temporarily as a teacher whose temporary employment resulted, without interruption, in permanent employment, and any person who was employed as a substitute immediately prior to permanent employment may purchase credit for the temporary or substitute service. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

5. N.J.S.18A:66-15.1 is amended to read as follows:

Transfer or purchase of credit for service in other systems.

18A:66-15.1. a. A member who is a member of another State-administered retirement system or pension fund at the time of enrollment in the Teachers' Pension and Annuity Fund and who does not contribute to the other system or fund after that time may transfer the service credit in the other system or fund to the Teachers' Pension and Annuity Fund upon application and transfer of the member's contributions from the other system or fund to the fund. If the member has withdrawn the contributions to the other retirement system or pension fund, the member may purchase credit for the service in the other system or fund. The

purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

b. A member of the retirement system who had established service credit in a municipal or county retirement system or pension fund, and who was ineligible to transfer the service credit to the retirement system and withdrew contributions from the municipal or county retirement system or pension fund, may purchase credit for all of the member's service in that retirement system or pension fund by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The terms of the purchase and the credit granted shall be identical, except as otherwise herein provided, to those stipulated for the purchase of previous membership service by members of the retirement system as provided by N.J.S.18A:66-9.

6. Section 8 of P.L.1954, c.84 (C.43:15A-8) is amended to read as follows:

C.43:15A-8 Restoration of members discontinued from service; conditions.

8. a. If a member of the retirement system has been discontinued from service without personal fault or through leave of absence granted by an employer or permitted by any law of this State and has not withdrawn the accumulated member's contributions from the retirement system, the membership of that member may continue, notwithstanding any provisions of this act if the member returns to service within a period of 10 years from the date of discontinuance from service.

No credit for pension purposes shall be allowed to the member covering the period of the discontinuance, unless leave of absence shall have been granted by the employer and the board, as provided for in section 39 of this act.

b. If an employee who has withdrawn the accumulated member's contributions from the former "State Employees' Retirement System" or the retirement system as provided in section 41 of this act is re-enrolled as a member of the retirement system, that member may purchase credit for all of the 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 the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions shall have been made during any fiscal year of membership or to the highest annual compensation for service in this State during any fiscal year for which credit is purchased, whichever is highest. The purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system, over a maximum period of 10 years.

Any member electing to purchase service credit hereunder who retires prior to completing the payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump-sum payment required at that time to provide full credit.

7. Section 9 of P.L.1954, c.84 (C.43:15A-9) is amended to read as follows:

C.43:15A-9 Nonmember State employee may join at any time; option.

9. Any person other than a veteran who was in the employ of the State prior to January 2, 1955, and who did not join the former "State Employees' Retirement System," may join the retirement system at any time. The person shall have the option of joining the retirement system as a new member upon proper application with no credit for previous service, or of purchasing membership credit for the previous service.

The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by section 8 of P.L.1954, c.84 (C.43:15A-8).

8. Section 11 of P.L.1954, c.84 (C.43:15A-11) is amended to read as follows:

C.43:15A-11 Contributions covering temporary service.

11. Any person employed temporarily by an employer whose temporary employment resulted, without interruption, in permanent employment may purchase credit for that temporary service. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by section 8 of P.L.1954, c.84 (C.43:15A-8).

9. Section 14 of P.L.1954, c.84 (C.43:15A-14) is amended to read as follows:

C.43:15A-14 Transfer or purchase of credit for service in other systems.

14. A member who is a member of another State-administered retirement system or pension fund at the time of enrollment in the Public Employees' Retirement System and does not contribute to the other system or fund after that time may transfer the service credit in the other system or fund to the Public Employees' Retirement System upon application and transfer of the member's contributions from the other system or fund to the system. If the member has withdrawn the contributions to the other retirement system or pension fund, the member may purchase credit for the service in the other system or fund. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by section 8 of P.L.1954, c.84 (C.43:15A-8).

10. Section 39 of P.L.1954, c.84 (C.43:15A-39) is amended to read as follows:

C.43:15A-39 Computing service.

39. In computing for retirement purposes the total service of a member about to be retired, the retirement system shall credit the member with the time of all service rendered by the member since that member's last enrollment, and in addition with all the service to which the member is entitled and with no other service. Except as otherwise provided in this act, this service credit shall be final and conclusive for retirement purposes unless the member shall discontinue service for more than two consecutive years.

For the purpose of computing service for retirement purposes, the board shall fix and determine by appropriate rules and regulations how much service in any year shall equal a year of service and a part of a year of service. Not more than one year shall be credited for all service in a calendar year. A member may purchase credit for time during which the member shall have been absent on an official leave without pay. The credit shall be purchased for a period of time equal to:

- (1) three months or the duration of the leave, whichever is less; or
- (2) if the leave was due to the member's personal illness, two years or the duration of the leave, whichever is less; or

(3) the period of leave that is specifically allowed for retirement purposes by the provisions of any law of this State.

The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service credit by section 8 of P.L.1954, c.54 (C.43:15A-8). In computing the service or in computing final compensation, no time during which a member was in employment, office, or position for which the annual salary or remuneration was fixed at less than \$500.00 in the case of service rendered prior to November 6, 1986, or less than \$1,500.00 in the case of service rendered on or after that date, shall be credited, except that in the case of a veteran member credit shall be given for service rendered prior to January 2, 1955, in an employment, office or position if the annual salary or remuneration therefor was fixed at not less than \$300.00 and such service consisted of the performance of the full duties of the employment, office or position.

11. Section 4 of P.L.1944, c.255 (C.43:16A-4) is amended to read as follows:

C.43:16A-4 Creditable service within act.

4. Only service as a policeman or fireman paid for by an employer, which was rendered by a member since that member's enrollment, or since that member's last enrollment in case of a break in service, plus service, if any, covered by a prior service liability, shall be considered as creditable service for the purposes of this act. A member may purchase credit for temporary service as a policeman or fireman, or as the holder of a title which, following the termination of that temporary service, became covered by the provisions of P.L.1944, c.255 (C.43:16A-1 et seq.), if that temporary service shall have resulted, without interruption, in a valid permanent or probational appointment as a policeman or fireman or to a position, the title of which became covered by the retirement system following the member's appointment thereto. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by section 1 of P.L.1973, c.63 (C.43:16A-11.4).

12. Section 1 of P.L.1973, c.63 (C.43:16A-11.4) is amended to read as follows:

C.43:16A-11.4 Reenrollment; purchase of credit for previous membership service.

1. If an employee who has withdrawn the accumulated member's contributions from the Police and Firemen's Retirement System, as provided by section 11 of P.L.1944, c.255 (C.43:16A-11) is reenrolled as a member of the retirement system, the member may purchase credit for all of the 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 the member's age at the time of the purchase, to the member's salary at that time, or the highest annual compensation for service in this State for which contributions shall have been made during any fiscal year of membership or to the highest annual compensation for service in this State during any fiscal year for which credit is purchased, whichever is the highest. The purchase may be made in regular installments, equal to at least 1/2 the normal contribution to the retirement system, over a maximum period of 10 years.

Any member electing to purchase service credit hereunder who retires prior to completing the payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump-sum payment required at that time to provide full credit.

13. Section 3 of P.L.1981, c.479 (C.43:16A-11.6) is amended to read as follows:

C.43:16A-11.6 Transfer or purchase of credit for service in other systems.

3. A member who is a member of another State-administered retirement system or pension fund at the time of enrollment in the Police and Firemen's Retirement System and does not contribute to the other system or fund after that time may transfer the service credit in the other system or fund to the Police and Firemen's Retirement System upon application and transfer of the member's contributions from the other system or fund to the system. If the member has withdrawn the contributions to the other retirement system or pension fund, the member may purchase credit for the service in the other system or fund. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by section 1 of P.L.1973, c.63 (C.43:16A-11.4).

C.43:16A-11.10 Purchase of credit during official leave without pay.

14. A member of the Police and Firemen's Retirement System may purchase credit for time during which the member shall have been absent on an official leave without pay. The credit shall be purchased for a period of time equal to:

- a. three months or the duration of the leave, whichever is less; or
- b. if the leave was due to the member's personal illness, two years or the duration of the leave, whichever is less; or
- c. the period of leave that is specifically allowed for retirement purposes by the provisions of any law of this State.

The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by section 1 of P.L.1973, c.63 (C.43:16A-11.4).

15. Notwithstanding the provisions of N.J.S.18A:66-8, N.J.S.18A:66-14, section 11 of P.L.1954, c.84 (C.43:15A-11), section 39 of P.L.1954, c.84 (C.43:15A-39), section 4 of P.L.1944, c.255 (C.43:16A-4) and section 14 of P.L.1991, c.138 (C.43:16A-11.10) concerning periods of leave time or temporary service available for purchase, between the effective date of this act and April 1, 1992 a member may purchase any portion of the member's temporary service credit or credit for leave of absence.

16. This act shall take effect immediately.

Approved May 20, 1991.

CHAPTER 139

AN ACT concerning State-operated school districts and supplementing chapter 7A 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:7A-46.1 Capital Project Control Board established.

1. a. In any State-operated school district created pursuant to the provisions of P.L.1975, c.212 (C.18A:7A-1 et seq.) there shall be established a Capital Project Control Board, hereinafter the board, which shall be responsible for the review of any capital project pro-

posed by the State district superintendent provided that the State district superintendent proposes that the capital project be financed in whole or in part by bonds or notes, or through a lease purchase agreement pursuant to subsection f. of N.J.S.18A:20-4.2. The board shall also be responsible for the certification to the State district superintendent of schools and the Commissioner of Education of the necessity for the capital project and the certification of the appropriation to be made by the governing body of the municipality.

b. The board shall consist of five voting members. One member shall be appointed by the Commissioner of Education and two members shall be appointed by the chief executive officer with the consent of a majority of the full membership of the local governing body of the municipality or municipalities in which the school district is located. If the school district is comprised of two municipalities, each municipality shall be entitled to one member, appointed by the executive officer with the consent of the governing body. If the school district is comprised of more than two municipalities, each of the two municipalities with the largest population according to the most recent federal decennial census shall be entitled to one member, appointed by the executive officer with the consent of the governing body. However, if a local governing body fails to agree upon the selection of either board member appointed by an executive officer, then the Commissioner of Education shall make the appointment. One member shall be appointed by the Director of the Division of Local Government Services in the Department of Community Affairs who shall have experience in the area of local finance and capital projects. The fifth member shall be the State district superintendent of schools who shall serve ex-officio and shall act as chairperson of the board. The board members, except for the State district superintendent, shall each serve for a term of one year commencing on July 1 of each year and expiring on June 30 of the following year. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided by the original appointment. Members of the board may be employees of the State or any subdivision thereof. All members of the board shall serve without compensation.

c. The board shall meet from time to time upon the request of the State district superintendent. All meetings of the board shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). The State district superintendent, or his designee, shall be charged with the

responsibility of preparing a transcript of the proceedings and all votes shall be recorded in writing.

C.18A:7A-46.2 Board to hear recommendations concerning proposed capital projects.

2. The board shall hear the recommendation of the State district superintendent concerning any proposed capital project, which is to be financed in whole or in part by bonds or notes, or through a lease purchase agreement pursuant to subsection f. of N.J.S.18A:20-4.2, and shall undertake all actions necessary to review the proposed capital project to determine whether the project will assist the State-operated school district in providing a thorough and efficient system of education in that district. In making this determination it may take into consideration factors such as the conditions in the school district, any applicable educational goals, the objectives and standards established by the State, the need for the capital project, the reasonableness of the amount to be expended for the capital project, the estimated time for the undertaking and completion of the capital project, and any other factors which the board may deem necessary including the relationship of the capital project to the long-term capital budget or plan of the school district and the fiscal implications thereof.

Following its review and within 60 days of the date on which the State district superintendent submits the recommendation to the board, the board shall adopt a resolution as to whether the State-operated school district should undertake the capital project and providing its reasons therefor. The board shall adopt a resolution indicating the necessity for the capital project and shall also fix and determine by resolution the amount necessary for the capital project. If the board fails to act within 60 days of the submission date, the State district superintendent shall submit the recommendation to the commissioner who shall approve or disapprove the capital project. If the board makes a decision which is contrary to the recommendation of the superintendent, the superintendent may, within 30 days from the date of the board's action, submit the matter to the commissioner for final decision. If the commissioner determines that a capital project should be undertaken, the commissioner shall so notify the board and shall indicate the amount necessary for the capital project. Upon notification, the board shall adopt a resolution indicating the necessity for the capital project and shall also fix and determine by resolution the amount necessary for the capital project as indicated by the com-

missioner. Certified copies of any resolution requesting the authorization and issuance of bonds and notes or the authorization of a lease purchase agreement shall be delivered to the State district superintendent, the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs and the governing body of the municipality or municipalities in which the school district is located. The board shall not approve or recommend any capital project which is inconsistent with the provisions of N.J.S.18A:21-1.

C.18A:7A-46.3 Capital projects financed by issuance of bonds, notes.

3. Notwithstanding the provisions of any law to the contrary, the cost of any capital project authorized pursuant to this act which is to be funded by bonds or notes and certified by the board to the State district superintendent, the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs and the governing body of the municipality or municipalities in which the school district is located shall be financed by the issuance of bonds or notes pursuant to the provisions of chapter 24 of Title 18A of the New Jersey Statutes and the "Local Bond Law," (N.J.S.40A:2-1 et seq.) and the notes, bonds or other obligations shall be authorized, issued, sold and delivered in the manner prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).

C.18A:7A-46.4 Issuance of authorization of notes, bonds.

4. Any authorization of notes or bonds effective prior to the date of the appointment of the State district superintendent shall be issued in the manner prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).

C.18A:7A-46.5 Cessation of existence of board.

5. The board shall immediately cease to exist upon reestablishment of local control in the school district, pursuant to section 16 of P.L.1987, c.399 (C.18A:7A-49).

C.18A:7A-46.6 Debt service part of municipal budget.

6. The debt service on bonds, notes and other obligations authorized pursuant to this act shall be appropriated and made part of the municipal budget and raised through the annual municipal tax levy. However, all debt service payments shall be included in the budget of the State-operated school district as the sum necessary for interest and debt redemption charges and shall

be eligible for State education aid in the year in which the appropriation and expenditure are made.

7. This act shall take effect immediately.

Approved May 20, 1991.

CHAPTER 140

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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

1. In addition to the sums appropriated by P.L.1990, c.43, there is appropriated out of the General Fund the following sum for the purpose specified:

DIRECT STATE SERVICES
10 DEPARTMENT OF AGRICULTURE
50 Economic Planning, Development and Security
51 Economic Planning and Development

06-3360 Marketing Services..... \$288,000

Special Purpose:

Temporary Emergency Food Assistance
Program (TEFAP) (\$288,000)

2. This act shall take effect immediately.

Approved May 24, 1991.

CHAPTER 141

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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 in the Department of the Treasury that federal funds to support the expenditures listed below are available, the following sums are appropriated:

FEDERAL FUNDS

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security

51 Economic Planning and Development

18-4570 Planning and Research..... \$196,000

Total Appropriation, Economic Planning
and Development..... \$196,000

Personal Services:

Salaries and wages (\$158,000)

Materials and Supplies (\$1,000)

Services Other Than Personal (\$22,000)

Maintenance and Fixed Charges (\$4,000)

Special Purpose:

Other (\$3,000)

Additions, Improvements and

Equipment (\$8,000)

53 Economic Assistance and Security

01-4510 Unemployment Insurance..... \$8,665,000

Total Appropriation, Economic Assistance
and Security..... \$8,665,000

Personal Services:

Salaries and wages (\$8,665,000)

54 Manpower and Employment Services

09-4545 Employment Services \$43,000

Total Appropriation, Manpower and
Employment Services \$43,000

Personal Services:

Salaries and wages (\$43,000)

Total Appropriation, Department of Labor \$8,904,000

2. This act shall take effect immediately.

Approved May 24, 1991.

CHAPTER 142

AN ACT concerning local public contracts and amending P.L.1971, c.198 and P.L.1979, c.101.

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

1. 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;

(p) Homemaker--home health services performed by voluntary, nonprofit agencies;

(q) The purchase of materials and services for a law library established pursuant to R.S.40:33-14, including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services;

(r) 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.) and the regulations adopted pursuant thereto;

(s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery pro-

gram, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products;

(t) Emergency medical services provided by a hospital to the residents of a municipality or county, provided that: (a) such exception be allowed only after the governing body determines that the emergency services are available only from one provider; and (b) if the contract is awarded without advertising for bids or bidding the governing body shall in each instance state supporting reasons for its action in a resolution awarding the contract and 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 (c) the contract shall be kept on file for public inspection in the office of the clerk of the municipality; or

(u) Contracting unit towing and storage contracts, provided that all such contracts shall be pursuant to reasonable non-exclusionary and non-discriminatory terms and conditions, which may include the provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance with the provisions of the "Local Public Contracts Law" and without regard for the value of the contract therefor. Each of the aforementioned means of contracting shall be subject to any regulations adopted by the Commissioner of Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47).

(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.

2. 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 mate-

rials, 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 40 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, and the barging and disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The recycling of solid waste, including the collection of methane gas from a sanitary landfill facility, 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. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(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;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is

approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et seq.). For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" 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 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;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection,

“resource recovery facility” means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, “resource recovery facility” means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et seq.). For the purposes of this subsection, “wastewater treatment services” means any service provided by a wastewater treatment system, and “wastewater treatment system” means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided

that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of Public Utilities;

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a hospital to residents of a municipality or county as appropriate for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years.

All multi-year leases and contracts entered into pursuant to this section, 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 involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) 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.

3. Section 1 of P.L.1979, c.101 (C.40:48-2.49) is amended to read as follows:

C.40:48-2.49 Regulation of operators engaged in removal of motor vehicles.

1. Notwithstanding the provisions of section 1 of P.L.1973, c.137 (C.39:4-56.6) or any other law, and except to the extent regulated by the Commissioner of Insurance pursuant to section

60 of P.L.1990, c.8 (C.17:33B-47), a municipality may regulate, by ordinance, the removal of motor vehicles from private or public property by operators engaged in such practice, including, but not limited to, the fees charged for storage following removal in accordance with section 3 of P.L.1987, c.127 (C.40:48-2.50), fees charged for such removal, notice requirements therefor, and the mercantile licensing of such operators.

The ordinance shall set forth non-discriminatory and non-exclusionary regulations governing operators engaged in the business of removing and storing motor vehicles. The regulations shall include, but not be limited to:

- a. A schedule of fees or other charges which an operator may charge vehicle owners for towing services, storage services or both;
- b. Minimum standards of operator performance, including but not limited to standards concerning the adequacy of equipment and facilities, availability and response time, and the security of vehicles towed or stored;
- c. The designation of a municipal officer or agency to enforce the provisions of the ordinance in accordance with due process of law;
- d. The requirement that such regulations and fee schedules of individual towers shall be made available to the public during normal business hours of the municipality.

4. This act shall take effect immediately.

Approved May 24, 1991.

CHAPTER 143

AN ACT concerning contracts for energy generation and transmission, and amending P.L.1971, c.198, P.L.1972, c.112, and P.L.1971, c.199.

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

1. Section 3 of P.L.1971, c.198 (C.40A:11-3) is amended to read as follows:

C.40A:11-3 Purchases, contracts or agreements not required to be advertised for.

3. a. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies,

the cost or price of which, together with any other sums expended or to be expended for the performance of any work or services in connection with the same immediate program, undertaking, activity or project or the furnishing of similar materials or supplies during the same fiscal year paid with or out of public funds, does not exceed in the fiscal year the total sum of \$7,500.00 or the amount determined pursuant to subsection b. of this section, may be made, negotiated or awarded by a contracting agent when so authorized by resolution of the governing body of the contracting unit without public advertising for bids. Such authorization may be granted for each purchase, contract or agreement or by a general delegation of the power to make, negotiate or award such purchases, contracts or agreements pursuant to this section.

Any purchase, contract or agreement made pursuant to this section may be awarded for a period of 12 consecutive months notwithstanding that such 12-month period does not coincide with the fiscal year. 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.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P.L.1985, c.469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify each governing body of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

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 or the U.S. Federal Energy Regulatory Commission or its successor, in accordance with tariffs and schedules of charges made, charged or exacted, filed with the board or commission;

(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;

(p) Homemaker--home health services performed by voluntary, nonprofit agencies;

(q) The purchase of materials and services for a law library established pursuant to R.S.40:33-14, including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, copyright and patent materials, maps, charts, globes, sound recordings, slides, films, filmscripts, video and magnetic tapes, and other audiovisual, printed, or published material of a similar nature; necessary binding or rebinding of law library materials; and specialized library services;

(r) 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.) and the regulations adopted pursuant thereto;

(s) The marketing of recyclable materials recovered through a recycling program, or the marketing of any product intentionally produced or derived from solid waste received at a resource recovery facility or recovered through a resource recovery program, including, but not limited to, refuse-derived fuel, compost materials, methane gas, and other similar products;

(t) Emergency medical services provided by a hospital to the residents of a municipality or county, provided that: (a) such exception be allowed only after the governing body determines that the emergency services are available only from one provider; and (b) if the contract is awarded without advertising for bids or bidding the governing body shall in each instance state supporting reasons for its action in a resolution awarding the contract and 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 (c) the contract shall be kept on file for public inspection in the office of the clerk of the municipality;

(u) Contracting unit towing and storage contracts, provided that all such contracts shall be pursuant to reasonable non-exclusion-

ary and non-discriminatory terms and conditions, which may include the provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49). All contracting unit towing and storage contracts for services to be provided at rates and charges other than those established pursuant to the terms of this paragraph shall only be awarded to the lowest responsible bidder in accordance with the provisions of the "Local Public Contracts Law" and without regard for the value of the contract therefor. Each of the aforementioned means of contracting shall be subject to any regulations adopted by the Commissioner of Insurance pursuant to section 60 of P.L.1990, c.8 (C.17:33B-47).

(v) The purchase of steam or electricity from, or the rendering of services directly related to the purchase of such steam or electricity from a qualifying small power production facility or a qualifying cogeneration facility as defined pursuant to 16 U.S.C. §796; or

(w) The purchase of electricity or administrative or dispatching services directly related to the transmission of such purchased electricity by a contracting unit engaged in the generation of electricity.

(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 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. Section 10 of P.L.1971, c.198 (C.40A:11-10) is amended to read as follows:

C.40A:11-10 Joint agreements for purchase of work, materials, supplies; authorization.

10. Joint agreements for purchase of work, materials, supplies; authorization.

(a) (1) The governing bodies of two or more contracting units within the same county, or adjoining counties, may provide by joint agreement for the purchase of work, materials and supplies for use by their respective jurisdictions.

(2) The governing bodies of two or more contracting units providing sewerage services pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), R.S.58:14-1 et seq. or R.S.40:63-68 et seq. may provide by joint agreement for the purchase of work related to sewage sludge disposal.

(3) The governing body of two or more contracting units providing electrical distribution services pursuant to and in accord with R.S.40:62-12 through R.S.40:62-25, may provide by joint agreement for the purchase of work, material and supplies related to the distribution of electricity.

(b) The governing body of any county or municipality may provide by joint agreement with the board of education of any school district located wholly or partially within the geographic boundaries of the county or municipality for the purchase of work, materials and supplies for use by their respective jurisdictions.

(c) Such agreement shall be entered into by resolution or ordinance, as the case may be, adopted by each of the participating bodies and boards, which shall set forth the categories of work, materials and supplies to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating body and board, and other matters deemed necessary to carry out the purposes of the agreement.

(d) Each participating body's and board's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the participating body and board.

4. Section 11 of P.L.1971, c.198 (C.40A:11-11) is amended to read as follows:

C.40A:11-11 Additional matters regarding agreements for the purchases of work, materials and supplies.

11. Additional matters regarding agreements for the purchases of work, materials and supplies.

(1) The contracting units entering into a joint agreement pursuant to section 10 of this act may designate a joint purchasing agent, department or board pursuant to section 9 of this act. Any such agent, board or department already designated pursuant to section 9 may serve as the joint agent, department or board designated pursuant to this section.

(2) Purchases, contracts or agreements made pursuant to a joint purchasing agreement shall be subject to all of the terms and conditions of this act.

(3) Any county or municipality serving as a purchasing agent, board or department pursuant to this section 11, may make an appropriation to enable it to perform any such contract and may anticipate as revenue payments to be made and received by it from any other party to the agreement. Any items so included in a local budget shall be subject to the approval of the Director, Division of Local Government Services, who shall consider the matter in conjunction with the requirements of chapter 4 of Title 40A of the New Jersey Statutes. The agreement and any subsequent amendment or revisions thereto shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs.

(4) Any agent, department or board so designated pursuant to a joint purchasing agreement shall have the sole responsibility to comply with the provisions of section 23 of this act.

(5) The governing bodies of two or more contracting units or boards of education within the same county, or adjoining counties; or for purposes related to the distribution of electricity, the governing bodies of two or more contracting units providing electrical distribution services pursuant to R.S.40:62-12 through R.S.40:62-25, may by ordinance or resolution, as appropriate, establish a cooperative pricing system as hereinafter provided. Any such ordinance or resolution shall establish procedures whereby one participating contracting unit in the cooperative pricing system shall be empowered to advertise and receive bids to provide prices for all other participating contracting units in such system for the purchase of work, materials and supplies; provided, however, that no purchase or contract shall be made by any participating contracting unit for a price which exceeds any other price available to the participating contracting unit, or for a purchase in deviation from the specifications, price or quality set forth by the participating contracting unit.

No vendor shall be required or permitted to extend his bid prices to participating contracting units in a cooperative pricing system unless so specified in the bids.

No cooperative pricing system and agreements entered into pursuant to such system, or joint purchase agreements established pursuant to this act, the "Interlocal Services Act," (P.L.1973, c.208; C.40:8A-1 et seq.) or any other provision of law, shall become effective without prior approval of the Director of the

Division of Local Government Services and said approval shall be valid for a period not to exceed five years.

The director's approval shall be based on the following:

(a) Provision for maintaining adequate records and orderly procedures to facilitate audit and efficient administration, and

(b) Adequacy of public disclosure of such actions as are taken by the participants, and

(c) Adequacy of procedures to facilitate compliance with all provisions of the "Local Public Contracts Law" and corresponding regulations, and

(d) Clarity of provisions to assure that the responsibilities of the respective parties are understood.

Failure of the Director of the Division of Local Government Services to approve or disapprove a properly executed and completed application to establish a cooperative pricing system and agreements entered into pursuant to such system or other joint purchase agreement within 45 days from the date of receipt of said application by the director shall constitute approval of said application, which shall be valid for a period of five years, commencing from the date of receipt of said application by the director.

The Director of the Division of Local Government Services is hereby authorized to promulgate rules and regulations specifying procedures pertaining to cooperative pricing systems and joint purchase agreements entered into pursuant to this act, the "Inter-local Services Act," (P.L.1973, c.208; C.40:8A-1 et seq.) and any other provision of law.

5. 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 40 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, and the barging and disposal of sewage sludge, for any term not exceeding in the aggregate, five years;

(4) The recycling of solid waste, including the collection of methane gas from a sanitary landfill facility, 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. The contracting unit shall award the contract to the highest responsible bidder, notwithstanding that the contract price may be in excess of the amount of any necessarily related administrative expenses; except that if the contract requires the contracting unit to expend funds only, the contracting unit shall award the contract to the lowest responsible bidder. The approval by the Division of Local Government Services of public bidding requirements shall not be required for those contracts exempted therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

(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 Division of Energy Planning and Conservation, of the Board of Public Utilities, 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;

(16) The provision of water supply services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility, or any component part or parts thereof, including a water filtration system, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et seq.). For the purposes of this subsection, "water supply services" means any service provided by a water supply facility; "water filtration system" means any equipment, plants, structures, machinery, apparatus, or land, or any

combination thereof, acquired, used, constructed, rehabilitated, or operated for the collection, impoundment, storage, improvement, filtration, or other treatment of drinking water for the purposes of purifying and enhancing water quality and insuring its potability prior to the distribution of the drinking water to the general public for human consumption, including plants and works, and other personal property and appurtenances necessary for their use or operation; and "water supply facility" 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 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;

(17) The provision of solid waste disposal services by a resource recovery facility, the furnishing of products of a resource recovery facility, the disposal of the solid waste delivered for disposal which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility, including hazardous waste and recovered metals and other materials for reuse, or the design, financing, construction, operation or maintenance of a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Division of Local Government Services in the Department of Community Affairs, the Board of Public Utilities, and the Department of Environmental Protection; and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(18) The sale of electricity or thermal energy, or both, produced by a resource recovery facility for a period not to exceed 40 years when the contract is approved by the Board of Public Utilities, and when the facility is in conformance with a solid waste management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

(19) The provision of wastewater treatment services or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a wastewater treatment system, or any component part or parts thereof, for a period not to exceed 40 years, when the contract for these services is approved by the Division of Local Government Services in the Department of Community Affairs and the Department of Environmental Protection pursuant to P.L.1985, c.72 (C.58:27-1 et seq.). For the purposes of this subsection, "wastewater treatment services" means any service provided by a wastewater treatment system, and "wastewater treatment system" means equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and works, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation;

(20) The supplying of materials or services for the purpose of lighting public streets, for a term not to exceed five years, provided that the rates, fares, tariffs or charges for the supplying of electricity for that purpose are approved by the Board of Public Utilities;

(21) In the case of a contracting unit which is a county or municipality, the provision of emergency medical services by a hospital to residents of a municipality or county as appropriate for a term not to exceed five years;

(22) Towing and storage contracts, awarded pursuant to paragraph u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for any term not exceeding three years;

(23) Fuel for the purpose of generating electricity for a term not to exceed eight years;

(24) The purchase of electricity or administrative or dispatching services related to the transmission of such electricity, from a public utility company subject to the jurisdiction of the Board of Public Utilities, a similar regulatory body of another state, or a federal regulatory agency, or from a qualifying small power producing facility or qualifying cogeneration facility, as defined by 16 U.S.C. §796, by a contracting unit engaged in the generation of electricity for retail sale, as of the date of this amendatory act, for a term not to exceed 40 years.

All multi-year leases and contracts entered into pursuant to this section, 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 involving the supplying of electricity for the purpose of lighting public streets and contracts for thermal energy authorized pursuant to subsection (1) above, construction contracts authorized pursuant to subsection (9) above, contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, contracts for water supply services or for a water supply facility, or any component part or parts thereof authorized pursuant to subsection (16) above, contracts for resource recovery services or a resource recovery facility authorized pursuant to subsection (17) above, contracts for the sale of energy produced by a resource recovery facility authorized pursuant to subsection (18) above, contracts for wastewater treatment services or for a wastewater treatment system or any component part or parts thereof authorized pursuant to subsection (19) above, contracts for the purchase of electricity or administrative or dispatching services related to the transmission of such electricity authorized pursuant to subsection (24) 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.

6. Section 15 of P.L.1971, c.199 (C.40A:12-15) is amended to read as follows:

C.40A:12-15 Purposes for which leases for a public purpose may be made.**15. Purposes for which leases for a public purpose may be made.**

A leasehold for a term not in excess of 50 years may be made pursuant to this act and extended for an additional 25 years by ordinance or resolution thereafter for any county or municipal public purpose, including, but not limited to:

(a) The provision of fire protection, first aid, rescue and emergency services by an association duly incorporated for such purposes.

(b) The provision of health care or services by a nonprofit clinic, hospital, residential home, outpatient center or other similar corporation or association.

(c) The housing, recreation, education or health care of veterans of any war of the United States by any nonprofit corporation or association.

(d) Mental health or psychiatric services or education for the mentally ill, mentally retarded, or mentally defective by any nonprofit corporation or association.

(e) Any shelter care or services for persons aged 62 or over receiving Social Security payments, pensions, or disability benefits which constitute a substantial portion of the gross income by any nonprofit corporation or association.

(f) Services or care for the education or treatment of cerebral palsy patients by any nonprofit corporation or association.

(g) Any civic or historic programs or activities by duly incorporated historical societies.

(h) Services, education, training, care or treatment of poor or indigent persons or families by any nonprofit corporation or association.

(i) Any activity for the promotion of the health, safety, morals and general welfare of the community of any nonprofit corporation or association.

(j) The cultivation or use of vacant lots for gardening or recreational purposes.

(k) The provision of electrical transmission service across the lines of a public utility for a county or municipality pursuant to R.S.40:62-12 through R.S.40:62-25.

Except as otherwise provided in subsection (k) of this section, in no event shall any lease under this section be entered into for, with, or on behalf of any commercial, business, trade, manufacturing, wholesaling, retailing, or other profit-making enterprise, nor shall any lease pursuant to this section be entered into with any political, partisan, sectarian, denominational or religious corporation or association, or for any political, partisan, sectarian,

denominational or religious purpose, except that a county or municipality may enter into a lease for the use permitted under subsection (j) with a sectarian, denominational or religious corporation; provided the property is not used for a sectarian, denominational or religious purpose. In the case of a municipality the governing body may designate the municipal manager, business administrator or any other municipal official for the purpose of entering into a lease for the use permitted under subsection (j).

7. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. 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.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "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.

(13) "Marketing" means the marketing of designated recyclable materials source separated in a municipality which entails a mar-

keting cost less than the cost of transporting the recyclable materials to solid waste facilities and disposing of the materials as municipal solid waste at the facility utilized by the municipality.

(14) "Municipal solid waste" means all residential, commercial and institutional solid waste generated within the boundaries of a municipality.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit who is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit who purchases it on a wholesale basis for resale.

8. This act shall take effect immediately.

Approved May 24, 1991.

CHAPTER 144

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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

1. In addition to the amounts appropriated under P.L.1990, c.43, there are appropriated out of the General Fund the following sums for the purposes specified:

GRANTS-IN-AID	
54 DEPARTMENT OF HUMAN SERVICES	
20 Physical and Mental Health	
24 Special Health Services	
7540 Division of Medical Assistance and Health Services	
Grants-In-Aid	
22-7540 General Medical Services	\$85,000,000
Grants:	
Payments for medical assistance	
recipients-Nursing homes	(\$21,451,000)

Payments for medical assistance recipients-Inpatient hospital	(13,196,000)
Payments for medical assistance recipients-Prescription drugs	(11,486,000)
Payments for medical assistance recipients-Outpatient hospital.....	(19,536,000)
Payments for medical assistance recipients-Other services	(184,000)
Medicaid expansion-- SOBRA.....	(19,147,000)
Total Appropriation, Grants-In-Aid..	<u>\$85,000,000</u>

STATE AID

54 DEPARTMENT OF HUMAN SERVICES

50 Economic Planning, Development and Security

53 Economic Assistance and Security - State Aid

7550 Division of Economic Assistance

15-7550 Income Maintenance	\$15,000,000
Payments to municipalities for cost of general assistance	(\$8,248,000)
Payments for dependent children assistance, regular segment	(4,956,000)
Payments for supplemental security income	(169,000)
Payments for dependent children assistance, unemployment of father.....	(1,032,000)
Payments for dependent children assistance, insufficient employment of parents.....	(595,000)
Total Appropriation, State Aid.....	<u>\$15,000,000</u>
Total Appropriation, General Fund ..	<u>\$100,000,000</u>

2. Upon certification by the Director of the Division of Budget and Accounting in the Department of the Treasury that federal funds to support the expenditures listed below are available, the following sum is appropriated:

FEDERAL FUNDS

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health

24 Special Health Services

7540 Division of Medical Assistance and Health Services

22-7540 General Medical Services	\$222,988,000
State Aid and Grants:	
Medical Assistance	(\$180,909,000)
Medicaid expansion--SOBRA.....	(42,079,000)
50 Economic Planning, Development and Security	
53 Economic Assistance and Security	
7550 Division of Economic Assistance	
15-7550 Income Maintenance.....	\$7,818,000
State Aid and Grants:	
Dependent children assistance	(\$7,818,000)
70 Government Direction, Management and Control	
76 Management and Administration	
7500 Division of Management and Budget	
87-7500 Research, Policy and	
Planning.....	\$1,500,000
State Aid and Grants:	
Respite care for the elderly	(\$1,500,000)
Total Appropriation, Federal Funds .	<u>\$232,306,000</u>

3. In addition to the amounts appropriated under P.L.1990, c.43, there is appropriated out of the Casino Revenue Fund the following sum for the purpose specified:

CASINO REVENUE FUND	
GRANTS-IN-AID	
54 DEPARTMENT OF HUMAN SERVICES	
20 Physical and Mental Health	
24 Special Health Services	
7540 Division of Medical Assistance and Health Services--	
Grants-In-Aid	
22-7540 General Medical Services	\$22,931,000
Grants:	
Medicaid expansion--SOBRA.....	(\$22,931,000)
Total Appropriation, Casino Revenue Fund	<u>\$22,931,000</u>

4. This act shall take effect immediately.

Approved May 24, 1991.

CHAPTER 145

AN ACT increasing the membership of the Passaic Valley sewerage commissioners, and providing certain requirements for the selection of commissioners, amending R.S.58:14-3 and supplementing chapter 14 of Title 58 of the Revised Statutes.

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

1. R.S.58:14-3 is amended to read as follows:

Appointment of commissioners; removal; vacancies.

58:14-3. The board shall consist of nine members who shall be appointed by the Governor in the following manner. Each county in the district shall be represented on the board by two members, of different political parties, both of whom shall reside in the district and in the county they represent. At least one of the two members from each county must reside in a contracting municipality as defined in R.S.58:14-34.11 or in a leasing municipality. Not more than five of the nine members of the board shall be from the same political party. The ninth member shall be an at-large member appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor. As used in this section, "at-large member" means a resident of the Passaic Valley Sewerage District as defined in R.S.58:14-1. Upon the expiration of the term of office of a commissioner, his successor shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of five years, except that the term of the at-large member shall be concurrent with the term of office of the Governor. The Governor may remove any commissioner from office for cause.

Each commissioner shall hold his office until his successor has been appointed, and any vacancy in the membership of the commission because of death, resignation or removal, shall be filled for the unexpired term in the manner provided for on original appointment. In making any appointment hereunder, either for a full term or to fill a vacancy, regard shall be had to ability and fitness, and also locality, so that each section of the district may be represented as far as practicable.

2. The members who are appointed and serving as commissioners on the effective date of this amendatory and supplementary act may

continue to serve until their appointments expire, and, thereafter, may be reappointed, if reappointment would not conflict with the representation requirements of R.S.58:14-3. In making an appointment for a full term on or after the effective date of this amendatory and supplementary act, or in filling a vacancy existing on or occurring after the effective date of this amendatory and supplementary act, the Governor shall comply with R.S.58:14-3.

3. This act shall take effect immediately.

Approved May 25, 1991.

CHAPTER 146

AN ACT concerning special license plates for county officials and amending P.L.1981, c.401.

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

1. Section 1 of P.L.1981, c.401 (C.39:3-27.29) is amended to read as follows:

C.39:3-27.29 Issuance of special registration plates for vehicles owned or leased by certain county officials.

1. Upon the application of any person who is a member of the board of chosen freeholders in, or surrogate, county clerk, county register of deeds and mortgages, elected county executive, sheriff, or any other officer of any county, the Director of the Division of Motor Vehicles shall issue for the motor vehicle owned or leased by such person special registration plates bearing the word "freeholder, surrogate, county clerk, county register of deeds and mortgages, elected county executive, or sheriff," or such other title designation as may be appropriate, in addition to the registration number and other markings or identification otherwise prescribed by law.

These registration plates shall be imprinted with three letters and a numeral.

2. Section 2 of P.L.1981, c.401 (C.39:3-27.30) is amended to read as follows:

C.39:3-27.30 Proof of ownership, rental required for issuance of special motor vehicle registration plates; fee.

2. The motor vehicle registration plates authorized by this act shall be issued upon proof, satisfactory to the director, that the vehicle for which the plates are issued is owned or leased by a freeholder, surrogate, county clerk, county register of deeds and mortgages, elected county executive, sheriff or other county officer. The fee for such plates shall be \$15.00 in addition to the fees otherwise prescribed by law for the registration of motor vehicles.

3. Section 3 of P.L.1981, c.401 (C.39:3-27.31) is amended to read as follows:

C.39:3-27.31 Surrender of special registration plates after leaving office.

3. Said special registration plates shall be surrendered to the Division of Motor Vehicles within 30 days after leaving said office.

4. This act shall take effect immediately.

Approved May 28, 1991.

CHAPTER 147

AN ACT concerning the Commodities and Services Council in the Department of Human Services and amending and supplementing P.L.1981, c.488.

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

1. The title of P.L.1981, c.488 is amended to read as follows:

Title amended.

An act establishing a Commodities and Services Council for blind and other severely handicapped persons and supplementing Title 30 of the Revised Statutes.

2. Section 2 of P.L.1981, c.488 (C.30:6-24) is amended to read as follows:

C.30:6-24 Definitions.

2. As used in this act:

a. "Blind person" means a person whose vision in the better eye with proper correction does not exceed 20/200 or who has a field defect in the better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees.

b. "Central Nonprofit Agency" means the agency designated by the commissioner pursuant to section 6 of this act.

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

d. "Rehabilitation facility" means a rehabilitation facility located in this State which qualifies as a charitable organization or institution under the provisions of section 501(c)(3) of the Internal Revenue Code and is conducted on a nonprofit basis for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury and of providing these individuals with remunerative employment or other occupational rehabilitative activity of an educational or therapeutic nature as defined in section 525.1 et seq. of the regulations adopted pursuant to the federal "Fair Labor Standards Act of 1938," 29 U.S.C. § 201 et seq. and related codes, and which is engaged in the production of commodities or the provision of services in connection with which not less than 75% of the total hours of direct labor is performed by blind or other severely handicapped persons excluding any hours of supervision, administration, inspection or shipping.

e. "Severely handicapped person" means a person with a physical, mental or emotional disability, other than blindness but including a visual impairment, which is a substantial handicap to employment and prevents that person from currently engaging in normal competitive employment.

f. "State agency" means an agency of State government.

3. Section 3 of P.L.1981, c.488 (C.30:6-25) is amended to read as follows:

C.30:6-25 Commodities and Services Council established.

3. There is established in the Department of Human Services, the Commodities and Services Council for blind and other severely handicapped persons. The council shall consist of the

Director of the Division of Vocational Rehabilitation Services; the Director of the Division of Purchase and Property; the Chief of the Bureau of State Use Industries; the Director of the Division of Development for Small Businesses and Women and Minority Businesses in the Department of Commerce, Energy and Economic Development; the Director of the Division of Developmental Disabilities in the Department of Human Services; the Executive Director of the Commission for the Blind and Visually Impaired; the President of the New Jersey Association of Rehabilitation Facilities; or their designees; three citizens as at-large members, at least one of whom shall be a blind person, and at least one of whom shall represent the private business sector. The at-large members shall be appointed by the Governor, with the advice and consent of the Senate, for terms of three years, except that of the first at-large members appointed, one shall be appointed for a term of three years, one for a term of two years, and one for a term of one year.

4. Section 5 of P.L.1981, c.488 (C.30:6-27) is amended to read as follows:

C.30:6-27 Duties of the council.

5. The duties of the council shall include:

- a. Developing through the Central Nonprofit Agency a list of commodities and services which shall be set aside for purchase through approved rehabilitation facilities and establishing a fair market price for those commodities and services.
- b. Recommending to the commissioner an agency to be designated as the Central Nonprofit Agency.
- c. Encouraging the purchase of commodities and services of blind and other severely handicapped persons by political subdivisions of the State.

5. Section 6 of P.L.1981, c.488 (C.30:6-28) is amended to read as follows:

C.30:6-28 Designation of central nonprofit agency.

6. The commissioner shall designate a nonprofit agency to facilitate the distribution of orders received from various State agencies for commodities and services on the set-aside list among approved rehabilitation facilities and to insure the effective and efficient administration of this act.

6. Section 7 of P.L.1981, c.488 (C.30:6-29) is amended to read as follows:

C.30:6-29 Functions, operations of central nonprofit agency.

7. The functions and operations of the Central Nonprofit Agency shall include but not be limited to the following:

- a. Receiving and processing all applications from approved rehabilitation facilities for the setting aside of specific commodities and services to be provided by the applying facilities;
- b. Reviewing and certifying the capabilities of an applying facility to provide a specific commodity or service in keeping with quality standards, quantity and timely delivery requirements;
- c. Preparing a detailed annual report for submission to the council;
- d. Establishing and publishing a list of commodities and services provided by approved facilities, with timely revisions for distribution to all purchasing agents of the State and its political subdivisions.

7. Section 8 of P.L.1981, c.488 (C.30:6-30) is amended to read as follows:

C.30:6-30 Procurement of commodities, services through central nonprofit agency.

8. State agencies shall procure through the Central Nonprofit Agency those commodities and services which have been set aside for purchase from approved rehabilitation facilities.

C.30:6-33 Short title.

8. This act shall be known and may be cited as the "Rehabilitation Facilities Set-Aside Act."

9. This act shall take effect immediately.

Approved May 28, 1991.

CHAPTER 148

AN ACT concerning certain anachronistic laws pertaining to companies building tunnels under the Delaware River and repealing R.S.48:18-1 through 48:18-17 inclusive.

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

Repealer.

1. R.S.48:18-1 through R.S.48:18-17 inclusive are repealed.
2. This act shall take effect immediately.

Approved May 28, 1991.

CHAPTER 149

AN ACT concerning consumer affairs actions in municipal courts
and amending P.L.1981, c.178.

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

1. Section 1 of P.L.1981, c.178 (C.56:8-14.1) is amended to read as follows:

C.56:8-14.1 Office of consumer affairs entitled to penalties, fines or fees.

1. In any action in a court of appropriate jurisdiction initiated by the director of any certified county or municipal office of consumer affairs, the office of consumer affairs shall be entitled, if successful in the action, to such penalties, fines or fees as may be authorized pursuant to chapter 8 of Title 56 of the Revised Statutes and awarded by the court, and to the reasonable costs of any such action, including investigative and legal costs, as may be filed with and approved by the court. Such costs shall be in addition to the taxed costs authorized in successful proceedings under the Rules Governing the Courts of the State of New Jersey.

As used in this section, "court of appropriate jurisdiction" includes a municipal court in the municipality where the offense was committed or where the defendant may be found. However, the term shall not include a municipal court in a city of the first class if the Chief Justice of the Supreme Court approves a recommendation submitted by the assignment judge of the vicinage in which the court is located to exempt that court from such jurisdiction.

All moneys collected pursuant to this section shall be paid to the officer lawfully charged with the custody of the general funds of the county or municipality.

2. This act shall take effect immediately.

Approved May 28, 1991.

CHAPTER 150

AN ACT concerning telephone solicitation lists, and supplementing chapter 17 of Title 48 of the Revised Statutes.

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

C.48:17-25 Instructions to telephone company customers for removal of name from telephone solicitation lists.

1. Every local exchange telephone company the principal business of which is the provision of telephone service within this State shall:

a. Enclose, at least annually, in every telephone bill a notice informing telephone customers how they may have their names removed from telephone solicitation lists; and

b. Include in every telephone directory published after the effective date of this act information on how telephone customers may have their names removed from telephone solicitation lists.

For purposes of this section, "telephone solicitation list" means a tangible or electronic compilation of names and telephone numbers which are called to solicit business.

C.48:17-26 Regulations.

2. The Board of Public Utilities, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may promulgate regulations necessary to implement this act.

3. This act shall take effect immediately.

Approved May 28, 1991.

CHAPTER 151

AN ACT appropriating funds from the Public Purpose Buildings and Community-Based Facilities Construction Fund for the planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation and equipping of community-based facilities for the mentally ill and developmentally disabled.

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 and Community-Based Facilities Construction Fund created by the "Public Purpose Buildings and Community-Based Facilities Construction Bond Act of 1989," P.L.1989, c.184, the sum of \$51,773,500 for the following construction projects:

Division of Developmental Disabilities	
Grants for community-based facilities for the developmentally disabled	\$25,100,000
Division of Mental Health and Hospitals	
Grants for community-based facilities for the mentally ill	\$26,000,000
Division of Youth and Family Services	
Grants for community-based facilities for the developmentally disabled and mentally ill	\$673,500

2. There is also appropriated from the proceeds of the sale of the above mentioned bonds, such amounts as may be necessary to meet any expense incurred by the issuing officials under P.L.1989, c.184 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 Director of the Division of Budget and Accounting in the Department of the Treasury shall make those corrections in the title or text, or both, of any appropriation item authorized under this act necessary to make the appropriation available for the purposes for which it was intended. The corrections shall be made by a written ruling which shall set forth an explanation of the need for correction and which shall be signed by the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Any action pursuant to that ruling, including disbursement and the audit thereof, shall be legally binding and of full effect. An official copy of each written ruling shall be transmitted to the Legislative Budget and Finance Officer upon the effective date of the ruling.

4. The Director of the Division of Budget and Accounting may approve expenditures for predesign program planning and other related costs for capital projects authorized under this act.

5. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item or appropriation to any other item or appropriation within the respective department accounts. The transfer shall be made upon the written approval of the director and of the Joint Budget Oversight Committee or its successor.

6. The Commissioner of Human Services shall report to the Joint Budget Oversight Committee, the Senate Institutions, Health and Welfare Committee and General Assembly Health and Human Services Committee, or their successors, on the status of the appropriation provided in this act six months from the effective date of this act and annually thereafter until all of the funds have been expended. The status report shall specify the projects that are funded and the amounts of funds appropriated, obligated and expended for each project.

7. This act shall take effect immediately.

Approved May 30, 1991.

CHAPTER 152

AN ACT to validate certain proceedings for the issuance of bonds 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 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 any proposal

adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that separate polling districts and polling places for each 500 ballots or parts thereof cast at a school election were not established for the school election as required by N.J.S.18A:14-5; provided however that all legal voters in the school district are authorized to vote in the authorized and established polling places in the school district; and provided further, that no action, suit, or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved June 6, 1991.

CHAPTER 153

AN ACT concerning the purchase of service credit for public employment in other states or for military service in the Armed Forces of the United States, amending N.J.S.18A:66-13, P.L.1963, c.19, and P.L.1968, c.23, supplementing P.L.1944, c.255 (C.43:16A-1 et seq.) and repealing section 1 of P.L.1983, c.198, section 1 of P.L.1981, c.451, and sections 1 and 2 of P.L.1983, c.391.

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

1. N.J.S.18A:66-13 is amended to read as follows:

Prior service credit.

18A:66-13. Prior service credit. A member may file a detailed statement of: a. school service and service in a similar capacity in other states and in schools within and outside the United States operated by a department of the United States Government for the instruction of the children of United States Government officers and employees, or b. other public employment in other states or with the United States Government which would be eligible for

credit in a State-administered retirement system if the employment was with a public employer in this State, or c. military service in the Armed Forces of the United States, rendered prior to becoming a member, for which the member desires credit, and of such other facts as the retirement system may require. The member may purchase credit for all or a portion of the service evidenced in the statement up to the nearest number of years and months, but not exceeding 10 years, provided however, that a member purchasing that maximum credit may purchase up to five additional years for additional military service qualifying the member as a veteran as defined in N.J.S.18A:66-2. No application shall be accepted for the purchase of credit for such service 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 that service.

The member may purchase credit for the service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system, over a maximum period of 10 years. Neither the State nor the employer of a member who applies to purchase credit for public employment with the United States Government pursuant to subsection b. of this section or for military service pursuant to subsection c. of this section shall be liable for any payment to the retirement system on behalf of the member for the purchase of this credit.

Notwithstanding any provision of this act to the contrary, a member shall not be liable for any costs associated with the financing of pension adjustment benefits and health care benefits for retirees when purchasing credit for school service, public employment in other states or with the United States Government, or military service in the Armed Forces of the United States.

Any member electing to purchase the service who retires prior to completing payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump sum payment required at that time to provide full credit.

2. Section 2 of P.L.1963, c.19 (C.43:15A-73.1) is amended to read as follows:

C.43:15A-73.1 Credit for employment in other states, federal government or military service; limitation; payments; pro rata credit upon retirement.

2. A member may file a detailed statement of public employment in other states or with the United States Government which would be eligible for credit in a State-administered retirement system if the employment was with a public employer in this State, or of military service in the Armed Forces of the United States, rendered prior to becoming a member, for which the member desires credit, and of such other facts as the retirement system may require. The member may purchase credit for all or a portion of the service evidenced in the statement up to the nearest number of years and months, but not exceeding 10 years, provided however, that a member purchasing that maximum credit may purchase up to five additional years for additional military service qualifying the member as a veteran as defined in section 6 of P.L.1954, c.84, (C.43:15A-6). No application shall be accepted for the purchase of credit for the service 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 that service.

The member may purchase credit for the service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The purchase may be made in regular installments, equal to at least 1/2 of the full normal contribution to the retirement system, over a maximum period of 10 years. The employer of a member who applies, pursuant to this section, to purchase credit for public employment with the United States Government or for military service in the Armed Forces of the United States shall not be liable for any payment to the retirement system on behalf of the member for the purchase of this credit.

Notwithstanding any provision of this act to the contrary, a member shall not be liable for any costs associated with the financing of pension adjustment benefits and health care benefits for retirees when purchasing credit for public employment in

other states or with the United States Government or military service in the Armed Forces of the United States.

Any member electing to purchase the service who retires prior to completing payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump sum payment required at that time to provide full credit.

C.43:16A-11.11 Members of Police and Firemen's Retirement System may purchase credit.

3. A member of the Police and Firemen's Retirement System may file a detailed statement of public employment in other states or with the United States Government which would be eligible for credit in a State-administered retirement system if the employment was with a public employer in this State, or of military service in the Armed Forces of the United States, rendered prior to becoming a member, for which the member desires credit, and of such other facts as the retirement system may require. The member may purchase credit for all or a portion of the service evidenced in the statement up to the nearest number of years and months, but not exceeding 10 years, provided however, that a member purchasing that maximum credit may purchase up to five additional years for additional military service qualifying the member as a veteran as defined in section 1 of P.L.1983, c.391 (C.43:16A-11.7). No application shall be accepted for the purchase of credit for the service 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 that service.

The member may purchase credit for the service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The purchase may be made in regular installments equal to at least 1/2 of the full normal contribution to the retirement system, over a maximum period of 10 years. The employer of a member who applies, pursuant to this section, to purchase credit for public employment with the United States Government or for military service in the

Armed Forces of the United States shall not be liable for any payment to the retirement system on behalf of the member for the purchase of this credit.

Notwithstanding any provision of this act to the contrary, a member shall not be liable for any costs associated with the financing of pension adjustment benefits and health care benefits for retirees when purchasing credit for public employment in other states or with the United States Government or military service in the Armed Forces of the United States.

Any member electing to purchase the service who retires prior to completing payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump sum payment required at that time to provide full credit.

Repealer.

4. Section 1 of P.L.1983, c.198 (C.18A:66-13.1), section 1 of P.L.1981, c.451 (C.43:15A-60.1), and section 2 of P.L.1983, c.391 (C.43:16A-11.8) are repealed.

5. This act shall take effect on the first day of the month immediately following the date of enactment.

Approved June 6, 1991.

CHAPTER 154

AN ACT establishing certain medical expense benefits coverage and a tort threshold for certain noneconomic loss for passengers injured on certain motor buses and amending P.L.1988, c.119 and supplementing chapter 28 of Title 17 of the Revised Statutes.

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

C.17:28-1.5 Definitions.

1. As used in this act:

“Commissioner” means the Commissioner of Insurance.

“Hospital expenses” means:

- a. The cost of a semiprivate room, based on rates customarily charged by the institution in which the recipient of benefits is confined;
- b. The cost of board, meals and dietary services;
- c. 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;
- d. The cost of treatment by a physiotherapist;
- e. 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.

"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.45:9-41.4 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.

"Motor bus" means an omnibus, as defined in R.S.39:1-1, except that "motor bus" shall not include:

- a. Vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini;
- b. Hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations including local airports;
- c. Buses operated for the transportation of enrolled children and adults only when serving as chaperones to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, pre-school center or other similar places of education, including "School Vehicle Type I" and "School Vehicle Type II" as defined in R.S.39:1-1;
- d. Any autobus with a carrying capacity of not more than 13 passengers operated under municipal consent upon a route estab-

lished wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route;

e. Autocabs, limousines or livery services as defined in R.S.48:16-13, unless such service becomes or is held out to be regular service between stated termini;

f. Any vehicle used in a "ridesharing" arrangement, as defined by the "New Jersey Ridesharing Act of 1981," P.L.1981, c.413 (C.27:26-1 et al.); or

g. Any motor bus owned and operated by the New Jersey Transit Corporation.

"Noneconomic loss" means pain, suffering and inconvenience.

"Passenger" means any person occupying, entering into or alighting from a motor bus, except employees of the owner or operator of the motor bus while they are on duty.

C.17:28-1.6 Owner, operator of motor bus to maintain medical expense benefits coverage.

2. a. Every owner, registered owner or operator of a motor bus registered or principally garaged in this State shall maintain medical expense benefits coverage, under provisions approved by the commissioner, for the payment of benefits without regard to negligence, liability or fault of any kind, to any passenger who sustained bodily injury as a result of an accident while occupying, entering into or alighting from a motor bus.

b. Medical expense benefits coverage shall include the payment of reasonable medical expenses in an amount not to exceed \$250,000 per person per accident. In event of death, payments shall be made to the estate of the decedent.

C.17:28-1.7 Exemption from tort liability for owner, registrant, operator of motor bus.

3. Every owner, registrant or operator of a motor bus registered or principally garaged in this State and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for noneconomic loss to a passenger who has a right to receive benefits under section 2 of this act as a result of bodily injury arising out of the ownership,

operation, maintenance or use of a motor bus in this State, unless that person has sustained a personal injury which results in death; dismemberment; significant disfigurement; a fracture; loss of a fetus; permanent loss of use of a body organ, member, function or system; permanent consequential limitation of use of a body organ or member; significant limitation of use of a body function or system; or a medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute that person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment.

C.17:28-1.8 Evidence of amounts collectible, paid to injured passenger inadmissible in civil action.

4. Evidence of the amounts collectible or paid to an injured passenger pursuant to section 2 of this act is inadmissible in a civil action against an owner, registrant or operator of a motor bus for recovery of damages for bodily injury by such injured passenger.

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 passenger, the jury shall not speculate as to the amount of the medical expense benefits paid or payable under section 2 to the injured passenger.

Nothing in this section shall be construed to limit the right of recovery, against the tortfeasor, of uncompensated economic loss sustained by the injured passenger.

5. The Commissioner of Insurance shall conduct an analysis of the impact of enactment of this act on the liability insurance market for motor buses subject to this act including, but not limited to, the availability of, and the rates and premiums for, that insurance, during the first twelve months after the effective date of this act. Within 120 days after the close of that twelve month period, the commissioner shall report the results of that analysis to the Legislature and to the Chairmen of the Senate Labor, Industry and Professions Committee and the Assembly Insurance Committee, or their successor committees.

6. Section 10 of P.L.1988, c.119 (C.39:6A-4.6) is amended to read as follows:

C.39:6A-4.6 Medical fee schedules.

10. The Commissioner of Insurance shall, within 90 days after the effective date of P.L.1990, c.8 (C.17:33B-1 et al.), promulgate medical fee schedules on a regional basis for the reimbursement of health care providers providing services or equipment for medical expense benefits for which payment is to be made by an automobile insurer under personal injury protection coverage pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or by an insurer under medical expense benefits coverage pursuant to section 2 of P.L.1991, c.154 (C.17:28-1.6). These fee schedules shall be promulgated on the basis of the type of service provided, and shall incorporate the reasonable and prevailing fees of 75% of the practitioners within the region. If, in the case of a specialist provider, there are fewer than 50 specialists within a region, the fee schedule shall incorporate the reasonable and prevailing fees of the specialist providers on a Statewide basis. These schedules shall be reviewed biannually by the commissioner.

No health care provider may demand or request any payment from any person in excess of those permitted by the medical fee schedules established pursuant to this section, nor shall any person be liable to any health care provider for any amount of money which results from the charging of fees in excess of those permitted by the medical fee schedules established pursuant to this section.

7. This act shall take effect on the 120th day following enactment.

Approved June 7, 1991.

CHAPTER 155

AN ACT concerning the enrollment of certain firemen in the Police and Firemen's Retirement System of New Jersey and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

1. a. Notwithstanding the provisions of section 3 of P.L.1944, c.255 (C.43:16A-3) or any other law or regulation to the contrary, a full-time fireman in a fire district located in a township which has adopted the retirement system and which is located in a

county of the second class with a population in excess of 590,000 according to the 1980 federal decennial census, who was over 35 years of age but less than 36 years of age at the time of appointment, shall be enrolled in the retirement system, provided that the employee furnishes such evidence of good health at the time of becoming a member as the retirement system shall require.

b. Any officer eligible to become a member pursuant to the provisions of this act who is enrolled in the Public Employees' Retirement System (P.L.1954, c.84; C.43:15A-1 et seq.) shall be permitted to transfer membership from the aforesaid system 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.). Whenever in P.L.1973, c.156 a period of time is set which is to be calculated from the effective date of that act, the time shall be calculated from the effective date of this act for the purposes hereof.

2. This act shall take effect immediately and shall expire 90 days thereafter.

Approved June 7, 1991.

CHAPTER 156

AN ACT to authorize the borough of West Cape May in the county of Cape May to make permanent the appointment of Robert L. Harpster, Sr., to the police department of the borough of West Cape May.

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 West Cape May in the county of Cape May is authorized to make permanent the appointment of Robert L. Harpster, Sr. as a full-time police officer, notwithstanding his age is greater than the maximum age for appointment thereto set forth in N.J.S.40A:14-127.

2. This act shall take effect upon due adoption of an ordinance of the borough of West Cape May for the purpose of adopting same.

Approved June 7, 1991.

CHAPTER 157

AN ACT to authorize the city of Newark in the county of Essex to make permanent the appointment of Robert Serritella to the fire department of the city of Newark.

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 city of Newark in the county of Essex is authorized to make permanent the appointment of Robert Serritella as a full-time fire fighter, notwithstanding that his age is greater than the maximum age for such appointment set forth in N.J.S.40A:14-12.

2. This act shall take effect upon due adoption of an ordinance by the city of Newark for the purpose of adopting same.

Approved June 7, 1991.

CHAPTER 158

AN ACT to authorize the city of Wildwood, in the county of Cape May, to make permanent the appointment of Gary O'Shea to the police department of the city of Wildwood.

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 city of Wildwood, in the county of Cape May, is authorized to make permanent the appointment of Gary O'Shea to the police department of the city of Wildwood in the career service, civil service, notwithstanding his age is greater than the maximum 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 in the retirement

system any policemen, 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 adoption of an ordinance by the city of Wildwood for the purpose of adopting it.

Approved June 7, 1991.

CHAPTER 159

AN ACT to authorize the City of Lambertville in the county of Hunterdon to make permanent the appointment of Robert Wayne Boan to the police department of the City of Lambertville.

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 city of Lambertville in the county of Hunterdon is authorized to make permanent the appointment of Robert Wayne Boan as a full-time police officer, notwithstanding that his age is greater than the maximum age for appointment thereto set forth in N.J.S.40A:14-127.

2. This act shall take effect upon due adoption of an ordinance of the city of Lambertville for the purpose of adopting it.

Approved June 7, 1991.

CHAPTER 160

AN ACT to provide for the submission to the voters of the State of a nonbinding referendum to ascertain their sentiment with respect to the enactment of a national health care program and making an appropriation.

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

1. In order to ascertain the sentiment of the people of this State as to their views on whether a national health care program should be enacted by the United States Congress and the President of the United States, the following public question shall be submitted to the people at the general election to be held in November, 1991, in the manner provided by this act and by Title 19 of the Revised Statutes for the submission to the people of public questions to be voted upon by the voters of the entire State, and it shall be the duty of the Secretary of State to arrange for the submission of the public question in accordance with the provisions of this act and of Title 19 of the Revised Statutes, of which submission the same notice shall be given, if possible, as is required by law of that election and the people of the State may at that election vote for or against the question in the following manner.

2. There shall be included on each sample and official ballot the instructions set forth below on voting on the nonbinding referendum:

If you approve of the question printed below, make a cross (x), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove of the question printed below, make a cross (x), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be the equivalent to the markings, respectively.

	YES.	ENACTMENT OF NATIONAL HEALTH CARE PROGRAM Shall the State urge the United States Congress and the President of the United States to enact a national health care program which: provides high quality comprehensive personal health care including preventive, curative, and occupational health services; is universal in coverage, community controlled, rationally organized, equitably financed, with minimal out-of-pocket expense to taxpayers; is sensitive to the particular health needs of all persons; and aims at reducing the overall costs of health care?
	NO.	

3. The votes "Yes" and "No," 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 now as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this question so determined shall be declared in the same manner as the result of an election for a Governor.

4. The Secretary of State shall prepare a single summary statement as to the reasons for submitting the question set forth in section 2 of this act and shall direct the clerk of each county of this State to cause the question to be printed and placed on each of the ballots, together with the summary statement appended to or enclosed with the sample ballot, in a manner which will give prominence to that question and statement.

5. There is appropriated the sum of \$5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 1 of this act.

6. This act shall take effect immediately.

Approved June 10, 1991.

CHAPTER 161

AN ACT designating the Hadrosaurus Foulkii as the New Jersey State Dinosaur.

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

1. The Legislature finds that:

a. The Hadrosaurus Foulkii, the first nearly complete dinosaur skeleton to be discovered virtually intact anywhere in the world, was unearthed in October, 1858, in a marl pit in Haddonfield, Camden County, by William Parke Foulke, a member of the prestigious Academy of Natural Sciences of Philadelphia.

b. This discovery of a 25-foot, eight-ton, duck-billed, herbivorous saurian (or reptile), which stood as high as ten feet at the hips, was so unexpected and unusual that it startled the scientific thinking of the day and led to a revision of many conventional ideas as to the physical structure and life habits of prehistoric reptiles and provided a great stimulus to the study of dinosaurs which, until then, were relatively unknown outside the scientific community.

c. This dinosaur, which lived 70 to 100 million years ago during the cretaceous period and which was given the name *Hadrosaurus Foulkii* in honor of its discoverer, was the first dinosaur to be displayed for public view, attracting tens of thousands of visitors to the Academy of Natural Sciences where it was on view from the 1870's to the 1940's.

d. The *Hadrosaurus Foulkii* has been recently reinstalled as one of the main features in a permanent exhibit at the Academy of Natural Sciences.

e. In order to pay recognition to the scientific importance of New Jersey's *Hadrosaurus Foulkii*, it is fitting and appropriate to designate it as the State Dinosaur.

C.52:9AAAAA-1 Designation of State dinosaur.

2. The *Hadrosaurus Foulkii* is designated as the New Jersey State Dinosaur.

3. This act shall take effect immediately.

Approved June 13, 1991.

CHAPTER 162

AN ACT providing for the issuance of bonds by a waterworks commission, amending R.S.40:62-127, R.S.40:62-146, R.S.40:62-148, and supplementing chapter 62 of Title 40 of the Revised Statutes.

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

C.40:62-133.1 Findings, declarations.

1. The Legislature finds and declares that there is a need to authorize and empower commissions appointed pursuant to R.S.40:62-109 to issue bonds and other obligations to finance water projects as an alternative to the existing method of financ-

ing these projects, whereby municipalities that created these commissions issue their own general obligation bonds and provide the proceeds thereof to the commissions.

2. R.S.40:62-127 is amended to read as follows:

Water rates and regulations.

40:62-127. Such commission may prescribe and change from time to time rates to be charged for water supplied by the waterworks so acquired, and by any extension or enlargement thereof, but rates for the same kind or class of service shall be uniform in all the municipalities supplied by the waterworks; except that no rates shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any commission from charging for the actual cost of water main connection.

The supplying of water to locations beyond the boundaries of the municipalities owning the waterworks shall be basis for separate classification of service to permit reasonable differentiation of rates. As soon as practicable after acquiring the waterworks, rates shall be prescribed, and shall be revised from time to time whenever necessary, so that the waterworks shall be self-supporting, the earnings to be sufficient to provide for all expenses of operation and maintenance and such charges as interest, sinking fund and amortization, so as to prevent any deficit to be paid by taxation from accruing. The interest, sinking fund and amortization shall be construed to include:

a. All service on debt heretofore or hereafter incurred by the commission or by any municipality represented by the commission in connection with the acquisition of such privately-owned waterworks, and any extensions thereto and enlargements thereof, heretofore or hereafter formally assumed by the commission or its successors, and

b. All service on debt heretofore or hereafter incurred by the commission or by a municipality represented by the commission, or its successors, and heretofore or hereafter formally assumed by the commission, or its successors, as part of any agreement with the municipality relative to the acquisition, by the commission, or its successors, of the ownership of or the management and control of or

the right to use any water supply or part thereof or interest therein or any distribution system of water mains and connections, or any part thereof, which any such municipality may own or control.

The provisions of this section shall be deemed a contract with the holders of all obligations which shall be or may have been issued for the purpose of financing such acquisitions or which heretofore have been or may hereafter be issued to refund temporary bonds or obligations issued for such purposes, the payment of any of which obligations, and interest thereon, the commission, or its successors, has heretofore or may hereafter formally assume as aforesaid.

The commission and any succeeding commission may prescribe, and alter and enforce all reasonable rules and regulations for the maintenance and operation of the waterworks and the collection of rates.

C.40:62-133.2 Commission empowered to issue bonds.

3. For the purpose of raising funds to pay the cost of any part of its waterworks, including the cost of enlarging, extending or improving the same, or for the purpose of funding or refunding any bonds including bonds or other obligations issued by any municipality represented by the commission in connection with the acquisition of waterworks, and any extensions thereto and enlargements thereof, a commission shall have power to authorize or provide for the issuance of bonds pursuant to this amendatory and supplementary act. In order to approve an action concerning bonds, the commission shall, by five members voting in the affirmative, adopt a resolution, sometimes referred to in this amendatory and supplementary act as a "bond resolution;" provided, however, that all of the municipalities which constitute the commission shall be represented among the members voting in the affirmative. The bond resolution shall:

a. Describe in brief and general terms sufficient for reasonable identification the waterworks or part thereof, sometimes referred to in this amendatory and supplementary act as a "project," to be constructed, acquired, enlarged, extended, or improved 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 4 of this amendatory and supplementary act.

C.40:62-133.3 Issuance of bonds by the commission.

4. Upon adoption of a bond resolution, the commission shall have power to incur indebtedness, borrow money and issue its

bonds and bond anticipation notes, collectively referred to in this amendatory and supplementary act as "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 such date or dates, mature at such time or times not exceeding 40 years from the date thereof, bear interest at a rate or rates within such maximum rate established therein, 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 the bond resolution may provide.

C.40:62-133.4 Sale of bonds, price.

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

C.40:62-133.5 Bond resolution, publication.

6. The commission may cause a copy of any bond resolution adopted by it to be filed for public inspection in its office and in the office of clerk of the governing body of the municipalities represented in the commission and may thereupon cause to be published in a newspaper published or circulating in the municipalities represented in the commission a notice stating the fact and date of this adoption and the places where the bond resolution has been filed for public inspection and also the date of the first publication of the notice and also that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the bond resolution, or the validity of any covenants, agreements or contract provided for by the bond resolution shall be commenced within 20 days after the first publication of the notice. If no action or proceeding questioning the validity of the creation and establishment of the commission, or the validity or proper authorization of bonds provided for by the bond resolution referred to in the notice, or the validity of any covenants, agreements or contracts provided for by the bond resolution is commenced or instituted within 20 days after the first publication of the notice, all residents and taxpayers and owners of property in the municipalities and users of the waterworks system and all other persons whatsoever shall be for-

ever barred and foreclosed from instituting or commencing any action or proceeding in any court, or from pleading any defense to any action or proceedings, questioning the validity of the creation and establishment of the commission, or the validity or proper authorization of the bonds, or the validity of the covenants, agreements or contracts, and the commission conclusively is deemed to be validly created and established and is authorized to transact business and exercise powers as a commission under this amendatory and supplementary act, and the bonds, covenants, agreements and contracts conclusively are deemed to be valid and binding obligations in accordance with their terms and tenor.

C.40:62-133.6 Negotiability of bonds.

7. Any provision of law, rule or regulation to the contrary notwithstanding, any bond or other obligation issued pursuant to this amendatory and supplementary act shall be fully negotiable within the meaning and for all purposes of the State laws concerning negotiable instruments, and each holder or owner of the bond or other obligation, or of any coupon appurtenant thereto, by accepting the bond or coupon, conclusively is deemed to have agreed that the bond, obligation or coupon is fully negotiable within the meaning and for all purposes of the State laws concerning negotiable instruments.

C.40:62-133.7 Provisions permitted in bond resolution.

8. 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 these bonds and in addition to its other powers, shall have the 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, acquisition, enlargement, extension or improvement of all or any part of the waterworks;
- c. The use, regulation, operation, maintenance, insurance or disposition of all or any part of the waterworks, 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 waterworks;
- 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 the bonds or obligations as to any lien or security, or the acceleration of the maturity of the bonds or obligations;

e. The use and disposition of any moneys of the commission, including revenues, sometimes referred to in this amendatory and supplementary act as "water revenues," derived or to be derived from the operation of all or any part of the waterworks, including any parts thereof previously constructed or acquired and any parts, enlargements, extensions, replacements or improvements thereof subsequently constructed or acquired;

f. Pledging, setting aside, depositing or trusteeing all or any part of the water 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 waterworks, and the powers and duties of any trustee with regard thereto;

g. The setting aside out of the water 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 water revenues or of the expenses of operation and maintenance of the waterworks;

i. The rents, rates or the use, products or services of the waterworks, including any parts thereof previously constructed or acquired and any parts, enlargements, extensions, replacements or improvements thereof subsequently constructed or acquired, and the fixing, establishment, collection and enforcement of the same, the amount or amounts of water 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 waterworks, or any obligations having or which may have a lien on any part of the water revenues;

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

l. Vesting in a trustee or trustees within or without the State the property, rights, powers and duties in trust as the commission may determine which may include any or all rights, powers and duties of the trustee appointed by the holders of bonds pursuant to section 9 of this amendatory and supplementary act, and limiting or abrogating the right of the holders to appoint a trustee pursuant to section 9 of this amendatory and supplementary act or limiting the rights, duties and powers of the trustee;

m. Payment of costs or expenses incident to the enforcement of the bonds or of the provisions of the bond resolution or of any covenant or contract with the holders of the bonds;

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 the holders of which shall consent thereto, and the manner in which the 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.

The provisions of the bond resolution and the covenants and agreements 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 are enforceable by the holder or holders of the bonds by appropriate action, suit or proceeding in any court of competent jurisdiction, or by proceeding in lieu of prerogative writ.

C.40:62-133.8 Appointment of trustee in event of default.

9. a. If a default occurs in the payment of the principal of or interest on any bonds of the series after the bonds are due, whether at maturity or upon call for redemption, and this default continues for a period of 30 days, or if the commission fails or refuses to comply with the provisions of this amendatory and supplementary act or fails or refuses to carry out and perform the terms of any contract with the holders of the bonds, and this failure or refusal continues for a period of 30 days after written notice to the commission of its existence and nature, the holders of 25% in the aggregate principal amount of the bonds and 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. This section shall be applicable only if the bond resolution of the commission authorizing the issuance of a series of its bonds provides that the holders of the bonds of the series are entitled to the benefits of this section.

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

(1) By any action, writ, proceeding in lieu of prerogative writ, or other proceeding, enforce all rights of the holders of the bonds, including the right to require the commission to charge and collect water rents adequate to carry out any contract as to, or pledge

of, water 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 amendatory and supplementary 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 the bonds due and payable, whether or not in advance of maturity, upon 30 days' prior notice in writing to the commission and, if all defaults are satisfied, with the consent of the holders of 25% of the principal amount of the bonds then outstanding, annul the declaration and its consequences.

c. The trustee shall 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 the bonds of the 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 amendatory and supplementary act, shall constitute taxable costs and disbursements, and all costs and disbursements, allowed by the court, shall be a first charge upon any water rents and water revenues of the commission pledged for the payment or security of bonds of the series.

C.40:62-133.9 Appointment of receiver.

10. If the bond resolution of a commission authorizing for the issuance of a series of its bonds provides that the holders of the bonds of the series are entitled to the benefits of section 9 of this amendatory and supplementary act and further provides that any trustee appointed pursuant to that section, or having the powers of the trustee, has the powers provided by this section, the trustee, whether or not all of the bonds of the series are declared due and payable, is entitled as of right to the appointment of a receiver of the waterworks, and the receiver may enter upon and take possession of the waterworks 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 waterworks and proceed with the acquisition, construction, opera-

tion, maintenance or reconstruction which the commission is under any obligation to do, and operate, maintain and reconstruct the waterworks and fix, charge, collect, enforce and receive the water rents and all water revenues thereafter arising subject to any pledge thereof or contract with the holders of the 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.40:62-133.10 Commission members, State, county or local units not liable on bonds.

11. Neither the members of the commission nor any person executing the bonds issued pursuant to this amendatory and supplementary act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued by the commission pursuant to this amendatory and supplementary act shall not be in any way a debt or liability of the State or of any local unit or of any county or municipality and shall not create or constitute any indebtedness, liability or obligation of the State or of any local unit, county or municipality, either legal, moral or otherwise, and nothing contained in this amendatory and supplementary act shall be construed to authorize the commission to incur any indebtedness on behalf of or in any way to obligate the State or any county or municipality.

12. R.S.40:62-146 is amended to read as follows:

Supplying water to other municipalities; consent required.

40:62-146. The commission may contract with any municipality or municipalities to furnish a supply of water for such other municipalities and their inhabitants, for public and private uses, for the term of a year or years. There shall first be obtained the approval of the State board or department having jurisdiction of such matters, which approval and consent such commission or other board or departments may withhold or grant upon such terms as it may deem proper, but in case approval and consent are withheld, the reason for such withholding shall be furnished by the department or board to the commission applying therefor. The contract may provide for the payment to the commission by the municipality annually or otherwise of the sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters described in R.S.40:62-127 or in any other manner, as the contract or contracts may provide, and may provide

that the sum or sums so payable to the commission shall be in lieu of all or any part of the water rents which would otherwise be charged and collected by the commission with regard to the dwellers within the municipality. The 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 by the municipality and which may be agreed to by the commission in conformity with its contract with the holders of any bonds, and shall be valid whether or not an appropriation with respect thereto is made by the municipality prior to authorization or execution thereof. The municipality is authorized to perform any acts necessary, convenient or desirable to carry out the contract and to provide for the payment or discharge of any obligation thereunder in the same manner as are other obligations of the municipality. Subject to these contracts with the holders of bonds, the commission is authorized to perform any acts necessary, convenient or desirable to carry out the contract and, to provide for the payment or discharge of any obligation thereunder in the same manner as are other obligations of the municipality. Subject to these contracts with the holders of bonds, the commission is authorized to perform any acts necessary, convenient or desirable to carry out the contract and, in accordance with the contract, to waive, modify, suspend or reduce the water rents which would otherwise be charged and collected by the commission with regard to the dwellers within the municipality, but nothing in this section or the contract shall prevent the commission from charging and collecting, as if the contract had not been made, water rents with regard to the dwellings sufficient to meet any default or deficiency in any payments agreed in the contract to be made by the municipality.

C.40:62-133.11 Commission property exempt from levy, sale.

13. All property of a 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 a commission 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 a commission on its waterworks, water revenues or other moneys.

C.40:62-133.12 Investment of sinking funds, other moneys, funds.

14. Notwithstanding any restriction contained in any other law, rule or regulation, 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 of the commission, and the bonds shall be authorized security for any and all public deposits.

C.40:62-133.13 Waterworks public property, bonds exempt from taxation.

15. Every waterworks and all other property of a commission are declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and, other than lands subject to assessment and taxation pursuant to R.S.54:4-3.3, shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds are declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest thereon and the income therefrom, and all service charges, funds, revenues and other moneys pledged or available to pay or secure the payment of the 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.

C.40:62-133.14 State shall not alter commission's, bond holders' rights.

16. The State of New Jersey hereby pledges to and covenants and agrees with the holders of any bonds issued pursuant to a bond resolution of the commission that the State shall not limit or alter the rights vested in the commission to fix, establish, charge and collect its water rates and to fulfill the terms of any agreement made with the holders of the bonds or other obligations, and shall not in any way impair the rights or remedies of the holders, and shall not modify in any way the exemptions from taxation provided for in this amendatory and supplementary 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.40:62-133.15 Agreements between commission and bank or banking institution.

17. All banks, bankers, trust companies, savings banks, investment companies and other persons carrying on a banking business

are authorized to give to any commission a good and sufficient undertaking with such sureties as shall be approved by the commission to the effect that the bank or banking institution as described herein shall faithfully keep and pay over to the order of or upon the warrant of the commission or its authorized agent all such funds as may be deposited with it by the commission and agreed interest thereon, at such times or upon these demands 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, these securities as the commission may approve. The deposits of the commission may be evidenced by a depository collateral agreement in the form and upon such terms and conditions as may be agreed upon by the commission and the bank or banking institution.

C.40:62-133.16 Filing of copy of bond resolution.

18. The commission shall file a copy of each bond resolution adopted by it with the Director of the Division of Local Government Services in the Department of Community Affairs, together with a summary of the dates, amounts, maturities and interest rates of all bonds issued pursuant thereto.

19. R.S.40:62-148 is amended to read as follows:

General powers to carry out objective.

40:62-148. Subject to any contracts with the holders of bonds, the commission may adopt all ordinances and resolutions, enter into all agreements and contracts, and do any and all other acts and things necessary to provide water for the public and private uses of its customers in accordance with the provisions of R.S.40:62-133 to R.S.40:62-150.

20. This act shall take effect immediately.

Approved June 14, 1991.

CHAPTER 163

AN ACT concerning home heating oil tank fill pipes and supplementing Title 52 of the Revised Statutes.

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

C.51:9-9.1 Residential oil fill pipe, regulations, violations, fees.

1. a. The owner of any residential dwelling served by a home heating oil tank shall provide that the cap of any exterior heating oil fill pipe be colored green or that the tank fill pipe be equipped with a fill tightness system with a fill cap stamped or engraved in clear letters with the words "Fuel Oil."

b. No person may pump, pour, or otherwise place home heating oil into any exterior heating oil tank fill pipe of a residential dwelling unit unless that pipe is capped with a tank fill pipe cap that is colored green, or unless the tank fill pipe is equipped with a fill tightness system with a fill cap stamped or engraved in clear letters with the words "Fuel Oil."

c. A person who violates the provisions of this section is subject to a civil penalty not to exceed \$500. The penalty may be collected in a summary proceeding brought pursuant to "the penalty enforcement law," (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act.

2. This act shall take effect on the 180th day following enactment.

Approved June 14, 1991.

CHAPTER 164

AN ACT concerning official reports or other documents of State officers and agencies, amending R.S.52:14-19, and supplementing chapter 14 of Title 52 of the Revised Statutes.

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

1. R.S. 52:14-19 is amended to read as follows:

Reports other than annual reports; time for making.

52:14-19. Reports other than annual reports; time for making. All boards, commissions and officers of the State required by law, joint resolution, or otherwise to report to the Governor or

Legislature upon any matter whatever, shall, unless otherwise specially directed, make and deliver the report at least 10 days previous to the first day of January next following the date of their appointment, and if printed, it shall be delivered to the Legislature on the first day of the session.

This section shall not apply to the annual reports of State boards, commissions, institutions, departments or officers.

C.52:14-19.1 Submission of reports to Legislature.

2. Notwithstanding any other law to the contrary, all boards, commissions, institutions, departments, agencies, State officers and employees and other persons required by law to make available, submit, forward, or otherwise transmit to the Legislature or to the members of the Legislature a report, study, survey, publication or other document shall, in lieu of distributing a copy thereof to each member, meet this requirement of law by: a. preparing the document for examination and approval in the manner provided by law; and, b. submitting one copy of the approved document to the President of the Senate, one copy to the Speaker of the General Assembly and five copies to the Director of Public Information in the Office of Legislative Services. The Director of Public Information shall submit to the Secretary of the Senate, the Clerk of the General Assembly and the members of the Legislature a notice containing the title of the document and the name of the agency issuing the document, that notice to be distributed to the members in the same manner as provided for the distribution of transcripts of public hearings. A copy of any such document shall be made available to any member of the Legislature upon request, or pursuant to such procedures as may be provided by the respective Houses of the Legislature.

This section shall not apply to any reporting requirements or procedures specified in the State Constitution, nor to any information required by law to be submitted to the Legislative Counsel, State Auditor, Legislative Budget and Finance Officer, the Joint Budget Oversight Committee, or the Joint Legislative Committee on Ethical Standards.

3. This act shall take effect immediately.

Approved June 19, 1991.

CHAPTER 165

AN ACT to amend the title "An act creating a commission, to be known as the County and Municipal Government Study Commission, to study the structure of county and municipal governments, the interrelationship of State, county and municipal governments, and their present and future problems; to provide for reports and recommendations by the said commission to the Governor and the Legislature; and making an appropriation for the expenses thereof," approved April 26, 1966 (P.L.1966, c.28) so that the same shall read "An act creating a commission, to be known as the State Commission on County and Municipal Government, to study the structure of county and municipal governments, the interrelationship of federal, State, county and municipal governments, and their present and future problems; and to provide for reports and recommendations by the said commission to the Governor and the Legislature," 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.1966, c.28 is amended to read as follows:

Title amended.

An act creating a commission, to be known as the State Commission on County and Municipal Government, to study the structure of county and municipal governments, the interrelationship of federal, State, county and municipal governments, and their present and future problems; and to provide for reports and recommendations by the said commission to the Governor and the Legislature.

C.40A:1A-1 Findings, determinations.

2. The Legislature finds and determines that:

- a. Aspects of the historic offices, functions and authority of county government remain relatively unchanged in spite of other significant changes in the functions and structure of county government, changes in State and municipal government, and the transformation of the State from a rural area to the most urbanized State in the nation, and make desirable a reexamination of the functions and structure of county government including the existence of State mandated organizational structures in every county;
- b. Increased public demand for services provided by local governments and the need to maintain the level of local expendi-

tures are challenging local governments to develop innovative, effective, and efficient service delivery measures;

c. The current commission is a unique forum for legislators, local government representatives and executive staff to define issues and work toward solutions which strengthen the ability of both State and local government to function effectively;

d. Many positive recommendations and changes in local government structure and function have resulted directly from the commission's work;

e. It is therefore necessary and appropriate to strengthen and expand the role of the commission so that it may continue its tasks in the most effective manner possible.

3. Section 1 of P.L.1966, c.28 is amended to read as follows:

C.40A:1A-2 State Commission on County and Municipal Government created.

1. There is hereby created in the Legislative Branch of the State Government a commission to be known as the State Commission on County and Municipal Government.

The commission shall consist of 15 members, nine of whom shall be named by the Governor, three of whom shall be Senators to be named by the President of the Senate, and three of whom shall be Assemblymen to be named by the Speaker of the General Assembly. Of the nine members that shall be named by the Governor, three shall be nominees of the New Jersey Association of Counties, three shall be nominees of the New Jersey State League of Municipalities, and three shall be named by the Governor from among the citizens of the State, one of which citizen appointees shall have experience as a representative of a municipal, county or State bargaining unit, except that no more than two of these three members shall be of the same political party. No more than two of the three Senators, nor more than two of the three Assemblymen, to be named shall be of the same political party. Any vacancy in the membership of the commission shall be filled by appointment in the same manner as the original appointment was made. The members serving on the effective date of this amendatory and supplementary act shall continue to serve according to the following procedures. The legislative members of the commission shall serve for the term for which they are elected. Of the members named by the Governor, two municipal, two county and one citizen members shall serve for a term of four years and one

municipal, one county and two citizen members shall serve for a term of two years, both beginning on January 1, 1990.

The members shall draw lots for two or four year terms. Subsequent appointments shall be for four years and each member shall serve until a successor is chosen; provided that appointments to fill vacancies are for the period of the unexpired term. Any member who was appointed to the commission as a result of holding a certain office or position, shall terminate membership on the commission upon leaving that office or position.

4. Section 2 of P.L.1966, c.28 is amended to read as follows:

C.40A:1A-3 Selection of chairman, vice chairman.

2. The commission shall select from among its members a chairman and a vice chairman.

5. Section 3 of P.L.1966, c.28 is amended to read as follows:

C.40A:1A-4 Authority, powers, duties of commission.

3. The commission is authorized, empowered and directed to study and report on the structure and functions of county and municipal government, including their constitutional and statutory bases and on the existing, necessary and desirable relationship, including the fiscal relationship, between local governments and between local governments and the State and federal governments. The commission shall recommend legislative changes which will provide the State's counties and municipalities with thoroughly modern and effective statutory powers. The commission is directed further to inquire into the structural and administrative streamlining of county and municipal governments as proposed in New Jersey and other states, including but not limited to, the transfer of functions from one level of government to another; the purchase of services on a contractual basis; the establishment of regional special districts, authorities and commissions; municipal consolidation; and the merger of existing autonomous agencies into the parent municipal or county government, to determine their applicability in meeting the present and future needs of the State, its citizens, and its political subdivisions.

6. Section 4 of P.L.1966, c.28 is amended to read as follows:

C.40A:1A-5 Reports to Governor, Legislature.

4. The commission shall prepare and submit reports to the Governor and the Legislature, setting forth the results of its studies which may include recommendations for constitutional and statutory changes.

7. Section 5 of P.L.1966, c.28 is amended to read as follows:

C.40A:1A-6 Services, expenses permitted the commission.

5. The commission shall be entitled to accept the assistance and services of such employees of any State, county or municipal department, board, bureau, commission or agency as may be made available to it and to 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 its said purposes.

8. Section 6 of P.L.1966, c.28 is amended to read as follows:

C.40A:1A-7 Commission studies constitute legislative inquiry.

6. The studies by the commission shall constitute a legislative inquiry and, in the performance of its duties, the commission may proceed in the same manner as joint committees of the Legislature are authorized to proceed under the provisions of chapter 13 of Title 52 of the Revised Statutes.

C.40A:1A-8 Appropriations, grants to commission.

9. The commission is authorized to apply for, contract for, receive and expend for its purposes, any appropriation or grants from the State, its political subdivisions, the federal government, or any other source, public or private.

C.40A:1A-9 Executive Director, employees of commission; compensation.

10. a. The commission shall employ and set the compensation of an Executive Director, who shall serve at its pleasure. The Executive Director may employ professional, technical, legal, clerical, or other staff or consultants, as necessary and authorized by the commission and may remove such staff.

b. The staff of the commission shall be within the unclassified service of the State, and their compensation shall be determined by the commission within the limitations of appropriations for commission purposes.

C.40A:1A-10 Commission may establish committees.

11. a. The commission may establish committees as it deems advisable and feasible whose membership shall include at least one member of the commission. A committee may review issues before the commission but only the commission itself may set policy or take official action.

b. The commission may hold public hearings from time to time on matters within its purview.

12. This act shall take effect immediately.

Approved June 19, 1991.

CHAPTER 166

AN ACT concerning low-level radioactive waste generator fees and amending and supplementing P.L.1987, c.333.

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

1. Section 3 of P.L.1987, c.333 (C.13:1E-179) is amended to read as follows:

C.13:1E-179 Definitions.

3. As used in this act:

a. "Board" means the New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board created pursuant to section 4 of this act;

b. "Commission" means the Northeast Interstate Low-Level Radioactive Waste Commission created pursuant to Article IV of P.L.1983, c.329 (C.32:31-5);

c. "Committee" means the New Jersey Radioactive Waste Advisory Committee created pursuant to section 6 of this act;

d. "Department" means the Department of Environmental Protection;

e. "Disposal" means the isolation of low-level radioactive waste from the biosphere for the hazardous life of the waste;

f. "Environmental and health impact statement" means a statement of likely environmental and public health impacts resulting from the construction and operation of the regional low-level radioactive waste disposal 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;

g. "Host municipality" means the municipality in which a regional low-level radioactive waste disposal facility is to be located;

h. "Facility" means the land, buildings, equipment, and improvements used or developed for the treatment, storage, or disposal of the low-level radioactive wastes generated within the party states to the Northeast Interstate Low-Level Radioactive Waste Management Compact;

i. "Low-level radioactive waste" means radioactive waste that (1) is neither high-level waste nor spent fuel, nor by-product material as defined in paragraph (2) of subsection (e) of 42 U.S.C. §2014; 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 the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C. §2021b et seq.) and the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C. §2021b et seq.) or federal research and development activities;

j. "Owner or operator" means, in addition to the usual meanings thereof, every owner of record of any interest in land whereon the facility is located;

k. "Plan" means the Low-Level Radioactive Waste Disposal Plan adopted by the board pursuant to section 10 of this act;

l. "Region" means the geographical area encompassed by the combined jurisdictions of the party states to the Northeast Interstate Low-Level Radioactive Waste Management Compact;

m. "Site" means both the physical location with a buffer zone and the technology employed to isolate low-level radioactive waste at that location; and

n. "Generator" means any person, association, public utility, hospital, clinic, research laboratory, corporation, society, radiopharmaceutical facility, academic facility, or nuclear medical research facility that produces low-level radioactive waste, or any other entity identified by the board that produces low-level radioactive waste, or that is licensed by the United States Nuclear Regulatory Commission to use, possess, handle or dispose of radioactive materials.

2. Section 5 of P.L.1987, c.333 (C.13:1E-181) is amended to read as follows:

C.13:1E-181 Powers, duties of board.

5. The board shall have the following powers and duties:

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 its pleasure;
- c. To enter into contracts upon such terms and conditions as the board shall determine to be reasonable, and to pay or compromise any claim arising therefrom;
- d. To 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 these purposes;
- e. To contract for and to accept any gifts or grants or loans of funds or financial or other aid in any form from the United States of America or any agency, instrumentality or political subdivision thereof, and to comply, subject to the provisions of the act, with terms and conditions thereof;
- f. To employ an executive director, consulting engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the board to carry out the purposes of this act, and to fix and pay their compensation from funds available to the board therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;
- g. To hold public meetings or hearings within this State on any matter related to the siting of a regional low-level radioactive waste facility;
- h. To administer the regional low-level radioactive waste disposal facility siting process established in this act, and to instruct all participants in the process as to methods and actions designed to provide for an effective and efficient implementation of the process;
- i. To take actions necessary or appropriate to maximize the source and volume reduction of low-level radioactive waste generated within the region;
- j. To seek and review proposals for the construction, maintenance, operation, closure, and post-closure observation and maintenance of the regional low-level radioactive waste disposal facility on the established site, and make recommendations as appropriate;
- k. 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;
- l. To provide such information as necessary to both the department and the commission;
- m. To use such information as may be developed by the commission or its contract agents;
- n. To maintain oversight and supervision of the construction, maintenance, operation, closure, and post-closure observation and maintenance of a facility sited pursuant to the provisions of this act; and

o. To assess and collect fees from generators sufficient to meet all expenses incurred by the board and the department in implementing the provisions of this act.

In addition, the board and its representatives, agents, or employees shall have the right of entry to perform any and all actions necessary and contingent to its site selection duties.

C.13:1E-181.1 Registration of generator, fees.

3. a. Every generator shall register with the board, on a form and in a manner prescribed by the board, and pay an annual fee in an amount set by the board pursuant to rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The board may set annual fees in accordance with a sliding scale based upon the activity and the volume of the low-level radioactive waste produced by the generator, and on any other factors the board deems relevant.

b. The fees authorized pursuant to this section may be assessed on the basis of calculations which shall include, but need not be limited to, the cost of site selection, characterization, design and engineering, land acquisition, the construction, operation and closure of a facility, and any other costs associated with the license application required to be submitted by the board to the United States Nuclear Regulatory Commission pursuant to the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C. §2021b et seq.). The board may also assess and collect fees in amounts necessary to defray costs incurred by the department in implementing the relevant provisions of P.L.1987, c.333 (C.13:1E-177 et seq.), and costs incurred by the department in complying with the provisions of the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C. §2021b et seq.) and the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C. §2021b et seq.).

C.13:1E-181.2 Fees paid to board considered current expense of providing utility service.

4. a. The Board of Public Utilities shall consider all fees paid to the board by a public utility pursuant to section 3 of this act 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.

b. (1)The Commissioner of Health shall recommend to the Hospital Rate Setting Commission adjustments to the reimbursement rates for affected generators for fees imposed pursuant to section

3 of this act, but that are not currently reimbursed under the rate setting system established by section 5 of P.L.1978, c.83 (C.26:2H-4.1). The Division of Medical Assistance and Health Services shall recommend to the Commissioner of Human Services adjustments to the reimbursement rates under Medicaid for affected generators for fees that are imposed pursuant to section 3 of this act, but that are not currently reimbursed under the Medicaid rate setting system.

(2) The Commissioner of Health shall develop and implement a generic appeal process, under which any hospital may petition the Hospital Rate Setting Commission under the appropriate appeal option for the expeditious reimbursement of the fees imposed pursuant to section 3 of this act, to the extent that the fees are not currently reimbursed under the rate setting established by P.L.1971, c.136 (C.26:2H-1 et seq.) or section 5 of P.L.1978, c.83 (C.26:2H-4.1), as the case may be.

C.13:1E-181.3 Low-Level Radioactive Waste Disposal Facility Fund established.

5. a. The Low-level Radioactive Waste Disposal Facility Fund is established as a nonlapsing revolving fund in the Department of Environmental Protection. The fund shall be administered by the New Jersey Low-Level Radioactive Waste Disposal Facility Siting Board, and shall be credited with all fees collected pursuant to section 3 of this act. Moneys in the fund shall be used by the board, or the department, as the case may be, to implement the provisions of P.L.1987, c.333 (C.13:1E-177 et seq.), the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C. §2021b et seq.) and the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C. §2021b et seq.). The expenditure of moneys in the fund shall be subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury. In the event that the board ceases operation or that additional expenditures are not otherwise required, any moneys remaining in the fund shall be returned to generators in the same proportion in which the fees were assessed and paid.

b. The board shall cause an annual audit to be made of the fund and all expenditures of moneys from the fund. The audit shall include a determination of the extent to which the expenditures directly relate to costs incurred in the implementation of the relevant provisions of P.L.1987, c.333 (C.13:1E-177 et seq.), the "Low-Level Radioactive Waste Policy Act," Pub.L.96-573 (42 U.S.C. §2021b et

seq.), and the "Low-Level Radioactive Waste Policy Amendments Act of 1985," Pub.L.99-240 (42 U.S.C. §2021b et seq.), including, but not limited to, salaries and administrative expenses. Each annual audit shall be subject to review by the State Auditor, and shall be transmitted to the presiding officer of each House of the Legislature and to the respective chairpersons of the Senate Land Use Management and Regional Affairs Committee, the Senate Environmental Quality Committee, the Assembly Waste Management, Planning and Recycling Committee, the Assembly Energy and Environment Committee, and the Assembly Conservation and Natural Resources Committee, or their successors.

6. This act shall take effect immediately.

Approved June 19, 1991.

CHAPTER 167

AN ACT concerning certain students at New Jersey institutions of higher education.

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

1. A student who is a member of the New Jersey National Guard or of the Reserve component of the Armed Forces of the United States, and who is unable to complete a course or courses at a New Jersey institution of higher education because the student is called to active duty in consequence of the current United Nations action in the Persian Gulf known as operation "Desert Shield" or "Desert Storm," shall be entitled to receive a grade in each course for which the student has completed a minimum of 8 weeks' attendance and all other academic requirements during that period. The grade shall be based upon the work which the student had completed up to the time when the student was called to active service.

2. Any student who has not completed a minimum of 8 weeks' attendance and all other academic requirements during that period in a course or who does not wish to receive a grade on the basis provided for in section 1 of this act shall be entitled to receive: a. a grade of incomplete in that course which shall remain valid for

a period of one year after the date on which the student returns to study at the institution; b. a grade of pass/fail in that course; or c. a refund of tuition and fees for that course.

3. Any student who has paid room, board, or other fees to the institution shall be entitled to a refund of the portion of those charges attributable to the time period in which the facilities or services were not used by the student.

4. This act shall take effect immediately, shall apply to the 1990-91 academic year and thereafter and shall expire one year following the termination of operation "Desert Storm."

Approved June 19, 1991.

CHAPTER 168

AN ACT concerning special motor vehicle registration plates for a mayor or chief executive of a municipality and supplementing Title 39 of the Revised Statutes.

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

C.39:3-27.42 Special registration plates for mayor, chief executive of municipality, fee, violation, penalty, rules, regulations.

1. a. Upon the application of any person who is the mayor or chief executive of a municipality in this State, the Director of the Division of Motor Vehicles shall issue special registration plates bearing the word "mayor" in addition to the registration number and other markings or identification prescribed by law for display on a motor vehicle owned or leased by the applicant. Only one set of special registration plates shall be issued to an applicant. The special plates shall be displayed only on the vehicle for which they were issued.

b. The special registration plates authorized by this section shall be issued upon proof to the director in the form of a notarized letter from the clerk of the municipality in which the applicant is the mayor or chief executive verifying that the applicant is the mayor or chief executive.

c. The fee for the motor vehicle registration plates issued under this section shall be \$25.00, in addition to the fees other-

wise prescribed by law for the registration of motor vehicles. The fees collected for the issuance of these special plates shall be appropriated to the Division of Motor Vehicles to fund the additional costs incurred for the issuance of the plates.

d. A person possessing special registration plates issued under this section who ceases to be the mayor or chief executive of a municipality shall surrender the plates to the director within 30 days after leaving office. If the special registration plates are not surrendered to the director within 30 days, the director may revoke the registration of the motor vehicle for which the special plates were issued.

e. A person who violates a provision of this section shall be fined \$50.00.

f. 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.) necessary to effectuate the purpose of this act.

2. This act shall take effect on the 180th day after enactment.

Approved June 19, 1991.

CHAPTER 169

AN ACT concerning the retail sale of alcoholic beverages, amending R.S.33:1-81 and P.L.1979, c.264 and supplementing chapter 1 of Title 33 of the Revised Statutes.

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:

Misrepresenting age to induce sale or delivery to minor; disorderly person.

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 \$500.00. In addition, the court shall suspend or postpone the person's license to operate a motor vehicle for six months.

Upon the conviction of any person under this section, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40.

If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate given the age at the time of sentencing, the non-resident driving privilege of the person and submit to the division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

In addition to the general penalties 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.

2. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to read as follows:

C.2C:33-15 Consumption of alcoholic beverages by persons under legal age; penalty.

1. a. Any person under the legal age to purchase alcoholic beverages who knowingly possesses without legal authority or who knowingly consumes any alcoholic beverage in any school, public conveyance, public place, or place of public assembly, or motor vehicle, is guilty of a disorderly persons offense, and shall be fined not less than \$500.00.

b. Whenever this offense is committed in a motor vehicle, the court shall, in addition to the sentence authorized for the offense, suspend or postpone for six months the driving privilege of the defendant. Upon the conviction of any person under this section, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the division along with

the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40.

If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

c. In addition to the general penalty prescribed for a disorderly persons offense, the court may require any person who violates this act to participate in an alcohol education or treatment program, authorized by the Department of Health, for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

d. Nothing in this act shall apply to possession of alcoholic beverages by any such person while actually engaged in the performance of employment pursuant to an employment permit issued by the Director of the Division of Alcoholic Beverage Control, or for a bona fide hotel or restaurant, in accordance with the provisions of R.S.33:1-26.

e. The provisions of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a parent, guardian or other person with legal custody of a person under 18 years of age who is found to be in violation of this section.

C.33:1-81.1a Violations by parent, guardian, notification, fine.

3. A parent, guardian or other person having legal custody of a person under 18 years of age found in violation of R.S.33:1-81 or section 1 of P.L.1979, c.264 (C.2C:33-15) shall be notified of the violation in writing. The parent, guardian or other person having

legal custody of a person under 18 years of age shall be subject to a fine in the amount of \$500.00 upon any subsequent violation of R.S.33:1-81 or section 1 of P.L.1979, c.264 (C.2C:33-15) on the part of such person if it is shown that the parent, guardian or other person having legal custody failed or neglected to exercise reasonable supervision or control over the conduct of the person under 18 years of age.

4. This act shall take effect immediately.

Approved June 19, 1991.

CHAPTER 170

AN ACT concerning solid waste collection, amending P.L.1989, c.244, R.S.48:3-3, P.L.1970, c.40, and supplementing chapter 66 of Title 40 of the Revised Statutes.

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

C.40:66-5.1 Municipality to adopt proof of service ordinance for solid waste generators.

1. a. The governing body of any municipality wherein solid waste collection services are contracted for and provided, wholly or in part, on an individual, private contract basis shall, within 60 days of the effective date of this act, adopt a proof of service ordinance which requires all responsible solid waste generators to contract or otherwise lawfully provide for the collection of solid waste generated at those premises in the manner provided by the ordinance.

b. Each proof of service ordinance required pursuant to this section shall include:

(1) In the case of single-family residential housing, a requirement that each responsible solid waste generator, in those instances where a solid waste collection system is not otherwise provided for by the municipality and if he has not already done so, enter into a contract for regular solid waste collection service with any person lawfully providing private solid waste collection services within the municipality; except that the ordinance may include an exemption from this requirement in those instances where the responsible

solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal;

(2) In the case of multi-family residential housing, a requirement that the responsible solid waste generator, in those instances where a solid waste collection system is not otherwise provided for by the municipality and if he has not already done so, enter into a contract for regular solid waste collection service with any person lawfully providing private solid waste collection services within the municipality; except that the ordinance may include an exemption from this requirement in those instances where the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal. It shall be the responsibility of the owner of the multiple dwelling to provide a sufficient number of appropriate solid waste containers for the deposit of nonrecyclable waste materials to be disposed of as solid waste;

(3) In the case of any commercial or institutional building or structure located within the boundaries of the municipality, a requirement that the responsible solid waste generator, in those instances where regular solid waste collection services are not otherwise provided for, enter into a contract with any person lawfully providing private solid waste collection services within the municipality; and

(4) In the case of a responsible solid waste generator, within the municipality, who is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal, a requirement that every such responsible solid waste generator within the municipality furnish proof that the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal to the governing body of the municipality at least once every 12 months. In order to fulfill the requirements of this subsection, the responsible solid waste generator may include the proof of service with the municipal tax payment mailed to the municipal tax collector.

c. The governing body shall, within six months of the effective date of a proof of service ordinance adopted pursuant to this section and at least once every six months thereafter, notify all responsible solid waste generators of the requirements of the ordinance. In order to fulfill the notification requirements of this

subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

C.40:66-5.2 Solid waste generators provided opportunity to contract for collection services.

2. a. The provisions of any other law, rule or regulation to the contrary notwithstanding, the governing body of any municipality may request that every solid waste collector engaging in private solid waste collection services within the municipality who is registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) and holds a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9) provide all responsible solid waste generators with the opportunity to contract for, on an individual basis, regular solid waste collection services, if the responsible solid waste generator is required to do so by a proof of service ordinance adopted pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1).

b. The governing body of any municipality may request any solid waste collector engaging in private solid waste collection services within the municipality to assist the municipality in identifying those responsible solid waste generators who fail to comply with the provisions of section 1 of P.L.1991, c.170 (C.40:66-5.1).

c. Whenever the governing body adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), or requests a solid waste collector to provide all responsible solid waste generators with the opportunity to contract for regular solid waste collection services pursuant to subsection a. of this section, the governing body shall notify the Board of Public Utilities of these actions by certified mail.

d. In the event that a solid waste collector refuses any request to provide responsible solid waste generators with the opportunity to contract for regular solid waste collection services pursuant to subsection a. of this section, the governing body shall notify the Board of Public Utilities of this refusal by certified mail.

e. Whenever the governing body of a municipality adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), the governing body shall notify the owner or

operator of every solid waste facility utilized by the municipality of this action by certified mail.

C.40:66-5.3 Solid waste facility may establish hours for direct transport of solid waste for disposal.

3. The provisions of any other law, or of any rule or regulation adopted pursuant thereto, to the contrary notwithstanding, the owner or operator of a solid waste facility utilized by a municipality that adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), may establish weekly hours during which individuals may directly transport the solid waste generated at their residential premises for disposal at the solid waste facility. The owner or operator of such solid waste facility shall establish an equitable rate schedule for individual solid waste disposal by citizens on a per pound basis.

4. Section 6 of P.L.1989, c.244 (C.40:66-1.1) is amended to read as follows:

C.40:66-1.1 Definitions.

6. As used in this chapter:

“Proof of collection service” means a written record, log, bill or document evidencing receipt of service for the collection of solid waste for the preceding month from a person lawfully engaging in private solid waste collection services within a municipality.

“Regular solid waste collection service” means the scheduled pick-up and removal of solid waste from residential, commercial or institutional premises located within the boundaries of any municipality at least once a week.

“Responsible solid waste generator” means any property owner, tenant or occupant of any single-family residential dwelling or multiple dwelling, or the owner of any commercial or institutional building or structure located within the boundaries of any municipality, who generates solid waste at those premises.

“Solid waste” means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

“Solid waste collection” means the activity related to pick-up and transportation of solid waste from its source or location to a solid waste facility or other destination.

“Solid waste container” means a receptacle, container or bag suitable for the depositing of solid waste.

“Solid waste disposal” means the storage, treatment, utilization, processing, or final disposal of solid waste.

“Solid waste facilities” mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of this or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

5. R.S.48:3-3 is amended to read as follows:

Improper service; refusal or withholding of service.

48:3-3. a. No public utility shall provide or maintain any service that is unsafe, improper or inadequate, or withhold or refuse any service which reasonably can be demanded or furnished when ordered by the board.

b. The board, upon receipt of a notification of refusal to provide solid waste collection services within a municipality pursuant to section 2 of P.L.1991, c.170 (C.40:66-5.2), may order the solid waste collector to provide these services in accordance with the provisions of R.S.48:2-23.

6. Section 9 of P.L.1970, c.40 (C.48:13A-8) is amended to read as follows:

C.48:13A-8 Performance bond; failure to complete contract.

9. a. Every person engaged in the business of solid waste collection or solid waste disposal shall furnish and file with the board, in connection with each contract or agreement entered into by him for the provision of such service, a performance bond in such amount as may be required by the board in rules or regulations adopted by the board.

b. Should any person engaged in the solid waste collection business or the solid waste disposal business fail or refuse to complete, execute or perform any contract or agreement obligating such person to provide such service, the board may order any person engaged in the solid waste collection business or the solid waste disposal business to extend his collection or disposal service into any area where service has been discontinued in accordance with the provisions of R.S.48:2-27, and the board shall:

- (1) fix an appropriate initial rate for solid waste collection service; or
- (2) fix and exercise continuing jurisdiction over just and reasonable rates and charges for solid waste disposal service in the extended area.

c. Should any person engaged in the solid waste collection business refuse to furnish solid waste collection services within a municipality pursuant to section 2 of P.L.1991, c.170 (C.40:66-5.2), the board may order the solid waste collector to provide these services in accordance with the provisions of R.S.48:2-23.

7. This act shall take effect immediately.

Approved June 19, 1991.

CHAPTER 171

AN ACT concerning the requirements for continuing education by registered optometrists, and amending P.L.1975, c.24.

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

1. Section 2 of P.L.1975, c.24 (C.45:12-9.2) is amended to read as follows:

C.45:12-9.2 Requirement of continuing education; exemption; approval of programs by board.

2. All registered active optometrists now or hereafter licensed in the State of New Jersey shall be required to take courses of study relating to the practice of the profession of optometry or to maintain proficiency in some other alternative manner to be prescribed and established by the New Jersey State Board of Optometrists; except that

any practitioner who has been granted his license by examination during the preceding year shall be exempt from this requirement for the succeeding year. The board shall approve only such continuing educational programs as are available to all persons practicing optometry in the State on a reasonable nondiscriminatory basis. The board may approve programs to be held within or without the State of New Jersey. The board shall approve such programs that enable optometrists in all sections of the State to attend such programs. In no event shall the board approve a program offered by any professional association that discriminates against any licensed optometrists in the State, except that the board shall permit a professional association to impose a differential in registration fees not to exceed 130% of the fee charged to members of that professional association.

2. This act shall take effect immediately.

Approved June 19, 1991.

CHAPTER 172

AN ACT concerning the letting of school property to certain non-profit organizations and amending P.L.1978, c.91.

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

1. Section 1 of P.L.1978, c.91 (C.18A:20-8.2) is amended to read as follows:

C.18A:20-8.2 Lease of school lands.

1. a. Whenever any board of education shall by resolution determine that any tract of land, whether there is a building thereon or not, or part or all of a school building, is not necessary for school purposes, but which it does not desire to dispose of for reason that the property may, at some future time, again be required for school purposes, it may authorize the lease thereof for a term extending beyond the official life of the board; provided that the noneducational uses of such building or tract of land are compatible with the establishment and operation of a school, as determined by the Commissioner of Education, if joint

occupancy of such site is considered. The lease shall be binding upon the successor board as follows:

(1) After advertisement of the request for bids to lease to the highest bidder in a newspaper published in the school district, or, if none is published therein, then in a newspaper circulating in the district in which the same is situate, at least once a week for two weeks prior to the date fixed for the receipt and opening of bids, unless:

(2) The same is leased to the federal government, State, a political subdivision thereof, another school district, any board, body or commission of a municipality within the school district, any volunteer fire company or rescue squad actively engaged in the protection of life and property and duly incorporated under the laws of the State of New Jersey, or to any American Legion post, Veterans of Foreign Wars, or other recognized veterans' organization of the United States of America, located in the municipality or the county, as a meeting place for such organization, or to a nonprofit child care service organization duly incorporated under the laws of the State of New Jersey, or to a nonprofit hospital duly licensed under the laws of the State of New Jersey, or to a nonprofit organization duly licensed under the laws of the State of New Jersey to provide emergency shelter for the homeless, or to a nonprofit senior citizen organization, or to a nonprofit historic preservation organization duly incorporated under the laws of the State of New Jersey, in which case the same may be leased by private agreement for a nominal fee without advertisement for bids.

b. Any lease in excess of five years shall be approved by the Commissioner of Education.

2. This act shall take effect immediately.

Approved June 19, 1991.

CHAPTER 173

AN ACT to validate certain proceedings for the issuance of bonds 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 meeting or 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 any proposal adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that a supplemental debt statement was not prepared and filed as required by the provisions of N.J.S.18A:24-17; provided that a supplemental debt statement heretofore has been prepared and filed in the places required by N.J.S.18A:24-17 and notwithstanding that notices relating to such election were not published as required by the provisions of N.J.S.18A:14-19; provided that notices of such election were posted prior to the election in accordance with the provisions of N.J.S.18A:14-19 and notwithstanding that two clerks of elections were not appointed for each polling district as required by the provisions of N.J.S.18A:14-6; and provided further, that no action, suit, or other proceeding of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act shall take effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, if instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved June 21, 1991.

CHAPTER 174

AN ACT concerning the issuance of purchase orders by local government units for State licenses and permits.

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

C.40A:5-16.4 Issuance, acceptance of purchase order for license or permit fee.

1. Except as provided below, whenever a department, agency or bureau of the State requires that the fee for issuing a license or permit be paid in advance, a county, municipality, authority, or other subdivision of local government shall be deemed to have met that requirement by the issuance of a duly executed purchase

order payable pursuant to the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-1 et seq.):

a. the Division of Motor Vehicles in the Department of Law and Public Safety shall not be required to accept a duly executed purchase order; and

b. the Department of Transportation may accept a duly executed purchase order from a county, municipality, authority, or other subdivision of local government for the fee for issuing a license or permit if the department determines that its accounting procedures permit the acceptance of such purchase orders.

2. Each department, agency or bureau of the State may promulgate rules and regulations which it deems necessary for the effective implementation of this act.

3. This act shall take effect immediately.

Approved June 26, 1991.

CHAPTER 175

AN ACT concerning the chief financial officers of municipalities, amending various parts of the statutory law, and repealing section 5 of P.L.1971, c.413 and section 1 of P.L.1977, c.39.

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

1. Section 1 of P.L.1971, c.413 (C.40A:9-140.1) is amended to read as follows:

C.40A:9-140.1 Definitions.

1. As used in this act:

a. "Director" means the Director of the Division of Local Government Services.

b. "Municipal finance officer" means a municipal director of finance, assistant director of finance, fiscal officer, municipal comptroller, assistant comptroller, municipal treasurer, assistant municipal treasurer or deputy treasurer who is not a member of the governing body of a municipality.

c. "Local unit" means a municipality or a utility owned by a single municipality or owned jointly by one or more municipalities, which together do not comprise a county.

d. "Chief financial officer" means the official appointed pursuant to section 5 of P.L.1988, c.110 (C.40A:9-140.10) to be responsible for the proper financial administration of the municipality under the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.); the "Local Bond Law," (N.J.S.40A:2-1 et seq.); the "Local Budget Law," (N.J.S.40A:4-1 et seq.); the "Local Fiscal Affairs Law," (N.J.S.40A:5-1 et seq.); the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and such other statutes, and such rules and regulations promulgated by the Director of the Division of Local Government Services, the Local Finance Board, or any other State agency, as may pertain to the financial administration of the municipality.

2. Section 2 of P.L.1971, c.413 (C.40A:9-140.2) is amended to read as follows:

C.40A:9-140.2 Certification as municipal finance officer.

2. a. The director shall hold examinations semi-annually, and at such times as he may determine appropriate for certification of municipal finance officers. An applicant for examination shall present to the director written application on forms provided by the Division of Local Government Services, showing that the applicant is not less than 21 years of age, is a citizen of the United States, is of good moral character, has obtained a certificate or diploma issued after at least four years of study in an approved secondary school or has received an academic education considered and accepted by the Commissioner of Education of this State as fully equivalent, and has graduated from a four-year course at a college of recognized standing with a major course of study in business administration, accounting or equivalent subject.

b. An applicant who does not possess the college degree required under subsection a. above may qualify to take the examination by furnishing proof of four years of full-time experience in a position as a municipal director of finance, assistant director of finance, fiscal officer, municipal comptroller, assistant comptroller, municipal treasurer, assistant municipal treasurer or deputy treasurer in any local unit. An applicant who does not possess four years of full-time experience in such a position may substitute one year of college education for one year of experience, up to a maximum of two years

of college education. For the purpose of this section, one full year of college education is equal to 30 college credits.

c. Every applicant shall furnish proof that he has received certificates indicating satisfactory completion of complete training courses in municipal finance administration, municipal current fund accounting I and II, municipal capital and trust fund accounting, municipal utility fund accounting, municipal budget preparation and control, and principles of financial management, as are provided by the Division of Local Government Services or Rutgers, The State University, with the approval of the Division of Local Government Services.

d. Every applicant submitting an application after January 1, 1992 shall also furnish proof that he has received a certificate indicating satisfactory completion of a complete training course in the preparation of annual financial statements as provided by the Division of Local Government Services, or Rutgers, The State University, with the approval of the Division of Local Government Services.

e. Each completed application form shall be accompanied by a fee in the amount of \$50, payable to the State Treasurer and shall be filed with the director at least 30 days prior to the date of examination. Examinations shall be written, or both written and oral, and shall be of such character as fairly to test and determine the ability of the person tested to perform the duties of chief financial officer.

3. Section 3 of P.L.1971, c.413 (C.40A:9-140.3) is amended to read as follows:

C.40A:9-140.3 Issuance of certificate; fee.

3. Upon finding by the director that the applicant has successfully completed the examination, a municipal finance officer certificate shall be issued to the applicant, upon the payment of a fee of \$50 to the order of the Treasurer of the State of New Jersey.

4. Section 4 of P.L.1971, c.413 (C.40A:9-140.4) is amended to read as follows:

C.40A:9-140.4 Issuance of certificate to registered municipal accountant; fee.

4. Notwithstanding the qualifications established in section 2 of this act, a municipal finance officer certificate shall be issued to any person who is licensed as a registered municipal accountant in the State of New Jersey who shall make application as required in section 2 of this act, and who shall furnish proof that he has received a certificate indicating satisfactory completion or instruc-

tion of a training course in principles of financial management, as provided by the Division of Local Government Services or Rutgers, The State University, with the approval of the Division of Local Government Services of the State, upon payment of a fee of \$50 to the order of the Treasurer of the State of New Jersey.

5. Section 6 of P.L.1971, c.413 (C.40A:9-140.6) is amended to read as follows:

C.40A:9-140.6 Membership on governing body prohibited.

6. No person shall serve as the chief financial officer of any municipality in which he serves as a member of the governing body.

6. Section 2 of P.L.1977, c.39 (C.40A:9-140.8) is amended to read as follows:

C.40A:9-140.8 Tenure of office.

2. a. Notwithstanding the provisions of any other law to the contrary, any person who has served as the chief financial officer of a municipality for four consecutive years and who is reappointed as that municipality's chief financial officer shall be granted tenure of office upon filing with the clerk of the municipality and with the Division of Local Government Services in the Department of Community Affairs a notification evidencing his compliance with this section.

b. Thereafter, the person shall continue to hold office during good behavior and efficiency, and shall not be removed therefrom except for just cause and then only after a public hearing upon a written complaint setting forth the charge or charges against him pursuant to section 3 of P.L.1977, c.39 (C.40A:9-140.9) or upon expiration or revocation of certification by the director pursuant to section 7 of P.L.1988, c.110 (C.40A:9-140.12).

7. Section 3 of P.L.1977, c.39 (C.40A:9-140.9) is amended to read as follows:

C.40A:9-140.9 Complaint; hearing; proceedings.

3. The complaint shall be filed with the municipal clerk and the director and a certified copy thereof shall be served upon the person so charged. The director shall thereafter designate a hearing date before the director or his designee, which shall be not less than 30 days nor later than 60 days from the date of service of the

complaint. The hearing date may be extended by the Superior Court for good cause shown upon the application of either party.

The person so charged and the complainant shall have the right to be represented by counsel and the power to subpoena witnesses and documentary evidence, together with discovery proceedings.

The Superior Court shall have jurisdiction to review the determination of the director, which court shall hear the cause de novo on the record below and affirm, modify or set aside such determination.

Either party may supplement the record with additional testimony subject to the rules of evidence.

8. Section 5 of P.L.1988, c.110 (C.40A:9-140.10) is amended to read as follows:

C.40A:9-140.10 Municipality required to have chief financial officer.

5. Notwithstanding the provisions of any law to the contrary, in every municipality there shall be a chief financial officer appointed by the governing body of the municipality. The term of office shall be four years, which shall run from January 1 in the year in which the chief financial officer is appointed. The compensation for the chief financial officer shall be separately set forth in a municipal salary ordinance.

If a governing body fails or refuses to comply with this section, and has received an order from the director to do so, the members of a governing body who willfully fail or refuse to comply shall each be subject to a personal penalty of \$25 for each day after the date fixed for final action that failure or refusal to comply continues. The amount of the penalty may be recovered by the director in the name of the State as a personal debt of the member of the governing body, and shall be paid, upon receipt, into the State Treasury.

9. Section 6 of P.L.1988, c.110 (C.40A:9-140.11) is amended to read as follows:

C.40A:9-140.11 Issuance of municipal finance officer certificate, interim basis.

6. Notwithstanding the qualifications established in section 2 of P.L.1971, c.413 (C.40A:9-140.2), a municipal finance officer certificate may be issued without fee by the director to any employee of the Division of Local Government Services, for the sole purpose of enabling that employee to serve as a chief financial officer on an interim basis in any local unit when so instructed by the director.

When an employee of the director is instructed to serve as a chief financial officer for a municipality on an interim basis, the director may establish a fee based upon the time spent and other expenses for such work. The municipality shall, upon request for payment for chief financial officer services, forward a check to the director, payable to the State Treasurer. The amount, if not paid when billed, shall be recoverable in an action at law.

10. Section 7 of P.L.1988, c.110 (C.40A:9-140.12) is amended to read as follows:

C.40A:9-140.12 Revocation, suspension of municipal finance officer certificate.

7. Any municipal finance officer certificate may be revoked or suspended by the director for dishonest practices or willful or intentional failure, neglect or refusal to comply with the Constitution of the State of New Jersey or laws relating to municipal finances or other good cause. The governing body together with the appropriate chief executive officer of any municipality may request a review by the director of the behavior or practices of a certified municipal finance officer. The director may also initiate a review of the behavior or practices of a certified municipal finance officer if he finds it advisable to do so through the normal exercise of his statutory duties and responsibilities. No certificate shall be revoked or suspended except under a proper hearing before the director or his designee after due notice. If the municipal finance officer certificate of a person serving as a chief financial officer or municipal finance officer shall be revoked, such person shall be removed from his office or position by the director, the office or position shall be declared vacant, and the person shall not be eligible to hold that office or position or to make application for recertification for a period of five years from the date of revocation.

11. Section 8 of P.L.1988, c.110 (C.40A:9-140.13) is amended to read as follows:

C.40A:9-140.13 Chief financial officer required to hold certificate, awarding of tenure, vacancies.

8. a. Commencing January 1, 1991, no person shall be appointed or reappointed as a chief financial officer unless he holds a municipal finance officer certificate issued pursuant to the provisions of P.L.1971, c.413 (C.40A:9-140.1 et seq.) or this act.

b. Any person who has, on or before the effective date of P.L.1988, c.110 been granted tenure pursuant to the provisions of section 2 of P.L.1977, c.39 (C.40A:9-140.8) or the provisions of N.J.S.40A:9-152, may continue to serve in his current position and shall not be removed from office or denied reappointment except for just cause and then only after a public hearing conducted pursuant to sections 2 and 3 of P.L.1977, c.39 (C.40A:9-140.8 and C.40A:9-140.9).

c. Any certified municipal finance officer who has been appointed as the chief financial officer of a municipality pursuant to section 5 of P.L.1988, c.110 (C.40A:9-140.10) subsequent to the effective date of P.L.1988, c.110 and who thereafter filed with the clerk of that municipality and with the Division of Local Government Services in the Department of Community Affairs a notification that he had complied with the requirements of section 2 of P.L.1977, c.39 (C.40A:9-140.8) shall be considered to have been granted tenure and shall accordingly be entitled to the protections set forth in subsection b. of section 2 of P.L.1977, c.39 (C.40A:9-140.8).

d. Notwithstanding the provisions of any other law to the contrary, any person who has served as a municipal finance officer in the same municipality for a period of not less than five consecutive years while holding a municipal finance officer certificate issued in accordance with P.L.1971, c.413 (C.40A:9-140.1 et seq.), and who thereafter is appointed as the chief financial officer of that municipality, shall be granted tenure of office upon the filing with the clerk of the municipality and the Director of the Division of Local Government Services in the Department of Community Affairs a notification evidencing his compliance with this section.

e. A municipal finance officer who has held office continuously for five consecutive years in the same municipality may continue to serve in his current position and shall not be removed from office or denied reappointment for failure to qualify as a certified municipal finance officer pursuant to provisions of P.L.1971, c.413 (C.40A:9-140.1 et seq.) or this act. However, any such individual shall not be entitled to be appointed as the chief financial officer of that municipality unless he possesses a municipal finance officer certificate.

f. When a vacancy occurs in the office of chief financial officer following the appointment of a certified municipal finance officer to that office, the governing body or chief executive officer, as appropriate, may appoint, for a period not to exceed one year and commencing on the date of the vacancy, a person who does not

hold a municipal finance officer certificate to serve as a temporary chief financial officer. Any person so appointed may, with the approval of the director, be reappointed as chief financial officer following the termination of the temporary appointment for one additional year. No local unit shall have a temporary chief financial officer for more than two consecutive years.

g. Upon application by a municipal governing body to the director, an individual without a municipal finance officer certificate may, with the approval of the director, be appointed to serve as the chief financial officer in a municipality in which he is presently employed if that individual meets all of the requirements established under subsection a. of section 2 of P.L.1971, c.413 (C.40A:9-140.2) and further has completed four of the seven training courses identified in subsection b. of section 2 of P.L.1971, c.413 (C.40A:9-140.2), at least two of which shall be accounting courses. If any individual appointed as a chief financial officer pursuant to this subsection fails to obtain a municipal finance officer certificate prior to January 1, 1992, his appointment as chief financial officer shall lapse and the municipal governing body shall appoint a certified municipal finance officer as the municipality's chief financial officer.

12. Section 9 of P.L.1988, c.110 (C.40A:9-140.14) is amended to read as follows:

C.40A:9-140.14 Prior holders of municipal finance officer certificate continue to hold certificate, issuance of certificate to newly-qualified applicants.

9. a. Any person who holds a municipal finance officer certificate prior to the effective date of P.L.1988, c.110 shall continue to hold the certificate without any further qualifications, except as provided in section 10 of P.L.1988, c.110 (C.40A:9-140.15).

b. Notwithstanding the provisions of this act, on and after the effective date of this act, but not later than one year after the enactment of this act, the director shall issue upon payment of a fee of \$50 to the order of the Treasurer of the State of New Jersey a municipal finance officer certificate to any applicant who has successfully completed the training courses provided in section 2 of P.L.1971, c.413 (C.40A:9-140.2) and who desires to satisfy the experience requirements set forth in section 2 of P.L.1971, c.413 (C.40A:9-140.2) through one or more full years of experience as supervisor of accounts payable and who has successfully com-

pleted the examination administered by the director pursuant to section 2 of P.L.1971, c.413 (C.40A:9-140.2).

13. Section 10 of P.L.1988, c.110 (C.40A:9-140.15) is amended to read as follows:

C.40A:9-140.15 Renewal of municipal finance officer certificates.

10. a. Commencing January 1, 1991, all municipal finance officer certificates, except those issued pursuant to section 4 of P.L.1971, c.413 (C.40A:9-140.4) or pursuant to section 6 of P.L.1988, c.110 (C.40A:9-140.11), shall be renewed upon application, payment of the required fee of \$50, and verification that the applicant has met continuing education requirements, all as set forth in this section. Each renewal shall be for a period of two years. The renewal date shall be 30 days prior to the expiration date.

b. Each municipal finance officer certificate subject to renewal pursuant to this section issued prior to January 1, 1992 shall expire on January 1, 1994. Each municipal finance officer certificate issued on or after January 1, 1992 shall expire two years from the date on which the certificate was originally issued.

c. Each applicant for renewal of a municipal finance officer certificate shall, on a form prescribed by the director, furnish proof of having earned at least 3.0 continuing education units. For the purposes of this section, 1.0 continuing education unit equals 10 contact hours. Upon verification of this requirement, and upon payment of a fee of \$50 to the order of the Treasurer of the State of New Jersey, the director shall renew the municipal finance officer certificate.

d. Where the holder of a municipal finance officer certificate has allowed the certificate to lapse by failing to renew the certificate, a new application and certificate shall be required. If application is made within six months of the expiration of the certificate, then application may be made in the same manner as a renewal.

14. N.J.S.40A:9-165 is amended to read as follows:

Salary ordinances.

40A:9-165. The governing body of a municipality, by ordinance, unless otherwise provided by law, shall fix and determine the salaries, wages or compensation to be paid to the officers and employees of the municipality, including the members of the governing body and the mayor or other chief executive, who by law are entitled to salaries, wages, or compensation.

Salaries, wages or compensation fixed and determined by ordinance may, from time to time, be increased, decreased or altered by ordinance. No such ordinance shall reduce the salary of, or deny without good cause an increase in salary given to all other municipal officers and employees to, any tax assessor, chief financial officer, tax collector or municipal clerk during the term for which he shall have been appointed. Except with respect to an ordinance or a portion thereof fixing salaries, wages or compensation of elective officials or any managerial, executive or confidential employee as defined in section 3 of the "New Jersey Employer-Employee Relations Act" P.L.1941, c.100 (C.34:13A-3), as amended, the ordinance shall take effect as provided therein. In municipalities wherein the provisions of Title 11 (Civil Service) of the Revised Statutes are in operation, this section shall be subject thereto.

Where any such ordinance shall provide for increases in salaries, wages or compensation of elective officials or any managerial, executive or confidential employee, the ordinance or that portion thereof which provides an increase for such elective or appointive officials shall become operative in 20 days after the publication thereof, after final passage, unless within said 20 days, a petition signed by voters of such municipality, equal in number to at least 5% of the registered voters of the municipality, protesting against the passage of such ordinance, be presented to the governing body, in which case such ordinance shall remain inoperative unless and until a proposition for the ratification thereof shall be adopted at an election by a majority of the voters voting on said proposition. The question shall be submitted at the next general election, occurring not less than 40 days from the date of the certification of the petition. The submission of the question to the voters shall be governed by the provisions of Title 19 (Elections) of the Revised Statutes, as in the case of public questions to be voted upon in a single municipality.

15. N.J.S.40A:5-2 is amended to read as follows:

Definitions.

40A:5-2. As used in this chapter and any act amendatory to and supplementary thereto unless the context indicates otherwise: "local unit" means any county, municipality, special district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or municipalities, or any board, commission, department or agency of any of the foregoing having custody of funds, but shall not include a school district;

“governing body” means the governing body of a county or the commission, council, board or body having control of the finances of a municipality or any other local unit as defined herein;

“chief financial officer” means, except in the case of a municipality, the director of revenue and finance, comptroller, treasurer, collector or other financial officer of a local unit. In the case of a municipality, the chief financial officer means the person appointed pursuant to section 5 of P.L.1988, c.110 (C.40A:9-140.10);

“chief executive officer” means the county executive, county manager, county supervisor or president of the board of chosen freeholders, as appropriate to the form of government of a county, or the mayor, manager or commissioner, as appropriate to the form of government of a municipality, or the chairman, president, director or other chief executive officer of any other local unit;

“warrant” means the draft or check of any local unit used in warranting disbursement of moneys and shall, in every instance, be evidenced by the issuance of a check of the local unit. In no instance shall it be necessary for the local unit to refer to, or issue, a check separate and distinct from the warrant;

“check” means the instrument by which moneys of any local unit are disbursed.

Repealer.

16. Section 5 of P.L.1971, c.413 (C.40A:9-140.5) and section 1 of P.L.1977, c.39 (C.40A:9-140.7) are repealed.

17. This act shall take effect on the 60th day after enactment.

Approved June 26, 1991.

CHAPTER 176

AN ACT concerning salaries of police chiefs and supplementing Title 40A of the New Jersey Statutes.

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

C.40A:14-179 Starting salary of police chief, deputy chief.

1. Notwithstanding any other law to the contrary whenever there is a police department organized in any political subdivision of this State and a chief of police appointed to be the executive

head of such department, the starting salary of said chief of police and the deputy chief shall be set at a rate not less than five percent above the highest salary of the ranking police officer next in command below the chief of police or deputy chief of police as appropriate. Thereafter, whenever new salary ranges are set by the governing body or appointive authority, unless the chief of police or deputy chief shall consent to a lesser adjustment, the minimum and maximum salary range for the chief of police and his deputy chief shall be adjusted to reflect at least the same percentage of increase in base salary as is established for other ranking supervisory officers in the department.

2. This act shall take effect immediately.

Approved June 27, 1991.

CHAPTER 177

AN ACT creating additional Superior Court judgeships, raising certain filing fees, making certain provisions for the administration of the courts and revising various sections of the statutory law.

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

1. N.J.S.2B:2-1 is amended to read as follows:

Number of judges.

2B:2-1. Number of Judges. a. The Superior Court shall consist of 402 judges.

b. (1)The Superior Court shall at all times consist of the following number of judges, who at the time of their appointment and reappointment were resident of each county:

Atlantic	11
Bergen	27
Burlington	7
Camden	15
Cape May	4
Cumberland	6
Essex	34
Gloucester	8

Hudson	24
Hunterdon	3
Mercer	9
Middlesex	24
Monmouth	17
Morris	15
Ocean	15
Passaic	16
Salem	2
Somerset	6
Sussex	4
Union	20
Warren	3

(2) Additionally, the following number of those judges of the Superior Court satisfying the residency requirements set forth above shall at all times sit in the county in which they reside:

Atlantic	4
Bergen	12
Burlington	4
Camden	8
Cape May	2
Cumberland	4
Essex	14
Gloucester	6
Hudson	6
Hunterdon	2
Mercer	6
Middlesex	8
Monmouth	4
Morris	6
Ocean	8
Passaic	6
Salem	2
Somerset	4
Sussex	2
Union	6
Warren	2

2. N.J.S.2B:5-2 is amended to read as follows:

Administrative staff for Superior Court.**2B:5-2. Administrative Staff for Superior Court.**

The State shall be responsible for the cost of employees necessary for the operation, management and recordkeeping of the Supreme Court, the Appellate Division, the Chancery Division other than the Family Part, and the Office of the Clerk of the Superior Court.

Each county shall provide employees necessary for the operation, management and recordkeeping of the Law Division and Family Part of the Chancery Division of the Superior Court assigned to cases from that county. For the purpose of providing their compensation only, these employees shall be considered to be county employees. Employees who are responsible for overall operation and management of the court system, who are direct and confidential support employees to judges, or who perform duties of a highly technical or specialized nature shall be in the unclassified service.

3. N.J.S.2B:6-1 is amended to read as follows:**Courtrooms and equipment; security.**

2B:6-1. Courtrooms and Equipment; Security. a. Suitable courtrooms, chambers, equipment and supplies for the Supreme Court, the Appellate Division of the Superior Court and the Chancery Division, other than the Family Part of the Chancery Division, of the Superior Court shall be provided at the expense of the State by the Administrative Director in cooperation with the Director of the Division of Purchase and Property in the Department of the Treasury. These courtrooms and chambers shall be located in a courthouse or other public building so far as practicable.

b. Each county shall provide suitable courtrooms, chambers, equipment and supplies necessary for the processing and decision of cases from that county in the Law Division and the Family Part of the Chancery Division.

c. A flag of the United States shall be displayed in an appropriate place in each courtroom during all sessions of the court.

d. The sheriff of each county shall provide for security for the Law and Chancery Divisions of the Superior Court sitting in that county in the manner established by the assignment judge in the county.

4. Section 13 of P.L.1979, c.114 (C.2A:3A-4.2) is amended to read as follows:**C.2A:3A 4.2 Fees.**

13. Upon the filing or entering of the first paper or proceeding in any action or proceeding in the tax court, the plaintiff or any

person filing a counterclaim shall pay to the clerk of the court, for use of the State, \$135.00 for the first paper filed by him, which shall cover all fees payable therein, except a lesser fee may be provided by rule of court and, except further that a taxing district shall not be required to pay a filing fee upon the filing of a counterclaim or upon the filing of any responsive pleading. Other or additional fees may be established by rules of court. Except where a lesser fee is provided by law or rule of court that fee shall be paid. The foregoing fees shall not be applicable to any proceeding in the Special Civil Part of the Law Division of the Superior Court, Small Claims Section. The fees in the Special Civil Part of the Law Division of the Superior Court, Small Claims Section shall be established pursuant to rules of court.

5. N.J.S.22A:2-1 is amended to read as follows:

Fees of clerk of Supreme Court.

22A:2-1. For services hereinafter mentioned, the Clerk of the Supreme Court shall be entitled to demand and receive the following fees:

Upon the filing or entering of the notice of appeal, notice of cross-appeal or notice of petition for certification, notice of cross-petition for certification or notice of petition for review, the appellant, cross-appellant, petitioner or cross-petitioner shall pay \$135.00.

Upon the filing of the first paper in any motion, petition or application (including an order if it be the first paper), if not in a pending cause or if made after judgment entered, the moving party shall pay \$25.00 which shall cover all fees payable on such motion, petition or application down to and including filing and entering the order therein and taxation of costs.

6. N.J.S.22A:2-6 is amended to read as follows:

Filing first paper in Law Division; motions; clerk's fees; use.

22A:2-6. a. Upon the filing or entering of the first paper or proceeding in any action or proceeding in the Law Division of the Superior Court, the plaintiff shall pay to the clerk \$135.00 for the first paper filed by him, which shall cover all fees payable therein down to, and including entry of final judgment, taxation of costs, copy of costs and the issuance and recording of final process, except such as may be otherwise provided herein, or provided by law, or the rules of court. Of the \$135.00 paid to the clerk, \$40.00 shall be paid over by him to the treasurer of the county in which

venue is laid for the use of the county. Any person filing an answer setting forth a counterclaim or a third party claim in such cause shall pay to the clerk \$135.00 for the first paper filed by him. Any person other than the plaintiff filing any other paper in any such cause shall pay to the clerk \$80.00 for the first paper filed by him.

b. From July 1, 1991 to June 30, 1992, the \$80.00 fee set forth in subsection a. for the filing of a paper by a person other than the plaintiff shall be paid to the clerk, for use by the State. After June 30, 1992, of the \$80.00 paid to the clerk, \$25.00 shall be paid over by him to the treasurer of the county in which venue is laid for the use of the county.

c. Any person filing a motion in any action or proceeding shall pay to the clerk \$15.00. From July 1, 1991, to June 30, 1992, the \$15.00 motion fee shall be paid to the clerk, for use by the State. After June 30, 1992, the \$15.00 motion fee shall be paid over to the treasurer of the county in which venue is laid for the use of the county.

7. N.J.S.22A:2-7 is amended to read as follows:

Law Division of Superior Court; other fees.

22A:2-7. Upon the filing, entering, docketing or recording of the following papers, documents or proceedings by either party to any action or proceeding in the Law Division of the Superior Court, the party or parties filing, entering, docketing or recording the same shall pay to the clerk of said court the following fees:

Filing of the first paper in any motion, petition or application, if not in a pending action or proceeding under section 22A:2-6 of this Title, or if made after dismissal or judgment entered other than withdrawal of money deposited in court, the moving party shall pay \$15.00 which shall cover all fees payable on such motion, petition or application down to and including filing and entering of order therein and taxation of costs.

For withdrawal of money deposited in court where the sum to be withdrawn is less than \$100.00, no fee; where the sum is \$100.00 or more but less than \$1,000.00, a fee of \$5.00; where such sum is \$1,000.00 or more, a fee of \$10.00.

Entering judgment on bond and warrant by attorney and issuance of one final process, \$15.00 in lieu of the fee required by section 22A:2-6 of this Title.

Docketing judgments or orders from other courts or divisions, \$5.00.

Satisfaction of judgment or other lien, \$5.00.

Recording assignment of judgment or release, \$5.00.

Issuing of executions and recording same, except as otherwise provided in this article, \$5.00.

Recording of instruments not otherwise provided for in this article, \$5.00.

Filing and entering recognizance of civil bail, \$5.00.

Signing and issuing subpoena, \$5.00.

8. N.J.S.22A:2-12 is amended to read as follows:

Filing first paper in Chancery Division; motions; clerk's fees.

22A:2-12. Upon the filing of the first paper in any action or proceeding in the Chancery Division of the Superior Court, there shall be paid to the clerk of the court, for the use of the State, the following fees, which, except as hereinafter provided, shall constitute the entire fees to be collected by the clerk for the use of the State, down to the final disposition of the cause:

Receivership and partition, \$135.00.

All other actions and proceedings except in probate cases, \$135.00.

Any person filing a motion in any action or proceeding shall pay to the clerk \$15.00.

9. N.J.S.22A:2-13 is amended to read as follows:

Answering pleading or paper; fee.

22A:2-13. Each person other than the plaintiff filing an answering pleading or other answering paper in the Chancery Division of the Superior Court shall at the time of filing the first paper, pay to the clerk the sum of \$80.00; which shall cover all fees payable therein except such as may be otherwise provided herein or by law or the rules of court.

10. N.J.S.22A:2-15 is amended to read as follows:

Probate proceedings in Superior Court in Chancery Division; clerk's fees.

22A:2-15. For performing services in all probate proceedings in the Superior Court, Chancery Division, Probate Part there shall be paid to the surrogate of the county of venue for the use of the county the following fees which, except as hereinafter provided, shall constitute the entire fees to be collected by the surrogate for the use of the county, down to the final disposition of the cause:

Each action upon the filing of the first paper in the action, \$135.00 and upon the filing of an answering pleading or other answering paper, \$80.00.

New Jersey State Library

Application for relief filed subsequent to final judgment, upon the filing of the first paper, \$10.00.

ACCOUNTING

Auditing, stating, reporting and recording accounts of executors, administrators, guardians, trustees, assignees, as follows:

In estates up to and including \$2,000.00, \$50.00;

In estates from \$2,000.01 to and including \$10,000.00, \$70.00;

In estates from \$10,000.01 to and including \$30,000.00, \$85.00;

In estates from \$30,000.01 to and including \$65,000.00, \$100.00;

In estates from \$65,000.01 to \$200,000.00-- 1/5 of 1%;

In estates exceeding \$200,000.00-- 1/10 of 1%, but not less than \$400.00.

For each page of accounting, in excess of one, \$3.00.

In computing the amount of an estate for the purpose of fixing the fees of the surrogate, for auditing and reporting the account, the balance from the prior account shall be excluded.

No fees herein allowed shall be charged against the recipient of any pension, bounty or allowance for services of the surrogate in respect thereof, pursuant to N.J.S.3B:13-9 to 3B:13-14.

COMMISSIONS ON DEPOSITS

On commissions on deposits, including any deposit made pursuant to sections 31 and 32 of chapter 67, of the laws of 1948, if under \$100.00, 1/2 of 1% of it; if over \$100.00 and under \$1,000.00, 1/4 of 1% on such excess; if over \$1,000.00, 1/8 of 1% of such excess.

MISCELLANEOUS CHARGES

Minimum charge for all other papers or services by the surrogate, \$5.00.

11. N.J.S.22A:2-19 is amended to read as follows:

Certified copies; fees.

22A:2-19. Except as otherwise provided herein for probate proceedings in the Superior Court, the first copy of any order, judgment, pleading or other paper shall be certified by the Clerk of the Supreme Court or the Clerk of the Superior Court, as the case may be, and supplied to the attorney or litigant, free of

charge, where such copy is furnished to the clerk for certification. All copies other than the first copy, supplied as aforesaid, shall be furnished upon the payment of \$5.00 for the first five pages thereof, and \$0.75 for each page in excess of five; provided, that a minimum charge of \$5.00 shall be made for any such copy.

12. N.J.S.22A:2-20 is amended to read as follows:

Additional fees for certain services.

22A:2-20. The Clerk of the Supreme Court and the Clerk of the Superior Court are authorized and directed to charge the following additional fees:

For affixing the seal of the Court to any document, \$5.00;

For an exemplification, \$5.00;

The Clerk of the Superior Court is authorized and directed to charge the following additional fees:

For filing notice of appeal in any division of the Superior Court and forwarding copy to the Appellate Division or Supreme Court, \$10.00;

The Clerk of the Superior Court is authorized and directed to charge the following additional fees in the Chancery Division:

For a warrant of satisfaction, \$5.00;

For a master's certificate certifying his appointment, \$5.00;

A minimum charge for all other papers or services by the clerk, \$5.00;

Commissions on appeals accounts and deposits for security for cost—two per centum (2%) on one hundred dollars (\$100.00) or less; one and one half per centum (1 1/2%) on any excess of one hundred dollars (\$100.00);

Commissions on paying out trust fund accounts (including all funds, moneys or other assets brought into and deposited in court)—two and one half per centum (2 1/2%) on the first one hundred dollars (\$100.00); two per centum (2%) on the next nine hundred dollars (\$900.00); one and one half per centum (1 1/2%) on the excess over one thousand dollars (\$1,000.00).

13. N.J.S.22A:2-27 is amended to read as follows:

Fees on appeals to Law Division of Superior Court.

22A:2-27. In cases appealed to the Law Division of the Superior Court from any inferior court or tribunal, criminal or civil, the clerk of the division shall charge a fee of \$75.00 for filing a notice of appeal, appeal papers and proceedings, including judgment in the Superior Court or order of dismissal. The clerk shall

pay this \$75.00 to the treasurer of the county in which the appeal is taken for the use by the county.

C.22A:2-37.1 Special Civil Part of Superior Court, Law Division, fees.

14. a. In all civil actions and proceedings in the Special Civil Part of the Superior Court, Law Division, only the following fees shall be charged by the clerk and no service shall be performed until the specified fee has been paid:

- | | | |
|--------|---|--------------|
| (1) | Filing of small claim, one defendant..... | \$12.00 |
| | Each additional defendant | \$2.00 |
| (2) | Filing of complaint in tenancy, one defendant..... | \$15.00 |
| | Each additional defendant | \$2.00 |
| (3)(a) | Filing of complaint, counterclaim, cross-claim or third party complaint in all other civil actions, whether commenced without process or by summons, capias, replevin or attachment where the amount exceeds \$1,000.00 | \$38.00 |
| | Each additional defendant | \$2.00 |
| (b) | Filing of complaint, counterclaim, cross-claim or third party complaint in all other civil actions, whether commenced without process or by summons, capias, replevin or attachment where the amount does not exceed \$1,000.00 | \$22.00 |
| | Each additional defendant | \$2.00 |
| (4) | Filing of answer in all matters except small claims | \$7.00 |
| (5) | Service of Process: | |
| | Summons by mail, each defendant..... | \$3.00 |
| | Summons by mail, each defendant at place of business or employment with postal instructions to deliver to addressee only, additional fee | \$3.00 |
| | Reservice of summons by mail, each defendant ... | \$3.00 |
| | Reservice of summons or other original process by court officer, one defendant..... | \$3.00 |
| | | plus mileage |
| | Each additional defendant | \$2.00 |
| | | plus mileage |

Substituted service of process by the clerk upon the Director of the Division of Motor Vehicles \$10.00

(6) Mileage of court officer in serving or executing any process, writ, order, execution, notice, or warrant, the distance to be computed by counting the number of miles in or out, by the most direct route from the place where process is issued, at the same rate per mile set by the county governing body for other county employees and the total mileage fee rounded upward to the nearest dollar

- | | |
|--|---------|
| (7) Jury of six persons | \$50.00 |
| (8) Warrant for possession in tenancy | \$15.00 |
| (9) Warrant to arrest, commitment or writ
of capias ad respondendum, each defendant. | \$15.00 |
| (10) Writ of execution or an order in the nature
of execution, writs of replevin and attachment
issued subsequent to summons | \$5.00 |
| (11) For advertising property under execution
or any order | \$10.00 |
| (12) For selling property under execution or any order | \$10.00 |
| (13) Exemplified copy of judgment (two pages) | \$5.00 |
| each additional page | \$1.00 |

b. Except as provided in subsection c., the clerk shall pay over to the treasurer of the county in which the action is filed all fees collected pursuant to this section.

c. From July 1, 1991 to June 30, 1993, the clerk shall pay over to the treasurer of the county in which the action is filed \$12.00 of each fee paid to the clerk pursuant to paragraph 3 of subsection a., with the balance made available for use by the State.

C.22A:2-37.2 Fees to officers designated by Assignment Judge to serve process.

15. a. From the fees set forth in section 14 of P.L.1991, c.177 (N.J.S.22A:2-37.1), the clerk of the Special Civil Part of the Superior Court, Law Division, shall pay to officers designated by the Assignment Judge to serve process the following fees:

- | | |
|--|---------|
| (1) Serving summons, notice or third party
complaint on one defendant | \$3.00 |
| on every additional defendant | \$2.00 |
| (2) Reserving summons or other original process
on any defendant | \$3.00 |
| (3) Warrant to arrest, capias, or commitment,
for each defendant served | \$15.00 |
| (4) Serving writ and summons in replevin, taking
bond and any inventory, against one defendant | \$6.00 |
| on every additional defendant | \$2.00 |

- (5) Serving writ in replevin when issued subsequent to service of summons, against one defendant..... \$5.00
on every additional defendant..... \$2.00
- (6) Serving order for possession in replevin \$4.00
- (7) Serving writ of attachment and making inventory, one defendant \$4.00
on every additional defendant..... \$2.00
- (8) Serving and executing warrant for possession in tenancy \$10.00
- (9) Every execution, or any order in the nature of an execution, on a judgment, for each defendant \$2.00

b. For every mile of travel in serving or executing any process, writ, order, execution, notice or warrant, the distance to be computed by counting the number of miles in and out, by the most direct route from the place where process is issued, at the same rate per mile set by the county governing body for other county employees and the total mileage fee rounded upward to the nearest dollar.

c. In addition to the foregoing, the following fees for officers of the Special Civil Part shall be taxed in the costs and collected on execution, writ of attachment or order in the nature of any execution on any final judgment, or on a valid and subsisting levy of an execution or attachment which may be the effective cause in producing payment or settlement of a judgment or attachment:

- (1) For advertising property under execution or any order \$10.00
- (2) For selling property under execution or any order \$10.00
- (3) On every dollar of the first \$5,000.00 collected on execution, writ of attachment, or any order, \$0.10, and on every dollar of any amount in excess thereof, \$0.05.

C.2B:6-1.1 Additional revenues used to offset county judicial costs.

16. a. All additional revenues received by a county which result from new filing fees or from filing fee increases provided under P.L.1991, c.177 (C.22A:2-37.1 et al.) shall be used to offset county judicial costs.

b. As used in the act, "county judicial costs" means the costs incurred by the county for funding the judicial system, including but not limited to the following costs: salaries, health benefits and

pension payments of all judicial employees, juror fees and library material costs.

17. N.J.S.2A:15-67 is amended to read as follows:

Bond for costs by nonresident claimant.

2A:15-67. Where in any action in the Superior Court any plaintiff or any party asserting a counterclaim, cross-claim or third-party claim is a nonresident, he shall, if, at any time before trial, notice is given to him by an opposing party demanding security for costs, give bond in favor of the opposing party, or, if there is more than one making the demand, in favor of each of them, in the sum of \$200, with sufficient surety, conditioned to prosecute the action with effect and to pay costs if the action is dismissed or judgment passes against him. If there is more than one plaintiff or claimant, they may give bond jointly in the sum of \$200, all as aforesaid.

If the surety on the bond is an individual and not a corporation, he shall be a resident of this State.

The bond shall be filed in the office of the clerk of the court.

18. Section 2 of P.L.1963, c.73 (C.47:1A-2) is amended to read as follows:

C.47:1A-2 Records deemed to be public; open to public inspection; copies; fees.

2. Except as otherwise provided in this act or by any other statute, resolution of either or both houses of the Legislature, executive order of the Governor, rule of court, any federal law, regulation or order, or by any regulation promulgated under the authority of any statute or executive order of the Governor, all records which are required by law to be made, maintained or kept on file by any board, body, agency, department, commission or official of the State or of any political subdivision thereof or by any public board, body, commission or authority created pursuant to law by the State or any of its political subdivisions, or by any official acting for or on behalf thereof (each of which is hereinafter referred to as the "custodian" thereof) shall, for the purposes of this act, be deemed to be public records. Every citizen of this State, during the regular business hours maintained by the custodian of any such records, shall have the right to inspect such records. Every citizen of this State shall also have the right, during such regular business hours and under the supervision of a representative of the custodian, to copy such records by hand, and shall also have the right to purchase copies of such records. Cop-

ies of records shall be made available upon the payment of such price as shall be established by law. If a price has not been established by law for copies of any records, the custodian of such records shall make and supply copies of such records upon the payment of the following fees which shall be based upon the total number of pages or parts thereof to be purchased without regard to the number of records being copied:

First page to tenth page..... \$0.75 per page,
 Eleventh page to twentieth page..... \$0.50 per page,
 All pages over 20..... \$0.25 per page

If the custodian of any such records shall find that there is no risk of damage or mutilation of such records and that it would not be incompatible with the economic and efficient operation of the office and the transaction of public business therein, he may permit any citizen who is seeking to copy more than 100 pages of records to use his own photographic process, approved by the custodian, upon the payment of a reasonable fee, considering the equipment and the time involved, to be fixed by the custodian of not less than \$10.00 or more than \$50.00 per day.

Repealer.

19. N.J.S.2A:18-65, N.J.S.22A:2-37 and N.J.S.22A:2-38 are repealed.

20. This act shall take effect July 1, 1991.

Approved June 28, 1991.

CHAPTER 178

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, 1991 and regulating the disbursement thereof," approved June 27, 1990 (P.L.1990, c.43).

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 in the Department of the Treasury that federal

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

FEDERAL FUNDS
54 DEPARTMENT OF HUMAN SERVICES
50 Economic Planning, Development and Security
53 Economic Assistance and Security
7550 Division of Economic Assistance

15-7550 Income Maintenance.....	\$11,857,866
Services Other Than Personal	(\$260,873)
State Aid and Grants:	
Low income energy assistance--	
county administration	(924,914)
Low income energy assistance	(10,672,079)

2. This act shall take effect immediately.

Approved June 28, 1991.

CHAPTER 179

AN ACT concerning hotel and multiple dwelling inspection fees
and penalties, amending and supplementing P.L.1967, c.76,
and making an appropriation.

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

1. Section 13 of P.L.1967, c.76 (C.55:13A-13) is amended to read as follows:

C.55:13A-13 Inspection; fees.

13. (a) Each multiple dwelling and each hotel shall be inspected at least once in every five years for the purpose of determining the extent to which each hotel or multiple dwelling complies with the provisions of this act and regulations promulgated hereunder.

(b) Within 90 days of the most recent inspection, the owner of each hotel shall file with the commissioner, upon forms provided by the commissioner, an application for a certificate of inspection. Said application shall include such information as the commissioner shall prescribe to enforce the provisions of this

law. Said application shall be accompanied by a fee as follows: \$15 per unit of dwelling space for the first 20 units of dwelling space in any building or project, \$12 per unit of dwelling space for the 21st through 100th unit in any building or project, \$8 per unit of dwelling space for the 101st through 250th unit in any building or project, and \$5 per unit of dwelling space for all units over 250 in any building or project, except that in the case of hotels open and operating less than six months in each year the fee shall be one-half that which would otherwise be required. A certificate of inspection and the fees therefor shall not be required more often than once every five years.

Additionally, there shall be reinspection fees for hotels in the amount of \$10 for each dwelling unit reinspected.

Within 90 days of the most recent inspection of any multiple dwelling occupied or intended to be occupied by three or more persons living independently of each other, the owner of each such multiple dwelling shall file with the commissioner, upon forms provided by the commissioner, an application for a certificate of inspection. Said application shall include such information as the commissioner shall prescribe to enforce the provisions of this law. Said application shall be accompanied by a fee of \$33 per unit of dwelling space for the first 7 units in any building or project, \$21 per unit of dwelling space for the 8th through the 24th unit in any building or project, \$18 per unit for the 25th through the 48th unit in any building or project, and \$12 per unit of dwelling space for all units of dwelling space over 48 in any building or project, provided that the maximum total fee for owner-occupied three-unit multiple dwellings shall be limited to \$65 for owners having a household income that is less than 80 percent of the median income for households of similar size in the county in which the multiple dwelling is located, and the maximum total fee for owner-occupied four-unit multiple dwellings shall be limited to \$80 for owners having a household income that is less than 80 percent of the median income for households of similar size in the county in which the multiple dwelling is located. A certificate of inspection and the fees therefor shall not be required more often than once every five years.

Additionally, there shall be reinspection fees for multiple dwellings in the amount of \$40 for each dwelling unit reinspected, but only after the first reinspection.

The commissioner may waive the inspection fee for any unit upon a finding that the unit has been thoroughly inspected within

the previous 12-month period under a municipal ordinance requiring inspection upon change of occupancy in accordance with the maintenance standards established by the commissioner under this act, and has received a municipal certificate of occupancy as a result of that inspection.

If the commissioner finds that (1) a building has been thoroughly inspected prior to resale since the most recent inspection in accordance with this section, (2) the inspection prior to resale was conducted by the municipality in accordance with the maintenance standards established by the commissioner under this act, and (3) a municipal certificate of occupancy was issued as a result of that inspection, the commissioner may accept the inspection done prior to resale in lieu of a current inspection under this section. If the commissioner accepts an inspection prior to resale in lieu of a current inspection, no fee shall be charged for any inspection done by the commissioner within five years after the date of the inspection so accepted.

(c) If the commissioner determines, as a result of the most recent inspection of any hotel or multiple dwelling as required by subsection (a) of this section, that any hotel or multiple dwelling complies with the provisions of this act and regulations promulgated hereunder, then the commissioner shall issue to the owner thereof, upon receipt of the application and fee as required by subsection (b) of this section, a certificate of inspection. Any owner to whom a certificate of inspection is issued shall keep said certificate posted in a conspicuous location in the hotel or multiple dwelling to which the certificate applies. The certificate of inspection shall be in such form as may be prescribed by the commissioner.

The commissioner may, upon finding a consistent pattern of compliance with the maintenance standards established under this act in at least 20 percent of the units in a building or project, issue a certificate of inspection for the building or project, in which case the inspection fee shall be charged on the basis of the number of units inspected.

The commissioner may by rule establish standards for self-inspection by condominium associations exercising control over buildings of not more than three stories, constructed after 1976, and certified by the local enforcing agency having jurisdiction as being in compliance with the Uniform Fire Code promulgated pursuant to P.L.1983, c.383 (C.52:27D-192 et seq.), in which at least 80 percent of the dwelling units are occupied by the unit owners. The commissioner shall issue a certificate of acceptance, which

shall be in lieu of a certificate of inspection, upon acceptance of any such self-inspection and upon payment of a fee of \$25.

(d) If the commissioner determines, as a result of the most recent inspection of any hotel or multiple dwelling as required by subsection (a) of this section, that any hotel or multiple dwelling does not comply with the provisions of this act and regulations promulgated thereunder, then the commissioner shall issue to the owner thereof a written notice stating the manner in which any such hotel or multiple dwelling does not comply with this act or regulations promulgated thereunder. Said notice shall fix such date, not less than 60 days nor more than 180 days, on or before which any such hotel or multiple dwelling must comply with the provisions of this act and regulations promulgated thereunder. If any such hotel or multiple dwelling is made to comply with the provisions of this act and regulations promulgated thereunder on or before the date fixed in said notice, then the commissioner shall issue to the owner thereof a certificate of inspection as described in subsection (c) of this section. If any such hotel or multiple dwelling is not made to comply with the provisions of this act and regulations promulgated thereunder on or before the date fixed in said notice, then the commissioner shall not issue to the owner thereof a certificate of inspection as described in subsection (c) of this section, and shall enforce the provisions of this act against the owner thereof.

(e) The commissioner shall annually review the cost of implementing and enforcing this act, including the cost to municipalities of carrying out inspections pursuant to section 21 of this act, and shall establish by rule, not more frequently than once every three years, such fees as may be necessary to cover the costs of such implementation and enforcement; provided, however, that any increase or decrease shall be applied as a uniform percentage to each category of fee established herein, and provided, further, that the percentage amount of any increase shall not exceed the percentage increase in salaries paid to State employees since the then current fee schedule was established. The commissioner shall provide by rule to owners the option of paying inspection fees in installments in the form of an annual fee. The commissioner shall annually prepare and file with the presiding officers of the Senate and General Assembly and the legislative committees having jurisdiction in housing matters a report setting forth the amounts of fees and penalties received by the Bureau of Housing Inspection, the cost to the bureau of enforcing this

act, and information concerning the productivity of the bureau. Copies of the report shall also be submitted to the Office of Administrative Law for publication in the New Jersey Register and to the members of the Hotel and Multiple Dwelling Health and Safety Board. If in any State fiscal year the fee revenue received by the bureau exceeds the cost of enforcement of this act, the excess revenue shall be distributed pro rata to persons who paid inspection fees during that fiscal year. Such distribution shall be made within three months after the end of the fiscal year.

(f) Except as otherwise provided in section 2 of P.L.1991, c.179 (C.55:13A-26.1), the fees established by or pursuant to the provisions of this section are dedicated to meeting the costs of implementing and enforcing this act and shall not be used for any other purpose. All receipts in excess of \$2,200,000 are hereby appropriated for the purposes of this act.

C.55:13A-26.1 Deposit of 50% of penalty moneys in Revolving Housing Development and Demonstration Grant Fund.

2. Fifty percent of all penalty moneys collected by the commissioner pursuant to section 19 of P.L.1967, c.76 (C.55:13A-19) shall be deposited in the Revolving Housing Development and Demonstration Grant fund established by section 5 of P.L.1967, c.82 (C.52:27D-63).

C.55:13A-26.2 Appropriation for Revolving Housing Development and Demonstration Grant Fund.

3. In the fiscal year beginning July 1, 1993, and in each fiscal year thereafter, there shall be appropriated to the Revolving Housing Development and Demonstration Grant Fund established by section 5 of P.L.1967, c.82 (C.52:27D-63) an amount not less than the amount by which hotel and multiple dwelling inspection program costs during the next preceding fiscal year exceeded inspection fee revenue under the program received by the Department of Community Affairs during Fiscal Year 1991.

4. This act shall take effect immediately.

Approved June 28, 1991.

CHAPTER 180

AN ACT to amend the "Municipal Qualified Bond Act," approved June 28, 1976 (P.L.1976, c.38).

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

1. Section 1 of P.L.1976, c.38 (C.40A:3-2) is amended to read as follows:

C.40A:3-2 Findings, declarations.

1. The Legislature finds and declares that:
 - a. Maintenance of strong financial credit in New Jersey municipalities is essential in providing necessary capital improvement or property at minimum cost, for the citizens of this State;
 - b. While the credit status of New Jersey's municipalities is sound, it can be strengthened by a pledge of State Urban Aid, Gross Receipts Tax, State Revenue Sharing, Municipal Purposes Tax Assistance Fund distributions, Business Personal Property Tax Replacement Revenues and any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs to guarantee debt service payments on qualified bonds;
 - c. Such a pledge should expand the market for and lower the interest costs on qualified bonds issued pursuant to the terms of this act, thus reducing the borrowing costs of participating municipalities.

2. Section 2 of P.L.1976, c.38 (C.40A:3-3) is amended to read as follows:

C.40A:3-3 Definitions.

2. For the purposes of this act, unless the context clearly requires a different meaning:
 - a. "Business Personal Property Tax Replacement Revenues" means the funds distributed to municipalities pursuant to P.L.1966, c.135 (C.54:11D-1 et seq.) or pursuant to any other law hereafter enacted providing for funds to municipalities in lieu of or in substitution for or supplementing the funds presently provided pursuant to P.L.1966, c.135 (C.54:11D-1 et seq.);
 - b. "Debt service" means and includes payments of principal and interest upon qualified bonds issued pursuant to the terms of this act or amounts required in order to satisfy sinking fund payment requirements with respect to such bonds;
 - c. "Director" means Director of the Division of Local Government Services in the Department of Community Affairs, established pursuant to P.L.1974, c.35 (C.52:27D-18.1);
 - d. "Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, established pursuant to P.L.1974, c.35 (C.52:27D-18.1);
 - e. "Paying agent" means any bank, trust company or national banking association having the power to accept and administer trusts, named

or designated in any qualified bond of a municipality as the agent for the payment of the principal of and interest thereon and shall include the holder of any sinking fund established for the payment of such bonds;

f. "Qualified bonds" means those bonds of a municipality authorized and issued in conformity with the provisions of this act;

g. "State urban aid" means the funds made available to municipalities pursuant to P.L.1971, c.64 and all acts supplementing that act or pursuant to any other law hereafter enacted providing for funds to municipalities in lieu of or in substitution for the funds presently provided pursuant to acts supplementing P.L.1971, c.64;

h. "State revenue sharing" means the funds made available to municipalities pursuant to P.L.1976, c.73 (C.54A:10-1 et seq.) or pursuant to any other law hereafter enacted providing for funds to municipalities in lieu of or in substitution for the funds presently provided pursuant to P.L.1976, c.73;

i. "Gross receipts tax revenues" means funds collected pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.), and apportioned and paid to municipalities pursuant to those acts; and

j. "Municipal Purposes Tax Assistance Fund distributions" means the moneys distributed to municipalities from the "Municipal Purposes Tax Assistance Fund" pursuant to the "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12 (C.54:1-46 et seq.), or pursuant to any other law hereafter enacted for the distribution of moneys to municipalities in lieu of or in substitution for the monies distributed pursuant to the "Municipal Purposes Tax Assistance Act of 1980," P.L.1980, c.12 (C.54:1-46 et seq.).

3. Section 3 of P.L.1976, c.38 (C.40A:3-4) is amended to read as follows:

C.40A:3-4 Issuance of qualified bonds.

3. a. Bonds issued by any municipality pursuant to provisions of this act shall be "qualified bonds" and shall be entitled to the benefit of the provisions of this act.

b. Whenever the governing body of a municipality determines, by passage of a bond ordinance upon first reading, to issue bonds for any lawful purpose, it may file an application and a certified copy of the ordinance as passed on first reading with the local finance board to qualify the bonds pursuant to the provisions of this act. Upon receipt of any such application, the local finance board shall cause an investigation to be made, taking into consideration such factors as the need for the facilities to be financed

from the proceeds of such proposed qualified bonds, the ability of the municipality to supply other essential public improvements and services and during the ensuing 10 years to pay punctually the principal and interest on its debts, the reasonableness of the amounts to be expended for each of the purposes or improvements to be financed pursuant to such bonds, and such other factors as the local finance board may deem necessary.

c. If such investigation shows to the satisfaction of the local finance board that such municipality should be entitled to issue qualified bonds pursuant to the provisions of this act, the local finance board may by resolution determine that such municipality is entitled to issue qualified bonds. In considering any ordinance submitted to it and before endorsing its consent thereon, the local finance board may require the governing body of any municipality to adopt resolutions restricting or limiting any future proceedings with respect to the authorization of bonds or other matters deemed by the local finance board to affect any estimate made or to be made by it in accordance with subsection b. hereof. Every resolution so adopted shall constitute a valid and binding obligation of such municipality running to and enforceable by, and releasable by the local finance board.

d. Within 60 days after the submission to it of an application made in accordance with subsection b. the local finance board shall cause its consent to be endorsed upon the ordinance authorizing the issuance of qualified bonds, if it shall be satisfied and record by resolution that the municipality is entitled to issue qualified bonds. If the local finance board is not so satisfied, it shall cause its disapproval to be endorsed upon such ordinance within said period of 60 days.

e. If the governing body of a municipality shall determine by resolution that a maturity schedule for its qualified bonds, other than the maturity schedule approved by the local finance board pursuant to section 3, is in the best interest of said municipality, it may make application to the local finance board setting forth such belief and the grounds therefor and requesting approval of a schedule of maturities for such qualified bonds set forth in the application. Within 60 days after submission to the local finance board of such application, the local finance board shall cause its approval to be endorsed thereon if it shall be satisfied, and shall record by resolution its findings, that the belief set forth in such application is well founded and that the issuance of the bonds pursuant to the revised maturity schedule in such application

would not materially impair the credit of the municipality or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal of and interest on its debts and supply essential public improvements and services. If the local finance board is not so satisfied, it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

4. Section 6 of P.L.1976, c.38 (C.40A:3-7) is amended to read as follows:

C.40A:3-7 Municipal certification.

6. a. Each municipality which issues qualified bonds shall certify to the State Treasurer the name and address of the paying agent, the maturity schedule, interest rate and dates of payment of debt service on such qualified bonds within 10 days after the date of issuance of such qualified bonds. After receipt of such certificate the State Treasurer shall withhold from the amount of business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing and any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs payable to such municipality an amount of such business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing and any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs which will be sufficient to pay the debt service on such qualified bonds as the same shall mature and become due. The State Treasurer shall, on or before each principal and interest payment date, forward such withheld amounts to the paying agent for such qualified bonds for deposit to the account established with such paying agent for the purpose of paying the debt service on such qualified bonds. From the time withheld by the State Treasurer all such business personal property tax replacement revenue, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing and any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs so withheld and paid or to be paid to and held by the paying agent shall be exempt from being levied upon, taken, sequestered or applied toward paying the debts of the municipality other than for payment of debt service on such qualified bonds. From

the time withheld by the State Treasurer the business personal property tax replacement revenue, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing and any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs so withheld and paid or to be paid to the paying agent shall be deemed to be held in trust for the sole purpose of paying the debt service on such qualified bonds.

b. The State of New Jersey hereby covenants with the purchasers, holders and owners, from time to time, of qualified bonds that it will not repeal, revoke, rescind, modify or amend the provisions of subsection a. of this section so as to create any lien or charge on or pledge, assignment, diversion, withholding payment or other use of or deduction from any business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing or any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs to be apportioned and paid to any paying agent of qualified bonds which is prior in time or superior in right to the payment required by subsection a. of this section; provided, however, that nothing herein contained shall be deemed or construed to require the State of New Jersey to continue to make payments of business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing or any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs or to limit or prohibit the State from repealing or amending any law heretofore or hereafter enacted for the payment or apportionment of said revenues or aid or the manner, time, or amount thereof.

c. The certification to the State Treasurer as to amount payable in any year for debt service on such qualified bonds shall be fully conclusive as to such qualified bonds from and after the time of issuance of such qualified bonds notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such qualified bonds provided that such qualified bonds contain a recital to the effect that they are entitled to the benefits of the provisions of this act. All persons shall be forever estopped from denying that such qualified bonds are entitled to the benefits of the provisions of this act.

5. Section 7 of P.L.1976, c.38 (C.40A:3-8) is amended to read as follows:

C.40A:3-8 Payment of principal and interest due on qualified bonds; payment of operating expenses.

7. Nothing contained in this act shall be construed to relieve any municipality of the obligation imposed on it by law to include in its annual budget amounts necessary to pay, in each year, the principal and interest maturing and becoming due on any qualified bonds issued by such municipality; provided, however, that to the extent of the amounts withheld from business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing and any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs payable to such municipality and forwarded to the paying agent for such qualified bonds pursuant to section 6, such budgeted amounts, to the extent not needed to pay debt service on such qualified bonds, may be applied to the payment of the operating expenses of such municipality for such year; and provided, further, that in any year in which business personal property tax replacement revenues, gross receipts tax revenues, municipal purposes tax assistance fund distributions, State urban aid, State revenue sharing or any other funds appropriated as State aid and not otherwise dedicated to specific municipal programs are not appropriated, such budgeted amounts shall be used to pay the debt service maturing and becoming due in such year on such qualified bonds of the municipality.

6. This act shall take effect immediately.

Approved June 28, 1991.

CHAPTER 181

AN ACT concerning the tax on the sale and use of petroleum products, amending and supplementing P.L.1990, c.42.

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

1. Section 2 of P.L.1990, c.42 (C.54:15B-2) is amended to read as follows:

C.54:15B-2 Definitions.

2. For the purposes of this act:

“Company” includes a corporation, partnership, limited partnership, association, individual, or any fiduciary thereof.

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

“First sale of petroleum products within this State” means the initial sale of a petroleum product delivered to a location in this State. A “first sale of petroleum products within this State” does not include a book or exchange transfer of petroleum products if such products are intended to be sold in the ordinary course of business.

“Gross receipts” means all consideration derived from the first sale of petroleum products within this State except sales of:

- a. asphalt;
- b. petroleum products sold pursuant to a written contract extending one year or longer to nonprofit entities qualifying under subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10);
- c. petroleum products sold to governmental entities qualifying under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10); and
- d. polymer grade propylene used in the manufacture of polypropylene.

“Petroleum products” means refined products made from crude petroleum and its fractionation products, through straight distillation of crude oil or through redistillation of unfinished derivatives, but shall not mean the products commonly known as number 2 heating oil, number 4 heating oil, number 6 heating oil, kerosene and propane gas to be used exclusively for residential use.

“Quarterly period” means a period of three calendar months commencing on the first day of January, April, July or October and ending on the last day of March, June, September or December, respectively.

“Retail gasoline price survey” means a Statewide representative random sample of retail gasoline prices conducted by the Board of Public Utilities, Office of the Economist, or its successor, that shall be completed for the month of November and May of each year.

“Retail price per gallon” means the price posted by gasoline retailers in the State for unleaded regular gasoline.

“Unleaded regular gasoline” means gasoline of the octane rating equal to the lowest octane rated gasoline offered for sale at a majority of the gasoline retailers in the State.

2. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read as follows:

C.54:15B-3 Petroleum products tax.

3. a. There is imposed on each company which is engaged in the refining or distribution, or both, of petroleum products and which distributes such products in this State a tax at the rate of two and three-quarters percent ($2\frac{3}{4}\%$) of its gross receipts derived from the first sale of petroleum products within this State; provided however, that the applicable tax rate for fuel oils, aviation fuels and motor fuels subject to tax under R.S.54:39-1 et seq. shall be converted to a cents per gallon rate and adjusted semiannually by the director, on January 1 and July 1, to reflect the average retail price per gallon of unleaded regular gasoline in the State, as determined in the most recent retail gasoline price survey by the Board of Public Utilities, Office of the Economist, or its successor. Any change in the cents per gallon rate so determined by the director shall be rounded upward or downward to the nearest tenth of a cent. The adjusted rate shall be effective for tax due for months ending after those dates. There shall be a minimum cents per gallon tax rate, rounded to the nearest cent, that shall be calculated by the use of the average retail price per gallon of unleaded regular gasoline in December 1990, as determined in a survey of retail gasoline prices that included a Statewide representative random sample conducted in December 1990 for that month by the Board of Public Utilities, Office of the Economist; and

b. There is imposed on each company that imports or causes to be imported, other than by a company subject to and having paid the tax on those imported petroleum products that have generated gross receipts taxable under subsection a. of this section, petroleum products for use or consumption by it within this State a tax at the rate of two and three-quarters percent ($2\frac{3}{4}\%$) of the consideration given or contracted to be given for such petroleum products if the consideration given or contracted to be given for all such deliveries made during a quarterly period exceeds \$5,000; provided however, that the applicable tax rate for fuel oils, aviation fuels and motor fuels subject to tax under R.S.54:39-1 et seq. shall be converted to a cents per gallon rate and adjusted semiannually by the director, on January 1 and July 1, to reflect the average retail price per gallon of unleaded regular gasoline in the State, as determined in the most recent retail gasoline price survey by the Board of Public Utilities, Office of the Economist, or its successor. Any change in the cents per gallon rate so determined by the director shall be rounded upward or downward to the nearest tenth of a cent. The adjusted rate shall be effective for tax due for

months ending after those dates. There shall be a minimum cents per gallon tax rate, rounded to the nearest cent, that shall be calculated by the use of the average retail price per gallon of unleaded regular gasoline in December 1990, as determined in a survey of retail gasoline prices that included a Statewide representative random sample conducted in December 1990 for that month by the Board of Public Utilities, Office of the Economist.

3. Section 5 of P.L.1990, c.42 (C.54:15B-5) is amended to read as follows:

C.54:15B-5 Gross receipts; credit against petroleum products tax.

5. a. Gross receipts of a company making first sales of petroleum products within this State shall not include consideration derived from the first sale of petroleum products within this State sold for exportation from this State for sale or use outside this State or sales within this State between companies licensed pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12).

b. Gross receipts of a company making first sales of petroleum products within this State shall not include consideration derived from the first sale of petroleum products within this State to the United States government, or to any of its departments, agencies or instrumentalities, for use in a federal government function or operation. A company making a first sale of petroleum products the gross receipts from which are exempt from tax pursuant to this subsection shall report such sales to the director at such times and in such detail as the director may require. This exemption may be claimed by a company otherwise subject to the tax under this act at any time within two years after the date of the first sale of petroleum products within this State for which the exemption is claimed, but no claim made after the expiration of that two-year period shall be recognized for any purpose by the State or any agency thereof.

c. A company shall be allowed a credit against the tax imposed by subsection a. of section 3 of this act if a purchaser of petroleum products first sold within this State subsequently sells the petroleum products for exportation from this State for sale or use outside this State; provided:

(1) the purchaser who makes the sale for exportation from this State for sale or use outside this State issues a certification, on such form as the director may prescribe, evidencing a sale or use outside this State, and

(2) the company liable for the tax imposed under the provisions of this act has paid to the purchaser making the sale outside this State an amount equal to the tax imposed on the gross receipts derived from the first sale of petroleum products within this State to such purchaser.

d. A company shall be allowed a credit against the tax imposed by subsection b. of section 3 of this act pursuant to such form as may be required by the director if the company importing or causing to be imported petroleum products for use or consumption by it within this State subsequently exports the petroleum products for sale or use outside this State.

4. Section 7 of P.L.1990, c.42 (C.54:15B-7) is amended to read as follows:

C.54:15B-7 Filing of return; payment of tax.

7. a. A company subject to tax under this act shall, on or before the 25th day of a month, file a remittance to the director on such forms as may be prescribed by the director and pay the full amount of the tax due on gross receipts subject to tax derived from the first sale of petroleum products within this State and the consideration given or contracted to be given for all deliveries of petroleum products for use or consumption by it within this State for the preceding month.

b. On or before the 25th day following the end of a quarterly period, a company subject to tax under this act shall file a reconciliation return under oath to the director on such forms as may be prescribed by the director reflecting such information and payments from the preceding quarterly period as the director shall deem necessary.

5. Section 8 of P.L.1990, c.42 (C.54:15B-8) is amended to read as follows:

C.54:15B-8 Determination of tax due; powers of director.

8. a. (1) If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from the information available.

(2) If because of an affiliation of interests between a company subject to tax under this act and any purchaser the gross receipts from sale transactions are not indicative of or representative of

market price, the director may at the director's discretion, utilize external indices to establish gross receipts.

Notice of a determination pursuant to this subsection shall be given to the company liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the company against which it is assessed, within 30 days after receiving notice of the determination, shall apply to the director for a hearing, or unless the director on the director's own motion shall redetermine the same. After such hearing the director shall give notice of the determination to the company to which the tax is assessed.

b. The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, that a prescribed certificate has not been issued, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of this act or rules or regulations adopted hereunder shall be prima facie evidence thereof.

c. In addition to the other powers granted to the director in this section, the director is hereby authorized and empowered:

(1) To delegate to any officer or employee of the division such powers and duties as the director may deem necessary to carry out the provisions of this act, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms and certificates for the implementation of this act; and

(3) To administer and enforce the tax imposed by this act and to make and adopt such rules and regulations and to require such facts and information to be reported as the director may deem necessary to enforce the provisions of this act.

d. The tax imposed by this act shall be governed in all respects by the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., except only to the extent that a specific provision of this act may be in conflict therewith.

C.54:15B-12 Recognition as licensed company, direct payment of taxes.

6. Licensed distributors pursuant to R.S.54:39-17, "commercial consumers," that are deemed to include those companies that purchase, consume, blend or distribute substantial quantities of petroleum products in the State, companies making sales pursuant to a written contract extending for one year or longer to nonprofit entities qualifying under subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of sec-

tion 3 of P.L.1991, c.19 (C.54:15B-10), and companies making sales to governmental entities qualifying under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10), may, upon application to and approval by the director, elect to be recognized as a licensed company pursuant to this act and pay directly to the division the taxes imposed by this act. The director may impose limitations or restrictions on the direct payment of taxes permitted by licensed companies for purposes of effective implementation of the tax imposed by this act.

C.54:15B-2.1 Receipts not included as gross receipts.

7. "Gross receipts," as otherwise defined by section 2 of P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales of petroleum products used by marine vessels engaged in interstate or foreign commerce and sales of aviation fuels used by common carriers in interstate or foreign commerce other than the "burnout" portion which shall be taxable pursuant to rules promulgated by the director.

8. This act shall take effect on the first day of the quarterly period next following enactment, except that sections 3, 6 and 7 shall be retroactive to July 1, 1990.

Approved June 28, 1991.

CHAPTER 182

AN ACT concerning casino gambling, amending P.L.1978, c.7, P.L.1981, c.142 and P.L.1987, c.409, amending and supplementing P.L.1977, c.110, and repealing sections 48 and 142 of P.L.1977, c.1101.

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

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

C.5:12-1 Short title; declaration of policy and legislative findings.

1. Short title; Declaration of Policy and Legislative Findings.
a. This shall be known and may be cited as the "Casino Control Act."

b. The Legislature hereby finds and declares to be the public policy of this State, the following:

(1) The tourist, resort and convention industry of this State constitutes a critical component of its economic structure and, if properly developed, controlled and fostered, is capable of providing a substantial contribution to the general welfare, health and prosperity of the State and its inhabitants.

(2) By reason of its location, natural resources and worldwide prominence and reputation, the city of Atlantic City and its resort, tourist and convention industry represent a critically important and valuable asset in the continued viability and economic strength of the tourist, convention and resort industry of the State of New Jersey.

(3) The rehabilitation and redevelopment of existing tourist and convention facilities in Atlantic City, and the fostering and encouragement of new construction and the replacement of lost convention, tourist, entertainment and cultural centers in Atlantic City will offer a unique opportunity for the inhabitants of the entire State to make maximum use of the natural resources available in Atlantic City for the expansion and encouragement of New Jersey's hospitality industry, and to that end, the restoration of Atlantic City as the Playground of the World and the major hospitality center of the Eastern United States is found to be a program of critical concern and importance to the inhabitants of the State of New Jersey.

(4) Legalized casino gaming has been approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic City. In this regard, the introduction of a limited number of casino rooms in major hotel convention complexes, permitted as an additional element in the hospitality industry of Atlantic City, will facilitate the redevelopment of existing blighted areas and the refurbishing and expansion of existing hotel, convention, tourist, and entertainment facilities; encourage the replacement of lost hospitality-oriented facilities; provide for judicious use of open space for leisure time and recreational activities; and attract new investment capital to New Jersey in general and to Atlantic City in particular.

(5) Restricting the issuance of casino licenses to major hotel and convention facilities is designed to assure that the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City is preserved, and that the casino rooms licensed pursuant to the provisions of this act are always offered and maintained as an integral element of such hospitality facilities, rather than as the industry unto themselves that they have become in other jurisdictions.

(6) An integral and essential element of the regulation and control of such casino facilities by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process and of casino operations. To further such public confidence and trust, the regulatory provisions of this act are designed to extend strict State regulation to all persons, locations, practices and associations related to the operation of licensed casino enterprises and all related service industries as herein provided. In addition, licensure of a limited number of casino establishments, with the comprehensive law enforcement supervision attendant thereto, is further designed to contribute to the public confidence and trust in the efficacy and integrity of the regulatory process.

(7) Legalized casino gaming in New Jersey can attain, maintain and retain integrity, public confidence and trust, and remain compatible with the general public interest only under such a system of control and regulation as insures, so far as practicable, the exclusion from participation therein of persons with known criminal records, habits or associations, and the exclusion or removal from any positions of authority or responsibility within casino gaming operations and establishments of any persons known to be so deficient in business probity, ability or experience, either generally or with specific reference to gaming, 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 incident thereto.

(8) Since the public has a vital interest in casino operations in Atlantic City and has established an exception to the general policy of the State concerning gaming for private gain, participation in casino operations as a licensee or registrant under this act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this act to preclude the creation of any property right in any license, registration, certificate or reservation permitted by this act, the accrual of any value to the privilege of participation in gaming operations, or the transfer of any license, registration, certificate, or reservation, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(9) Since casino operations are especially sensitive and in need of public control and supervision, and since it is vital to the interests of the State to prevent entry, directly or indirectly, into such operations or the ancillary industries regulated by this act of persons who have pursued economic gains in an occupational manner or context which are in violation of the criminal or civil public policies of this State, the regulatory and investigatory powers and duties shall be exercised to the fullest extent consistent with law to avoid entry of such persons into the casino operations or the ancillary industries regulated by this act.

(10) Since the development of casino gaming operations in Atlantic City will substantially alter the environment of New Jersey's coastal areas, and since it is necessary to insure that this substantial alteration be beneficial to the overall ecology of the coastal areas, the regulatory and investigatory powers and duties conferred by this act shall include, in cooperation with other public agencies, the power and the duty to monitor and regulate casinos and the growth of casino operations to respond to the needs of the coastal areas.

(11) The facilities in which licensed casinos are to be located are of vital law enforcement interest to the State, and it is in the public interest that the regulatory and investigatory powers and duties conferred by this act include the power and duty to review architectural and site plans to assure that the proposal is suitable by law enforcement standards.

(12) Since the economic stability of casino operations is in the public interest and competition in the casino operations in Atlantic City is desirable and necessary to assure the residents of Atlantic City and of this State and other visitors to Atlantic City varied attractions and exceptional facilities, the regulatory and investigatory powers and duties conferred by this act shall include the power and duty to regulate, control and prevent economic concentration in the casino operations and the ancillary industries regulated by this act, and to encourage and preserve competition.

(13) It is in the public interest that the institution of licensed casino establishments in New Jersey be strictly regulated and controlled pursuant to the above findings and pursuant to the provisions of this act, which provisions are designed to engender and maintain public confidence and trust in the regulation of the licensed enterprises, to provide an effective method of rebuilding and redeveloping existing facilities and of encouraging new capital investment in Atlantic City, and to provide a meaningful and

permanent contribution to the economic viability of the resort, convention, and tourist industry of New Jersey.

(14) Confidence in casino gaming operations is eroded to the extent the State of New Jersey does not provide a regulatory framework for casino gaming that permits and promotes stability and continuity in casino gaming operations.

(15) Continuity and stability in casino gaming operations cannot be achieved at the risk of permitting persons with unacceptable backgrounds and records of behavior to control casino gaming operations contrary to the vital law enforcement interest of the State.

(16) The aims of continuity and stability and of law enforcement will best be served by a system in which continuous casino operation can be assured under certain circumstances wherein there has been a transfer of property or another interest relating to an operating casino and the transferee has not been fully licensed or qualified, as long as control of the operation under such circumstances may be placed in the possession of a person or persons in whom the public may feel a confidence and a trust.

(17) A system whereby the suspension or revocation of casino operations under certain appropriate circumstances causes the imposition of a conservatorship upon the suspended or revoked casino operation serves both the economic and law enforcement interests involved in casino gaming operations.

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

C.5:12-5 "Authorized game" or "unauthorized gambling game".

5. "Authorized Game" or "Authorized Gambling Game"—Roulette, baccarat, blackjack, craps, big six wheel, slot machines, minibaccarat, red dog, pai gow, and sic bo; any variations or composites of such games, provided that such variations or composites are found by the commission suitable for casino use after an appropriate test or experimental period under such terms and conditions as the commission may deem appropriate; and any other game which is authorized by the commission pursuant to section 3 of this amendatory and supplementary act, P.L.1991, c.182 (C.5:12-5.1). "Authorized game" or "authorized gambling game" includes gaming tournaments in which players compete against one another in one or more of the games listed herein or in approved variations or composites thereof if the tournaments are authorized by the commission.

C.5:12-5.1 Authorization of game for trial period.

3. The commission may authorize the operation, for a trial period of not more than six months, of any game in addition to the games authorized by statute or by the commission prior to the effective date of this amendatory and supplementary act, P.L.1991, c.182 (C.5:12-5.1 et al.). At any time during the trial period or at the conclusion of the trial period, the commission may recommend to the Legislature and the Governor that authorization for that game be provided by statute. No game authorized by the commission pursuant to this section shall continue beyond six months unless authorized by enactment of appropriate legislation.

4. Section 6 of P.L.1977, c.110 (C.5:12-6) is amended to read as follows:

C.5:12-6 "Casino".

6. "Casino"—A single room in which casino gaming is conducted pursuant to the provisions of this act.

5. Section 7 of P.L.1977, c.110 (C.5:12-7) is amended to read as follows:

C.5:12-7 "Casino employee".

7. "Casino Employee"—Any natural person employed in the operation of a licensed casino, including, without limitation, boxmen; dealers or croupiers; floormen; machine mechanics; casino security employees; count room personnel; cage personnel; slot machine and slot booth personnel; collection personnel; casino surveillance personnel; and data processing personnel; or any other natural person whose employment duties predominantly involve the maintenance or operation of gaming activity or equipment and assets associated therewith or who, in the judgment of the commission, is so regularly required to work in a restricted casino area in gaming-related activities that licensure as a casino employee is appropriate.

C.5:12-8.1 "Casino hotel security employee".

6. "Casino hotel security employee"— Any natural person employed to provide physical security in the conduct of the business of an approved hotel but who is not included within the definition of casino security employee as stated in section 11 of P.L.1977, c.110 (C.5:12-11).

7. Section 11 of P.L.1977, c.110 (C.5:12-11) is amended to read as follows:

C.5:12-11 "Casino security employee".

11. "Casino security employee" — Any natural person employed by a casino licensee or its agent to provide physical security in a casino or restricted casino area.

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

C.5:12-12 "Casino service industry".

12. "Casino Service Industry" — Any form of enterprise which provides casino applicants or licensees with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility on a regular or continuing basis, including, without limitation, security businesses, gaming schools, manufacturers, distributors and servicers of gaming devices or equipment, garbage haulers, maintenance companies, food purveyors, and construction companies, or any other enterprise which purchases goods or services from or which does any other business with licensed casinos on a regular or continuing basis. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution or repair of slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be considered a casino service industry for the purposes of this act regardless of the nature of its business relationship, if any, with licensed casinos in this State.

For the purposes of this section, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the commission for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

9. Section 21 of P.L.1977, c.110 (C.5:12-21) is amended to read as follows:

C.5:12-21 "Game" or "gambling game".

21. "Game" or "gambling game" — Any banking or percentage game located exclusively within the casino played with cards, dice, tiles, dominoes, or any electronic, electrical, or mechanical device or machine for money, property, or any representative of value.

10. Section 27 of P.L.1977, c.110 (C.5:12-27) is amended to read as follows:

C.5:12-27 "Hotel" or "approved hotel".

27. "Hotel" or "approved hotel" — A single building, or two or more buildings which are physically connected in a manner

deemed appropriate by the commission and which are operated as one casino-hotel facility under the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), located within the limits of the city of Atlantic City as said limits were defined as of November 2, 1976, and containing not fewer than the number of sleeping units required by section 83 of P.L.1977, c.110 (C.5:12-83), each of which sleeping units shall: a. be at least 325 square feet measured to the center of perimeter walls, including bathroom and closet space and excluding hallways, balconies and lounges; b. contain private bathroom facilities; and c. be held available and used regularly for the lodging of tourists and convention guests. In no event shall the main entrance or only access to an approved hotel be through a casino.

C.5:12-27.1 "Institutional investor".

11. "Institutional investor" — Any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees; investment company registered under the Investment Company Act of 1940 (15 U.S.C. §80a-1 et seq.); collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency; closed end investment trust; chartered or licensed life insurance company or property and casualty insurance company; banking and other chartered or licensed lending institution; investment advisor registered under The Investment Advisors Act of 1940 (15 U.S.C. §80b-1 et seq.); and such other persons as the commission may determine for reasons consistent with the policies of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

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

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

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

a. Deleted by amendment.

b. No person shall be appointed to or employed by the commission or division if, during the period commencing three years prior to appointment or employment, said person held any direct or indirect interest in, or any employment by, any person which is licensed as a casino licensee pursuant to section 87 of P.L.1977,

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

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

d. Each member of the commission and the director of the division shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member or director and his spouse and shall provide to the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of said member or director. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.

e. Each employee of the commission, except for secretarial and clerical personnel, and each employee and agent of the division, except for secretarial and clerical personnel, shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee or

agent and his spouse. Such statement shall be under oath and shall be filed at the time of employment and annually thereafter.

13. Section 63 of P.L.1977, c.110 (C.5:12-63) is amended to read as follows:

C.5:12-63 Duties of the commission.

63. Duties of the Commission. The Casino Control Commission shall have general responsibility for the implementation of this act, as hereinafter provided, including, without limitation, the responsibility:

- a. To hear and decide promptly and in reasonable order all license, registration, certificate, and permit applications and causes affecting the granting, suspension, revocation, or renewal thereof;
- b. To conduct all hearings pertaining to civil violations of this act or regulations promulgated hereunder;
- c. To promulgate such regulations as in its judgment may be necessary to fulfill the policies of this act;
- d. To collect all license and registration fees and taxes imposed by this act and the regulations issued pursuant hereto;
- e. To levy and collect penalties for the violation of provisions of this act and the regulations promulgated hereunder;
- f. To be present through its inspectors and agents at all times during the operation of any casino for the purpose of certifying the revenue thereof and receiving complaints from the public; and
- g. To review and rule upon any complaint by a casino licensee regarding any investigative procedures of the division which are unnecessarily disruptive of casino operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, and establish that: (1) the procedures had no reasonable law enforcement purpose, and (2) the procedures were so disruptive as to inhibit unreasonably casino operations.

14. Section 68 of P.L.1977, c.110 (C.5:12-68) is amended to read as follows:

C.5:12-68 Collection of fees, penalties or tax.

68. Collection of Fees, Penalties or Tax. At any time within five years after any amount of fees, interest, penalties or tax required to be collected pursuant to the provisions of this act shall become due and payable, the commission may bring a civil action in the courts of this State or any other state or of the United States, in the name of the State of New Jersey, to collect the

amount delinquent, together with penalties and interest. An action may be brought whether or not the person owing the amount is at such time an applicant, licensee or registrant pursuant to the provisions of this act. If such action is brought in this State, a writ of attachment may be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in this State, the records of the commission shall be prima facie evidence of the determination of the fee or tax or the amount of the delinquency.

Each debt that is due and payable as a result of fees, interest, penalties, or taxes required to be collected pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder, including any compensation authorized pursuant to section 33 of P.L.1978, c.7 (C.5:12-130.3), and each regulatory obligation imposed as a condition upon the issuance or renewal of a casino license which requires the licensee to maintain, as a fiduciary, a fund for a specific regulatory purpose, shall constitute a lien on the real property in this State owned or hereafter acquired by the applicant, licensee, or registrant owing such a debt or on whom such an obligation has been imposed. Except as otherwise provided in R.S.54:5-9, such a lien shall be a first lien paramount to all prior or subsequent liens, claims, or encumbrances on that property.

15. Section 69 of P.L.1977, c.110 (C.5:12-69) is amended to read as follows:

C.5:12-69 Regulations.

69. Regulations. a. The commission shall be authorized to adopt, amend, or repeal such regulations, consistent with the policy and objectives of this act, as it may deem necessary or desirable for the public interest in carrying out the provisions of this act.

b. Such 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.).

c. Any interested person may, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), file a petition with the commission requesting the adoption, amendment or repeal of a regulation.

d. The commission may, in emergency circumstances, summarily adopt, amend or repeal any regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commission may, after notice provided in accordance with this subsection, authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or the use or design of gaming equipment for an experimental period not to exceed 180 days for the purpose of determining whether such rules should be adopted on a permanent basis in accordance with the requirements of this section. Any rules experiment authorized by this subsection shall be conducted under such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the initiation of the experimental period and shall be prominently posted in each casino participating in the experiment. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of a rules experiment initiated in accordance with this subsection. The text of any temporary rule adopted by the commission shall be posted in each casino participating in the experiment and shall be available upon request from the commission.

16. Section 70 of P.L.1977, c.110 (C.5:12-70) is amended to read as follows:

C.5:12-70 Required regulations.

70. Required Regulations. The commission shall, without limitation on the powers conferred in the preceding section, include within its regulations the following specific provisions in accordance with the provisions of this act:

- a. Prescribing the methods and forms of application which any applicant shall follow and complete prior to consideration of his application by the commission;
- b. Prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;
- c. Prescribing procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, or other methods of identification which may be necessary in the judgment of the

commission to accomplish effective enforcement of restrictions on access to the casino floor and other restricted areas of the casino hotel complex;

d. Prescribing the manner and procedure of all hearings conducted by the commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

e. Prescribing the manner and method of collection of payments of taxes, fees, and penalties;

f. Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices;

g. Regulating the practice and procedures for negotiable transactions involving patrons, including limitations on the circumstances and amounts of such transactions, and the establishment of forms and procedures for negotiable instrument transactions, redemptions, and consolidations;

h. Prescribing grounds and procedures for the revocation or suspension of operating certificates and licenses;

i. Governing the manufacture, distribution, sale, and servicing of gaming devices and equipment;

j. Prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security standards, including security personnel structure, alarm and other electrical or visual security measures;

k. Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee; provided, however, that no member of the Legislature, nor any firm with which said member is associated, shall be permitted to appear or practice or act in any capacity whatsoever before the commission or division regarding any matter whatsoever, nor shall any member of the family of the Governor or of a member of the Legislature be permitted to so practice or appear in any capacity whatsoever before the commission or division regarding any matter whatsoever;

l. Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;

m. Providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, including those controls listed in section 99a. hereof, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by games, tables, gaming devices and slot machines;

n. Requiring periodic financial reports and the form thereof, including an annual audit prepared by a certified public accountant licensed to do business in this State, attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this act and the regulations promulgated hereunder;

o. Governing the gaming-related advertising of casino licensees, their employees and agents, with the view toward assuring that such advertisements are in no way deceptive; provided, however, that such regulations shall not prohibit the advertisement of casino location, hours of operation, or types of games and other amenities offered, but in no circumstance shall permit the advertisement of information about odds, the number of games, or the size of the casino; and provided further, however, that such regulations shall require the words "Bet with your head, not over it" to appear on all billboards, signs, and other on-site advertising of a casino operation and shall require the words "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER" to appear on all print, electronic, billboard, and sign advertising of a casino operation; and

p. (Deleted by amendment, P.L.1991, c.182).

q. Concerning the distribution and consumption of alcoholic beverages on the premises of the licensee, which regulations shall be insofar as possible consistent with Title 33 of the Revised Statutes, and shall deviate only insofar as necessary because of the unique character of the hotel casino premises and operations;

r. (Deleted by amendment, P.L.1991, c.182).

17. Section 71 of P.L.1977, c.110 (C.5:12-71) is amended to read as follows:

C.5:12-71 Regulation requiring exclusion of certain persons.

71. a. The commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any licensed casino establishment. Such provisions

shall define the standards for exclusion, and shall include standards relating to persons:

(1) Who are career or professional offenders as defined by regulations of the commission;

(2) Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than six months in prison, or any crime or offense involving moral turpitude; or

(3) Whose presence in a licensed casino would, in the opinion of the commission, be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both.

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

b. Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

c. The commission may impose sanctions upon a licensed casino or individual licensee or registrant in accordance with the provisions of this act if such casino or individual licensee or registrant knowingly fails to exclude or eject from the premises of any licensed casino any person placed by the commission on the list of persons to be excluded or ejected.

d. Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all-inclusive list, and licensed casino establishments shall have a duty to keep from their premises persons known to them to be within the classifications declared in subsection a. of this section and the regulations promulgated thereunder.

e. Whenever the division petitions the commission to place the name of any person on a list pursuant to this section, the commission shall serve notice of such fact to such person by personal service, by certified mail at the last known address of such person, or by publication daily for one week in a newspaper of general circulation in Atlantic City.

f. Within 30 days after service of the petition in accordance with subsection e. of this section, the person named for exclusion or ejection may demand a hearing before the commission, at which hearing the division shall have the affirmative obligation to demonstrate by a preponderance of the evidence that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section and the commission's regulations.

Failure to demand such a hearing within 30 days after service shall be deemed an admission of all matters and facts alleged in the division's petition and shall preclude a person from having an administrative hearing, but shall in no way affect his or her right to judicial review as provided herein.

g. The division may file an application with the commission requesting preliminary placement on the list of a person named in a petition for exclusion or ejection pending completion of a hearing on the petition. The hearing on the application for preliminary placement shall be a limited proceeding at which the division shall have the affirmative obligation to demonstrate that there is a reasonable possibility that the person satisfies the criteria for exclusion established by this section and the commission's regulations. If a person has been placed on the list as a result of an application for preliminary placement, unless otherwise agreed by the commission and the named person, a hearing on the petition for exclusion or ejection shall be initiated within 30 days after the receipt of a demand for such hearing or the date of preliminary placement on the list, whichever is later.

h. If, upon completion of the hearing on the petition for exclusion or ejection, the commission determines that the person named therein does not satisfy the criteria for exclusion established by this section and the commission's regulations, the commission shall issue an order denying the petition. If the person named in the petition for exclusion or ejection had been placed on the list as a result of an application for preliminary placement, the commission shall notify all casino licensees of his or her removal from the list.

i. If, upon completion of a hearing on the petition for exclusion or ejection, the commission determines that placement of the name of the person on the exclusion list is appropriate, the commission shall make and enter an order to that effect, which order shall be served on all casino licensees. Such order shall be subject to review by the Superior Court in accordance with the rules of court.

18. Section 74 of P.L.1977, c.110 (C.5:12-74) is amended to read as follows:

C.5:12-74 Minutes and records.

74. Minutes and Records. a. The commission shall cause to be made and kept a record of all proceedings held at public meetings of the commission. A verbatim transcript of those proceedings

shall be prepared by the commission upon the request of any commissioner or upon the request of any other person and the payment by that person of the costs of preparation. A copy of a transcript shall be made available to any person upon request and payment of the costs of preparing the copy.

A true copy of the minutes of every meeting of the commission and of any regulations finally adopted by the commission shall be forthwith delivered, by and under the certification of the executive secretary, to the Governor, the Secretary of the Senate, and the Clerk of the General Assembly.

b. The commission shall keep and maintain a list of all applicants for licenses and registrations under this act together with a record of all actions taken with respect to such applicants, which file and record shall be open to public inspection; provided, however, that the foregoing information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after five years from the date of such action.

c. The commission shall maintain such other files and records as may be deemed desirable.

d. Except as provided in subsection h. of this section, all information and data required by the commission to be furnished hereunder, or which may otherwise be obtained, relative to the internal controls specified in section 99a. of this act or to the earnings or revenue of any applicant, registrant, or licensee shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

e. All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the commission from any source shall be considered confidential and shall be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

f. Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection d. or e. of this section, shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the commission.

g. Files, records, reports and other information in the possession of the New Jersey Division of Taxation pertaining to licensees

shall be made available to the commission and the division as may be necessary to the effective administration of this act.

h. The following information to be reported periodically to the commission by a casino licensee shall not be considered confidential and shall be made available for public inspection:

(1) A licensee's gross revenue from all authorized games as herein defined;

(2) (a) The dollar amount of patron checks initially accepted by a licensee, (b) the dollar amount of patron checks deposited to the licensee's bank account, (c) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as "uncollected," and (d) the dollar amount ultimately uncollected after all reasonable efforts;

(3) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1);

(4) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1);

(5) The amount, if any, of tax in lieu of full local real property tax paid pursuant to section 146, and the amount of profits, if any, recaptured pursuant to section 147;

(6) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to section 147; and

(7) All quarterly and annual financial statements presenting historical data which are submitted to the commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the State of New Jersey.

Nothing in this subsection shall be construed to limit access by the public to those forms and documents required to be filed pursuant to Article 11 of this act.

19. Section 76 of P.L.1977, c.110 (C.5:12-76) is amended to read as follows:

C.5:12-76 General duties and powers.

76. General Duties and Powers. a. The Division of Gaming Enforcement shall promptly and in reasonable order investigate all applications, enforce the provisions of this act and any regulations

promulgated hereunder, and prosecute before the commission all proceedings for violations of this act or any regulations promulgated hereunder. The division shall provide the commission with all information necessary for all action under Article 6 of this act and for all proceedings involving enforcement of the provisions of this act or any regulations promulgated hereunder.

b. The division shall:

(1) Investigate the qualifications of each applicant before any license, certificate, or permit is issued pursuant to the provisions of this act;

(2) Investigate the circumstances surrounding any act or transaction for which commission approval is required;

(3) Investigate violations of this act and regulations promulgated hereunder;

(4) Initiate, prosecute and defend such proceedings before the commission, or appeals therefrom, as the division may deem appropriate;

(5) Provide assistance upon request by the commission in the consideration and promulgation of rules and regulations;

(6) Conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with this act and regulations promulgated hereunder, subject to subsection g. of section 63 of this act;

(7) Conduct audits of casino operations at such times, under such circumstances, and to such extent as the director shall determine, including reviews of accounting, administrative and financial records, and management control systems, procedures and records utilized by a casino licensee; and

(8) Be entitled to request information, materials and any other data from any licensee or registrant, or applicant for a license or registration under this act.

20. Section 80 of P.L.1977, c.110 (C.5:12-80) is amended to read as follows:

C.5:12-80 General provisions.

80. General Provisions. a. It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence his individual qualifications, and for a casino license the qualifications of each person who is required to be qualified under this act as well as the qualifications of the facility in which the casino is to be located.

b. Any applicant, licensee, registrant, or any other person who must be qualified pursuant to this act shall provide all informa-

tion required by this act and satisfy all requests for information pertaining to qualification and in the form specified by the commission. All applicants, registrants, and licensees shall waive liability as to the State of New Jersey, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

c. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this act and regulations promulgated hereunder.

d. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this act shall have the continuing duty to provide any assistance or information required by the commission or division, and to cooperate in any inquiry or investigation conducted by the division and any inquiry, investigation, or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this act refuses to comply, the application, license, registration or qualification of such person may be denied or revoked by the commission.

e. No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming activities, except as authorized by this act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in gaming operations.

f. Each applicant or person who must be qualified under this act shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the commission.

g. All licensees, all registrants, all persons required to be qualified under this act, and all persons employed by a casino service industry licensed pursuant to this act, shall have a duty to inform the commission or division of any action which they believe would constitute a violation of this act. No person who so informs the commission or the division shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

h. Any person who must be qualified pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) in order to hold the securities of a casino licensee or any holding or intermediary company of a casino licensee may apply for qualification status prior to the acquisition of any such securities. The commission may determine to accept such an application upon a finding that there is a reasonable likelihood that, if qualified, the applicant will obtain and hold securities of a licensee sufficient to require qualification. Such an applicant shall be subject to the provisions of this section and shall pay for the costs of all investigations and proceedings in relation to the application unless the applicant provides to the commission an agreement with one or more casino licensees which states that the licensee or licensees will pay those costs.

21. Section 81 of P.L.1977, c.110 (C.5:12-81) is amended to read as follows:

C.5:12-81 Statement of compliance.

81. a. The commission may issue a statement of compliance to an applicant for any license or for qualification status under this act at any time the commission is satisfied that one or more particular eligibility criteria have been satisfied by an applicant.

b. Such statement shall specify the eligibility criterion satisfied, the date of such satisfaction and a reservation to the commission to revoke the statement of compliance at any time based upon a change of circumstances affecting such compliance.

c. A statement of compliance certifying satisfaction of all of the requirements of subsection e. of section 84 of this act with respect to a specific casino hotel proposal submitted by an eligible applicant may be accompanied by a written commitment from the commission that a casino license shall be reserved for a period not to exceed 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish and shall be issued to such eligible applicant with respect to such proposal provided that such applicant (1) complies in all respects with the provisions of this act, (2) qualifies for a casino license within a period not to exceed 30 months of the date of such commitment or within such additional time period as the commission may, upon a showing of good cause therefor, establish, and (3) complies with such other conditions as the commission shall impose. The commission may revoke such reservation at any time it finds that the applicant is disqualified

from receiving or holding a casino license or has failed to comply with any conditions imposed by the commission. Such reservation shall be automatically revoked if the applicant does not qualify for a casino license within the period of such commitment.

22. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

Casino license, eligibility.

82. Casino License—Applicant Eligibility. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved hotel building or owns or has a contract to purchase or construct a hotel which in the judgment of the commission can become an approved hotel building within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(2) Any person who, whether as lessor or lessee, either leases an approved hotel building or leases or has an agreement to lease a hotel which in the judgment of the commission can become an approved hotel building within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino; and

(4) Any other person who has any control over either an approved hotel building or the land thereunder or the operation of a casino.

c. Prior to the operation of the casino, every agreement to lease an approved hotel building or the land thereunder and every agreement for the management of the casino shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within

its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved hotel building or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved hotel building or the land thereunder who does not own or lease the entire approved hotel building shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved hotel building or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry license and that such an agreement be for a durational term exceeding 30 years, concern 100% of the entire approved hotel building or of the land upon which same is located, and include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved hotel the absolute right to purchase for an expressly set forth fixed sum the entire interest of the lessor or any person associated with the lessor in the approved hotel building or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved hotel building or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease

agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved hotel building or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of the casino, provide for the sole and unrestricted power to direct the casino operations of the casino which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino;

(8) The commission may permit an agreement for the management of a casino to provide for the payment to the managing party of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino; and

(9) As to agreements to lease an approved hotel building or the land thereunder, agreements to jointly own an approved hotel building or the land thereunder and agreements for the management of a casino, the commission shall require that each party thereto shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the premises licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey;

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those

required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

Notwithstanding the foregoing, any corporation or company which had bylaw provisions approved by the commission prior to the effective date of this 1987 amendatory act shall have one year from the effective date of this 1987 amendatory act to adopt appropriate charter provisions in accordance with the requirements of this subsection.

The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of more than three casino licenses. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

23. Section 83 of P.L. 1977, c.110 (C.5:12-83) is amended to read as follows:

C.5:12-83 Approved hotel.

83. Approved Hotel. a. An approved hotel for purposes of this act shall be a hotel providing facilities in accordance with this section. Nothing in this section shall be construed to limit the authority of the commission to determine the suitability of facilities as provided in this act, and nothing in this section shall be construed to require a casino to be smaller than the maximum size herein provided.

b. (1) In the case of a casino hotel in operation on the effective date of this amendatory and supplementary act, P.L.1991, c.182, an approved hotel shall:

(a) contain at least the number of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), which it has on the effective date of this amendatory and supplementary act, except that those units may be consolidated and reconfigured in order to form suites so long as there remain at least 500 qualifying sleeping units; and

(b) contain a casino of not more than the amount of casino space authorized on the basis of the provisions of this section

which were in effect on the day before the effective date of this amendatory and supplementary act and applicable to that casino at that time, unless the number of qualifying sleeping units under subparagraph (a) of this paragraph and the number of any qualifying sleeping units added after the effective date of this amendatory and supplementary act permit an increase on the following basis: 50,000 square feet for the first 500 qualifying sleeping units and 10,000 square feet for each additional 100 qualifying sleeping units above 500, up to a maximum of 200,000 square feet. No casino hotel in operation on the effective date of this amendatory and supplementary act shall be required to reduce the amount of its casino space below the amount authorized as of the day before the effective date of this amendatory and supplementary act unless the number of qualifying sleeping units is reduced below the number required in subparagraph (a) of this paragraph or, during the two years after that effective date, the amount of qualifying indoor public space, including space serving as kitchen support facilities, is reduced in violation of section 24 of this amendatory and supplementary act.

For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleeping units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those rooms, but if the agreement is not fulfilled due to conditions within the control of the casino licensee, the casino licensee shall close the additional casino space or any portion thereof as directed by the commission.

The calculation of the number of qualifying sleeping units added with respect to any such casino hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on the effective date of this amendatory and supplementary act, whether or not that unit or room is offered or usable for occupancy on the effective date, or any replacement for such a unit or room which results from construction or renovation after the effective date.

(2) In the case of a hotel in operation on the effective date of this amendatory and supplementary act, P.L.1991, c.182, in which a licensed casino was located and operated prior to, but not as of, that effective date, and in which a casino is reestablished after that effective date, an approved hotel shall:

(a) contain at least the number of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), which it had

on the date the casino ceased operations prior to the effective date of this amendatory and supplementary act, except that those units may be consolidated and reconfigured in order to form suites so long as there remain at least 500 qualifying sleeping units; and

(b) contain a casino of not more than the amount of casino space the casino had on the date it ceased operations prior to the effective date of this amendatory and supplementary act, unless the number of qualifying sleeping units under subparagraph (a) of this paragraph and the number of any qualifying sleeping units added after the effective date of this amendatory and supplementary act permit an increase on the following basis: 50,000 square feet for the first 500 qualifying sleeping units and 10,000 square feet for each additional 100 qualifying sleeping units above 500, up to a maximum of 200,000 square feet. No casino hotel which operates pursuant to this paragraph shall be required to reduce the amount of its casino space below the amount it had on the date it ceased operations unless the number of qualifying sleeping units is reduced below the number required in subparagraph (a) of this paragraph or, during the two years after the effective date of this amendatory and supplementary act, the amount of qualifying indoor public space, including space serving as kitchen support facilities, is reduced in violation of section 24 of this amendatory and supplementary act.

For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleeping units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those rooms, but if the agreement is not fulfilled due to conditions within the control of the casino licensee, the casino licensee shall close the additional casino space or any portion thereof as directed by the commission.

The calculation of the number of qualifying sleeping units added with respect to any such hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on the effective date of this amendatory and supplementary act, whether or not that unit or room is offered or usable for occupancy on the effective date, or any replacement for such a unit or room which results from construction or renovation after the effective date.

c. In the case of a casino hotel not in operation prior to or on the effective date of this amendatory and supplementary act, P.L.1991, c.182, an approved hotel shall contain at least 500

qualifying sleeping units, as defined in section 27 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-27), and a single casino room of not more than 50,000 square feet, except that for each additional 100 qualifying sleeping units above 500, the maximum size of the casino room may be increased by 10,000 square feet, up to a maximum of 200,000 square feet. The calculation of the number of qualifying sleeping units with respect to any such casino hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on the effective date of this amendatory and supplementary act, whether or not that unit or room is offered or usable for occupancy on the effective date, or any replacement for such a unit or room which results from construction or renovation after the effective date.

d. Once a hotel is initially approved, the commission shall thereafter rely on the certification of the casino licensee with regard to the number of rooms and, when applicable, the amount of qualifying indoor public space and shall permit rehabilitation, renovation and alteration of any part of the approved hotel even if the rehabilitation, renovation, or alteration will mean that the casino licensee does not temporarily meet the requirements of subsection c. so long as the licensee certifies that the rehabilitation, renovation, or alteration shall be completed within one year.

e. (Deleted by amendment, P.L.1987, c.352).

f. (Deleted by amendment, P.L.1991, c.182).

g. (Deleted by amendment, P.L.1991, c.182).

h. (Deleted by amendment, P.L.1991, c.182).

i. The commission shall not impose any criteria or requirements regarding the contents of the hotel, including indoor public space, in addition to the criteria and requirements expressly specified in the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that the commission shall be authorized to require each casino licensee to establish and maintain an approved hotel which is in all respects a superior, first-class facility of exceptional quality which will help restore Atlantic City as a resort, tourist and convention destination.

24. Notwithstanding the provisions of section 83 of P.L.1977, c.110 (C.5:12-83) to the contrary, for a period of two years after the effective date of this amendatory and supplementary act:

a. a casino hotel in operation on the effective date of this amendatory and supplementary act, P.L.1991, c.182, shall, in addition to the number of qualifying sleeping units required by that section,

contain sufficient qualifying indoor public space, including space serving as kitchen support facilities, to provide the basis, in conjunction with the number of qualifying sleeping units, for the size of the casino in operation on that effective date, as determined by the provisions of section 83 which were in effect on the day before the effective date of this amendatory and supplementary act; and

b. a hotel in operation on the effective date of this amendatory and supplementary act, P.L.1991, c.182, in which a casino was located and operated prior to, but not as of, that effective date, and in which a casino is reestablished after that effective date, shall contain sufficient qualifying indoor public space, including space serving as kitchen support facilities, to provide the basis, in conjunction with the number of qualifying sleeping units, for the size of the casino in operation on the date that it ceased operations prior to the effective date of this act, as determined by the provisions of section 83 which were applicable at that time.

25. Section 84 of P.L.1977, c.110 (C.5:12-84) is amended to read as follows:

C.5:12-84 Casino license - applicant requirements.

84. Casino License--Applicant Requirements. Any applicant for a casino license must produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

b. Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the casino proposal submitted by the applicant or applicants; provided, however, that this section shall not apply to banking or other licensed lending institutions

exempted from the qualification requirements of subsections c. and d. of section 85 of P.L.1977, c.110 (C.5:12-85) and institutional investors waived from the qualification requirements of those subsections pursuant to the provisions of subsection f. of section 85 of P.L.1977, c.110 (C.5:12-85). Any such banking or licensed lending institution or institutional investor shall, however, produce for the commission or the division upon request any document or information which bears any relation to the casino proposal submitted by the applicant or applicants. The integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

c. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was dur-

ing the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

d. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the likelihood of creation and maintenance of a successful, efficient casino operation. The applicant shall produce the names of all proposed casino key employees as they become known and a description of their respective or proposed responsibilities, and a full description of security systems and management controls proposed for the casino and related facilities.

e. Each applicant shall produce such information, documentation and assurances to establish to the satisfaction of the commission the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83) and its proposed location will not adversely affect casino operations or overall environmental conditions. Each applicant shall submit an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act, the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof, and the requirements of the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall environment, including, without limitation, economic, social, demographic and competitive conditions as well as the natural resources of Atlantic City and the State of New Jersey.

26. Section 85 of P.L.1977, c.110 (C.5:12-85) is amended to read as follows:

C.5:12-85 Additional requirements.

85. Additional Requirements. a. In addition to other information required by this act, a corporation applying for a casino license shall provide the following information:

(1) The organization, financial structure and nature of all businesses operated by the corporation; the names and personal employment and criminal histories of all officers, directors and

principal employees of the corporation; the names of all holding, intermediary and subsidiary companies of the corporation; and the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the commission may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the commission may require;

(2) The rights and privileges acquired by the holders of different classes of authorized securities of such corporations and companies as the commission may require, including the names, addresses and amounts held by all holders of such securities;

(3) The terms upon which securities have been or are to be offered;

(4) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices utilized by the corporation;

(5) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration in the form of salary, wages, fees or otherwise;

(6) Names of persons other than directors and officers who occupy positions specified by the commission or whose compensation exceeds an amount determined by the commission, and the amount of their compensation;

(7) A description of all bonus and profit-sharing arrangements;

(8) Copies of all management and service contracts; and

(9) A listing of stock options existing or to be created.

b. If a corporation applying for a casino license is, or if a corporation holding a casino license is to become, a subsidiary, each holding company and each intermediary company with respect thereto must, as a condition of the said subsidiary acquiring or retaining such license, as the case may be:

(1) Qualify to do business in the State of New Jersey; and

(2) If it is a corporation, register with the commission and furnish the commission with all the information required of a corporate licensee as specified in subsection a. (1), (2) and (3) of this section and such other information as the commission may require; or

(3) If it is not a corporation, register with the commission and furnish the commission with such information as the commission may prescribe.

c. No corporation shall be eligible to hold a casino license unless each officer; each director; each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation; any person who in the opinion of the commission has the ability to control the corporation or elect a majority of the board of directors of that corporation, other than a banking or other licensed lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; each principal employee; and any lender, underwriter, agent, employee of the corporation, or other person whom the commission may consider appropriate for approval or qualification would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

d. No corporation which is a subsidiary shall be eligible to receive or hold a casino license unless each holding and intermediary company with respect thereto:

(1) If it is a corporation, shall comply with the provisions of subsection c. of this section as if said holding or intermediary company were itself applying for a casino license; provided, however, that the commission with the concurrence of the director may waive compliance with the provisions of subsection c. hereof on the part of a publicly-traded corporation which is a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation, where the commission and the director are satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee, and in the case of security holders, does not have the ability to control the publicly-traded corporation or elect one or more directors thereof; or

(2) If it is not a corporation, shall comply with the provisions of subsection e. of this section as if said company were itself applying for a casino license.

e. Any noncorporate applicant for a casino license shall provide the information required in subsection a. of this section in such form as may be required by the commission. No such applicant shall be eligible to hold a casino license unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or who in the opinion of the commission has the ability to control the applicant, or whom the commission may consider appropriate for approval or qualification, would, but for

residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

f. Notwithstanding the provisions of subsections c. and d. of this section, and in the absence of a prima facie showing by the director that there is any cause to believe that the institutional investor may be found unqualified, an institutional investor holding either (1) under 10% of the equity securities of a casino licensee's holding or intermediary companies, or (2) debt securities of a casino licensee's holding or intermediary companies, or another subsidiary company of a casino licensee's holding or intermediary companies which is related in any way to the financing of the casino licensee, where the securities represent a percentage of the outstanding debt of the company not exceeding 20%, or a percentage of any issue of the outstanding debt of the company not exceeding 50%, shall be granted a waiver of qualification if such securities are those of a publicly traded corporation and its holdings of such securities were purchased for investment purposes only and upon request by the commission it files with the commission a certified statement to the effect that it has no intention of influencing or affecting the affairs of the issuer, the casino licensee or its holding or intermediary companies; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. The commission may grant a waiver of qualification to an institutional investor holding a higher percentage of such securities upon a showing of good cause and if the conditions specified above are met. Any institutional investor granted a waiver under this subsection which subsequently determines to influence or affect the affairs of the issuer shall provide not less than 30 days' notice of such intent and shall file with the commission an application for qualification before taking any action that may influence or affect the affairs of the issuer; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. If an institutional investor changes its investment intent, or if the commission finds reasonable cause to believe that the institutional investor may be found unqualified, no action other than divestiture shall be taken by such investor with respect to its security holdings until there has been compliance with the provisions of P.L.1987, c.409 (C.5:12-95.12 et seq.), including the execution of a trust agreement. The casino licensee and its relevant holding, intermediary or subsidiary company shall immediately notify the commission and the division of any information about, or actions of, an institutional investor holding its equity or debt securi-

ties where such information or action may impact upon the eligibility of such institutional investor for a waiver pursuant to this subsection.

g. If at any time the commission finds that an institutional investor holding any security of a holding or intermediary company of a casino licensee, or, where relevant, of another subsidiary company of a holding or intermediary company of a casino licensee which is related in any way to the financing of the casino licensee, fails to comply with the terms of subsection f. of this section, or if at any time the commission finds that, by reason of the extent or nature of its holdings, an institutional investor is in a position to exercise such a substantial impact upon the controlling interests of a licensee that qualification of the institutional investor is necessary to protect the public interest, the commission may, in accordance with the provisions of subsections a. through e. of this section or subsections d. and e. of section 105 of P.L.1977, c.110 (C.5:12-105), take any necessary action to protect the public interest, including requiring such an institutional investor to be qualified pursuant to the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

27. Section 86 of P.L.1977, c.110 (C.5:12-86) is amended to read as follows:

C.5:12-86 Casino license - disqualification criteria.

86. Casino License—Disqualification Criteria. The commission shall deny a casino license to any applicant who is disqualified on the basis of any of the following criteria:

a. Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this act;

b. Failure of the applicant to provide information, documentation and assurances required by the act or requested by the commission, or failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

c. The conviction of the applicant, or of any person required to be qualified under this act as a condition of a casino license, of any offense in any jurisdiction which would be:

(1) Any of the following offenses under the "New Jersey Code of Criminal Justice," P.L.1978, c.95 (Title 2C of the New Jersey Statutes) as amended and supplemented:

all crimes of the first degree;

N.J.S.2C:5-1 (attempt to commit an offense which is listed in this subsection);

N.J.S.2C:5-2 (conspiracy to commit an offense which is listed in this subsection);

Subsection b. of N.J.S.2C:11-4 (manslaughter);

Subsection b. of N.J.S.2C:12-1 (aggravated assault which constitutes a crime of the second or third degree);

N.J.S.2C:13-1 (kidnapping);

N.J.S.2C:14-1 et seq. (sexual offenses which constitute crimes of the second or third degree);

N.J.S.2C:15-1 (robberies);

Subsections a. and b. of N.J.S.2C:17-1 (crimes involving arson and related offenses);

Subsections a. and b. of N.J.S.2C:17-2 (causing or risking widespread injury or damage);

N.J.S.2C:18-2 (burglary which constitutes a crime of the second degree);

N.J.S.2C:20-1 et seq. (theft and related offenses which constitute crimes of the second or third degree);

N.J.S.2C:21-1 et seq. (forgery and fraudulent practices which constitute crimes of the second or third degree);

N.J.S.2C:27-1 et seq. (bribery and corrupt influence);

N.J.S.2C:28-1 et seq. (perjury and other falsification in official matters which constitute crimes of the second, third or fourth degree);

N.J.S.2C:30-2 and N.J.S.2C:30-3 (misconduct in office and abuse in office which constitutes a crime of the second degree);

N.J.S.2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance or a controlled dangerous substance analog which constitutes a crime of the second or third degree);

N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme);

N.J.S.2C:35-7 (distributing, dispensing or possessing a controlled dangerous substance or a controlled substance analog on or within 1,000 feet of school property or bus);

N.J.S.2C:35-11 (distribution, possession or manufacture of imitation controlled dangerous substances);

N.J.S.2C:35-13 (acquisition of controlled dangerous substances by fraud);

N.J.S.2C:37-1 et seq. (gambling offenses which constitute crimes of the third or fourth degree);

N.J.S.2C:37-7 (possession of a gambling device); or

(2) Any other offense under present New Jersey or federal law which indicates that licensure of the applicant would be inimical to the policy of this act and to casino operations; provided, however, that the automatic disqualification provisions of this subsection shall not apply with regard to any conviction which did not occur within the 10-year period immediately preceding application for licensure and which the applicant demonstrates by clear and convincing evidence does not justify automatic disqualification pursuant to this subsection and any conviction which has been the subject of a judicial order of expungement or sealing;

d. Current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this act as a condition of a casino license, for any of the offenses enumerated in subsection c. of this section; provided, however, that at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;

e. The pursuit by the applicant or any person who is required to be qualified under this act as a condition of a casino license of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, if such pursuit creates a reasonable belief that the participation of such person in casino operations would be inimical to the policies of this act or to legalized gaming in this State. For purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;

f. The identification of the applicant or any person who is required to be qualified under this act as a condition of a casino license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this act and to gaming operations. For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

g. The commission by the applicant or any person who is required to be qualified under this act as a condition of a casino

license of any act or acts which would constitute any offense under subsection c. of this section, even if such conduct has not been or may not be prosecuted under the criminal laws of this State or any other jurisdiction or has been prosecuted under the criminal laws of this State or any other jurisdiction and such prosecution has been terminated in a manner other than with a conviction; and

h. Contumacious defiance by the applicant or any person who is required to be qualified under this act of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity.

28. Section 88 of P.L.1977, c.110 (C.5:12-88) is amended to read as follows:

C.5:12-88 Renewal of casino licenses.

88. Renewal of Casino Licenses. a. Subject to the power of the commission to deny, revoke, or suspend licenses, any casino license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the commission. The license period for a renewed casino license shall be up to one year for each of the first two renewal periods succeeding the initial issuance of a casino license pursuant to section 87 of P.L.1977, c.110 (C.5:12-87). Thereafter, a casino license may be renewed for a period of up to two years, but the commission may reopen licensing hearings at any time. In addition, the commission shall reopen licensing hearings at any time at the request of the Division of Gaming Enforcement in the Department of Law and Public Safety. Notwithstanding the foregoing, the commission may, for the purpose of facilitating its administration of this act, renew the casino license of the holders of licenses initially opening after January 1, 1981 for a period of one year; provided, however, the renewal period for those particular casino licenses may not be adjusted more than once pursuant to this provision. The commission shall act upon any such application prior to the date of expiration of the current license.

b. Application for renewal shall be filed with the commission no later than 90 days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license.

c. Upon renewal of any license the commission shall issue an appropriate renewal certificate or validating device or sticker which shall be attached to each casino license.

29. Section 90 of P.L.1977, c.110 (C.5:12-90) is amended to read as follows:

C.5:12-90 Licensing of casino employees.

90. Licensing of Casino Employees. a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license.

b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89 of this act and any additional residency requirement imposed under subsection c. of this section; except that the standards for business ability and casino experience may be satisfied by a showing of casino job experience and knowledge of the provisions of this act and regulations pertaining to the particular position involved, or by successful completion of a course of study at a licensed school in an approved curriculum.

c. The commission may, by regulation, require that all applicants for casino employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. The commission shall endorse upon any license issued hereunder the particular positions as defined by regulation which the licensee is qualified to hold.

e. The commission shall deny a casino employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

f. For the purposes of this section, casino security employees shall be considered casino employees and must, in addition to any requirements under other laws, be licensed in accordance with the provisions of this act.

g. A temporary license may be issued by the commission to casino employees for positions not directly related to gaming activity if, in its judgment, the issuance of a plenary license will be restricted by necessary investigations and said temporary licensing of the applicant is necessary for the operation of the

casino. In addition, a temporary license may be issued by the commission to a casino employee for the position of slot changeperson if the division has not responded to the application for licensure within 15 days of the filing of the application and if the employee's position involves working with an impressment of \$3,000 or less and no access to any other funds. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire six months from the date of its issuance and be renewable, at the discretion of the commission, for one additional six-month period. Positions "directly related to gaming activity" shall include, but not be limited to, boxmen, floormen, dealers or croupiers, cage personnel, count room personnel, slot and slot booth personnel, credit and collection personnel, casino surveillance personnel, and casino security employees whose employment duties require or authorize access to the casino.

h. Notwithstanding the provisions of subsection e. of this section, no applicant shall be denied a casino employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section; provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the position applied for;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;
- (5) The age of the applicant when the offense or conduct was committed;
- (6) Whether the offense or conduct was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense or conduct;
- (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.

30. Section 91 of P.L.1977, c.110 (C.5:12-91) is amended to read as follows:

C.5:12-91 Registration of casino hotel and hotel security employees.

91. Registration of Casino Hotel and Casino Hotel Security Employees. a. No person may commence employment as a casino hotel employee or a casino hotel security employee unless he has been registered with the commission, which registration shall be in accordance with subsection f. of this section.

b. Any applicant for casino hotel employee or casino hotel security employee registration shall produce such information as the commission may require. Subsequent to the registration of a casino hotel employee or a casino hotel security employee, the commission may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section 86 of P.L.1977, c.110 (C.5:12-86).

c. The commission may, by regulation, require that all applicants for casino hotel employee or casino hotel security employee registration be residents of this State for a period not to exceed three months immediately prior to such registration, but application may be made prior to the expiration of the required period of residency. The commission shall waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section, no casino hotel employee or casino hotel security employee registration shall be revoked on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section, provided that the registrant has affirmatively demonstrated his rehabilitation. In determining whether the registrant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the registrant's position;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;

(5) The age of the registrant when the offense or conduct was committed;

(6) Whether the offense or conduct was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense or conduct;

(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 registrant under their supervision.

e. The commission may waive any disqualification criterion for a casino hotel employee or a casino hotel security employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. Upon petition by the holder of a casino license, casino hotel employee or casino hotel security employee registration shall be granted to each applicant for such registration named therein, provided that the petition certifies that each such applicant has filed a completed application for casino hotel employee or casino hotel security employee registration as required by the commission.

Any person who, on the effective date of this amendatory and supplementary act, P.L.1991, c.182, possesses a current and valid casino employee license and serves solely as a casino hotel security employee, or has a completed application for such licensure pending before the commission in order to serve as a casino hotel security employee, shall be considered registered in accordance with the provisions of this section.

31. Section 94 of P.L.1977, c.110 (C.5:12-94) is amended to read as follows:

C.5:12-94 Approval and denial of registrations and licenses other than casino licenses.

94. Approval and Denial of Registrations and Licenses Other Than Casino Licenses. a. Upon the filing of an application for any license or registration required by this act, other than a casino license, and after submission of such supplemental information as the commission may require, the commission shall request the division to conduct such investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant, in accordance with its

regulations, as may be necessary to determine qualification for such license or registration.

b. After such investigation, the commission may either deny the application or grant a license to or accept the registration of an applicant whom it determines to be qualified to hold such license or registration.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file its order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of fact.

d. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest. Licenses shall be granted and registrations approved for a term of one year; provided, however, that: (1) all casino employee licenses, gaming school resident director, instructor, principal employee and sales representative licenses, casino service industry licenses issued pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92), and junket representative and junket enterprise licenses issued pursuant to section 102 of P.L.1977, c.110 (C.5:12-102) shall be granted for a term of three years; (2) casino hotel employee registration shall remain in effect unless revoked, suspended, limited, or otherwise restricted by the commission in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.); and (3) after the first two renewal periods succeeding the issuance of a casino key employee license or of a casino service industry license required pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), the license term shall be for two years. The commission shall reconsider the granting of any license or the approval of any registration at any time at the request of the Division of Gaming Enforcement in the Department of Law and Public Safety.

Notwithstanding the provisions of paragraph (3) of this subsection, the commission may, for the purpose of avoiding the renewal in the same year of all the licenses existing on the effective date of this 1987 amendatory act which are affected by that paragraph, renew an appropriate number of those licenses for a term of one year, but the renewal period for those licenses may not be adjusted more than once pursuant to this provision.

e. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

32. Section 3 of P.L.1987, c.409 (C.5:12-95.12) is amended to read as follows:

C.5:12-95.12 Applicability and requirements.

3. Applicability and Requirements.

a. Except as provided in subsection b. of this section, whenever any person contracts to transfer any property relating to an ongoing casino operation, including a security holding in a casino licensee or holding or intermediary company, under circumstances which require that the transferee obtain casino licensure under section 82 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-82), or qualification under section 84 or 85 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-84 or 5:12-85), the contract shall not specify a closing or settlement date which is earlier than the 121st day after the submission of a completed application for licensure or qualification, which application shall include a fully executed and approved trust agreement in accordance with section 5 of this 1987 amendatory and supplementary act. Any contract provision which specifies an earlier closing or settlement date shall be void for all purposes. Subsequent to the earlier of the report of the division on interim authorization or the 90th day after the timely submission of the completed application, but no later than the closing or settlement date, the commission shall hold a hearing and render a decision on the interim authorization of the applicant. If the commission grants interim authorization, then, subject to the provisions of sections 3 through 7 of this 1987 amendatory and supplementary act, the closing or settlement may occur without interruption of casino operations. If the commission denies interim authorization, there shall be no closing or settlement until the commission makes a determination on the qualification of the applicant, and if the commission then denies qualification the contract shall thereby be terminated for all purposes without liability on the part of the transferor.

b. Whenever any person, as a result of a transfer of publicly-traded securities of a casino licensee or a holding or intermediary company or a financing entity of a casino licensee, is required to

qualify under section 84 or 85 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-84 or 5:12-85), the person shall, within 30 days after the commission determines that qualification is required or declines to waive qualification under section 84, under paragraph (1) of subsection d. of section 85, or under subsection f. of section 85, or within such additional time as the commission may for good cause allow, file a completed application for such licensure or qualification, which application shall include a fully executed and approved trust agreement in accordance with section 5 of P.L.1987, c.409 (C.5:12-95.14), or in the alternative, such person, within 120 days after the commission determines that qualification is required or a waiver of qualification is denied, shall divest such securities as the commission may require in order to remove the need for qualification. If such person determines to divest such securities, notice of such determination shall be filed with the commission within 30 days after the commission determines that qualification is required or that a waiver of qualification is denied. No extension of the time for filing a completed application shall be granted unless the person submits a written acknowledgement of the jurisdiction of the commission and the obligations imposed by the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.). If a person required by this section to file an application fails to do so in a timely manner, such failure shall constitute a per se disqualification to continue to act as a security holder, and the commission shall take appropriate action under the "Casino Control Act." If a person required by this section to file an application does so in a timely manner, then, subsequent to the earlier of the report of the division on interim authorization or the 90th day after submission of the completed application, but not later than the 120th day after such submission, the commission shall hold a hearing and render a decision on the interim authorization of such person. The pendency of proceedings under this subsection shall not prevent the renewal of a casino license under section 88 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-88), so long as any person required by this subsection to file an application has complied with this subsection and has otherwise complied with the "Casino Control Act."

33. Section 5 of P.L.1987, c.409 (C.5:12-95.14) is amended to read as follows:

C.5:12-95.14 Provisions and application of trust agreement.

5. Provisions and Application of Trust Agreement.

a. (1) Where the applicant is not required to obtain a casino license, the trust agreement filed pursuant to section 3 of this

1987 amendatory and supplementary act shall transfer and convey all of the applicant's present and future right, title and interest in the property described in section 3, including all voting rights in securities, to the trustee.

(2) Where the applicant is required to obtain a casino license, the trust agreement filed pursuant to section 3 of this 1987 amendatory and supplementary act shall transfer and convey to the trustee, if the applicant is a corporation, all outstanding equity securities of the corporation, and, if the applicant is other than a corporation, all outstanding interest in the applicant.

(3) The compensation for the service, costs and expenses of the trustee or trustees shall be stated in the trust agreement and shall be approved by the commission.

(4) The trust agreement filed pursuant to section 3 of this 1987 amendatory and supplementary act shall, in all instances, contain such provisions as the commission may deem necessary and desirable.

b. With respect to applicants described in subsection b. of section 3 of this 1987 amendatory and supplementary act, if the commission denies interim authorization, it shall order that the trust agreement become operative, or take such other action as may be appropriate in accordance with this 1987 amendatory and supplementary act. With respect to all applicants under section 3, if the commission grants interim authorization, it shall thereafter order that the trust agreement become operative at such time as it finds reasonable cause to believe that the applicant or any person required to be qualified in connection with the application may be found unqualified.

c. While the trust agreement remains operative, the trustee shall exercise all rights incident to the ownership of the property subject to the trust, and shall be vested with all powers, authority and duties necessary to the unencumbered exercise of such rights, as provided in sections 31 through 40 of P.L.1978, c.7 (C.5:12-130.1 through 5:12-130.11), except that the applicant shall have no right to participate in the earnings of the casino hotel or receive any return on its investment or debt security holdings during the time the trust is operative.

d. The trust agreement, once operative, shall remain operative until the commission finds the applicant qualified, or the commission finds the applicant unqualified and the property subject to the trust is disposed of in accordance with subsection e. of section 5 of this 1987 amendatory and supplementary act, except that the applicant may request the commission to direct the trustee to dis-

pose of the property subject to the trust, in accordance with that subsection e., prior to a finding with respect to qualification.

e. If the commission denies qualification to a person subject to sections 3 through 7 of this 1987 amendatory and supplementary act, the trustee shall endeavor and be authorized to sell, assign, convey or otherwise dispose of all property subject to the trust to such persons as shall be appropriately licensed or qualified or shall obtain interim authorization in accordance with those sections. The disposition of trust property by the trustee shall be completed within 120 days of the denial of qualification, or within such additional time as the commission may for good cause allow, and shall be conducted in accordance with sections 31 through 40 of P.L.1978, c.7 (C.5:12-130.1 through 5:12-130.11), except that the proceeds of such disposition shall be distributed to the unqualified applicant only in an amount not to exceed the lower of the actual cost of the assets to such unqualified applicant or the value of such assets calculated as if the investment had been made on the date the trust becomes operative, and any excess remaining proceeds shall be paid to the casino revenue fund.

34. 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, in accordance with regulations promulgated by the commission, file any changes in the number of authorized games to be played in a particular casino with the

commission and the division, which shall review the changes for compliance with the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) or regulations promulgated thereunder.

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 such period of time as the commission shall require.

35. Section 97 of P.L.1977, c.110 (C.5:12-97) is amended to read as follows:

C.5:12-97 Hours of operation.

97. Hours of Operation. a. No casino licensed pursuant to this act shall operate between the hours of 6 a.m. and 10 a.m. on Saturdays, Sundays and State and federal holidays, or between the hours of 4 a.m. and 10 a.m. on all other days, except that for a period of three years following the effective date of this amendatory and supplementary act, P.L.1991, c.182, the commission may extend the hours of operation, up to and including 24 hours of operation, on any Saturday, Sunday, or State or federal holiday, or on any day on which the commission determines that there is an event to be held in a casino or in Atlantic City that will have a substantial citywide impact with respect to the number of visitors to the city and will have an economic impact on the casino industry which would justify the extension of those hours.

b. A casino licensee shall file with the commission a schedule of hours prior to the issuance of an initial operation certificate. If the casino licensee proposes any change in scheduled hours, such change may not be effected until such licensee files a notice of the new schedule of hours with the commission. Such filing must be made 30 days prior to the effective date of the proposed change in hours.

c. Nothing herein shall be construed to limit a casino licensee in opening its casino later than, or closing its casino earlier than, the times stated in its schedule of operating hours; provided, however, that any such alterations in its hours shall comply with the

provisions of subsection a. of this section and with regulations of the commission pertaining to such alterations.

36. Section 98 of P.L.1977, c.110 (C.5:12-98) is amended to read as follows:

C.5:12-98 Casino facility requirements.

98. a. Each casino licensee shall arrange the facilities of its casino in such a manner as to promote maximum comfort for the patrons and optimum security for the casino operation, and shall comply in all respects with regulations of the commission pertaining thereto.

b. Each casino licensee shall:

(1) Install a closed circuit television system according to specifications approved by the commission, and provide access on the licensed premises to the system or its signal by the commission or the division, in accordance with regulations pertaining thereto;

(2) Establish a single room as its casino, and provide that visibility between any two areas in the casino, whether or not contiguous, may not be obstructed by partitions of any kind which cover more than 50% of the structural opening; provided, however, that multi-level casinos otherwise complying with this subsection shall be permitted; and

(3) Not permit the interior of the casino to be visible from outside the casino hotel facility.

37. Section 99 of P.L.1977, c.110 (C.5:12-99) is amended to read as follows:

C.5:12-99 Internal controls.

99. Internal Controls. a. Each casino licensee shall submit to the commission a description of its system of internal procedures and administrative and accounting controls for gaming operations and a description of any changes thereof. Such submission shall be made at least 60 days before gaming operations are to commence or at least 60 days before any change in those procedures or controls is to take effect, unless otherwise directed by the commission. Each such submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized by the casino, including, but not limited to:

(1) Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming operations;

(2) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages, revenue drop, expense

and overhead schedules, complimentary services, junkets, cash equivalent transactions, salary structure and personnel practices;

(3) Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in casino operations and identifying primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;

(4) Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in gaming; the cashing of checks; the redemption of chips and other cash equivalents used in gaming; the pay-off of jackpots; and the recording of transactions pertaining to gaming operations;

(5) Procedures for the collection and security of moneys at the gaming tables;

(6) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

(7) Procedures for the transfer of moneys from the gaming tables to the counting process;

(8) Procedures and security for the counting and recordation of revenue;

(9) Procedures for the security, storage and recordation of chips and other cash equivalents utilized in the gaming operation;

(10) Procedures for the transfer of moneys or chips from and to the slot machines;

(11) Procedures and standards for the opening and security of slot machines;

(12) Procedures for the payment and recordation of slot machine jackpots;

(13) Procedures for the cashing and recordation of checks exchanged by casino patrons;

(14) Procedures governing the utilization of the private security force within the casino;

(15) Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment;

(16) Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto; and

(17) Procedures for separately recording all transactions pursuant to section 101 of this act involving the Governor, any State officer or employee, or any special State officer or employee, any

member of the Judiciary, any member of the Legislature, or any officer of a municipality or county in which casino gaming is authorized, and for the quarterly filing with the Attorney General of a list reporting all such transactions.

In addition, each casino licensee shall submit to the commission a description of its system of internal procedures and administrative and accounting controls for non-gaming operations and a description of any changes thereof no later than five days after those operations commence or after any change in those procedures or controls takes effect.

b. The commission shall review each submission required by subsection a. hereof, and shall determine whether it conforms to the requirements of this act and to the regulations promulgated thereunder and whether the system submitted provides adequate and effective controls for the operations of the particular casino hotel submitting it. If the commission finds any insufficiencies, it shall specify same in writing to the casino licensee, who shall make appropriate alterations. When the commission determines a submission to be adequate in all respects, it shall notify the casino licensee of same. No casino licensee shall commence or alter gaming operations unless and until such system of controls is approved by the commission.

38. Section 100 of P.L.1977, c.110 (C.5:12-100) is amended to read as follows:

C.5:12-100 Games and gaming equipment.

100. Games and Gaming Equipment. a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel complex except in the casino room and in secure areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the casino licensee with the approval of the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a casino licensee or his employees, and is

brought into or removed from the casino room at times authorized for that purpose by the commission or at other times when prior notice has been given to and written approval granted by an authorized agent of the commission.

Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the casino hotel complex; provided such equipment is used for nongaming purposes.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, shall be equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from the casino room, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

d. All chips used in gaming at all casinos shall be of such size and uniform color by denomination as the commission shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers at table games shall be made according to rules promulgated by the commission, which shall establish such minimum wagers and other limitations as may be necessary to assure the vitality of casino operations and fair odds to and maximum participation by casino patrons; provided, however, that a licensee may establish a higher minimum wager with the prior approval of the commission. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any casino patron upon request the complete text of the rules of the commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the commission shall require. Each casino licensee shall prominently post within the casino room according to regulations of the commis-

sion such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. No slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested by the division and licensed for use by the commission. The commission shall, by regulation, establish such technical standards for licensure, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. In no event shall slot machines, including walkways between them, occupy more than 45% of the first 50,000 square feet of floor space of a casino, or more than 32% of any additional floor space of a casino larger than 50,000 square feet in the case of a casino hotel with fewer than 1,200 qualifying sleeping units or more than 45% of such additional floor space in the case of a casino hotel with at least 1,200 qualifying sleeping units. In the case of casinos in operation on the effective date of this amendatory and supplementary act, P.L.1991, c.182, up to 10% of the number of slot machines in operation on that effective date may be added by the end of the first year after the effective date, up to 20% of that number may be added by the end of the second year after the effective date, and up to 30% of that number may be added by the end of the third year after the effective date. The commission shall, by regulation, determine the permissible density of particular licensed slot machines or combinations thereof, based upon their size and light and noise levels, so as to create and maintain a gracious playing environment in the casino and to avoid deception or frequent distraction to players at gaming tables. The denominations of such machines shall be set by the licensee, subject to the prior approval of the commission.

i. (Deleted by amendment, P.L.1991, c.182).

j. (Deleted by amendment, P.L.1991, c.182).

k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks or other chips. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over \$25.00 with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

l. It shall be unlawful for any casino licensee or its agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or play at any game or for any purpose whatsoever.

m. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose.

n. It shall be unlawful for any casino key employee, other than a junket representative, or any casino employee, other than a bartender, waiter, waitress, or other casino employee who in the judgment of the commission is not directly involved with the conduct of gaming operations, to wager at any game in any casino in this State.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino where he is employed.

(2) A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, accounted for, and placed in a pool for distribution pro rata among the dealers, with the distribution based upon the number of hours each dealer has worked.

39. Section 101 of P.L.1977, c.110 (C.5:12-101) is amended to read as follows:

C.5:12-101 Credit.

101. Credit. a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or

which represents value to enable any person to take part in gaming activity as a player; or

(2) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming activity, without maintaining a written record thereof in accordance with the rules of the commission.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent from any person to enable such person to take part in gaming activity as a player, or may give cash or cash equivalents in exchange for such check unless:

(1) The check is made payable to the casino licensee;

(2) The check is dated, but not postdated;

(3) The check is presented to the cashier or his representative and is exchanged only for a credit slip or slips which total an amount equal to the amount for which the check is drawn, which slip or slips may be presented for chips at a gaming table; and

(4) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

Nothing in this subsection shall be deemed to preclude the establishment of an account by any person with a casino licensee by a deposit of cash, recognized traveler's check or other cash equivalent, or a check which meets the requirements of subsection g. of this section, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such check in a bank for collection or payment within (1) seven calendar days of the date of the transaction for a check in an amount of \$1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than \$1,000.00 but less than or equal to \$5,000.00; or (3) 45 calendar days of the date of the transaction for a check in an amount greater than \$5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section in an amount equal to the amount for which the check is drawn; or he

may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he may issue one check which meets the requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subsection, the newly issued check shall be delivered to a bank for collection or payment within the period herein specified. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment within the time period prescribed by this subsection.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

d. No casino licensee or any other person licensed under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check; or

(3) A purchaser of the casino license as approved by the commission. The limitation on transferability of checks imposed herein shall apply to checks returned by any bank to the casino licensee without full and final payment.

e. No person other than one licensed as a casino key employee or as a casino employee may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a casino licensee may bring action for such collection.

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming activity as a player, may give cash or cash equivalents in exchange for such a check, or may accept a check in redemption or partial redemption of a check issued in accordance with subsection b., provided that:

(1) (a) The check is drawn by a casino licensee pursuant to the provisions of subsection k. of section 100 of P.L.1977, c.110 (C.5:12-100) or upon a withdrawal of funds from an account established in accordance with the provisions of subsection b. of this section or is drawn by a casino licensee for winnings from slot machine payoffs;

(b) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check; or

(c) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(2) The check is identifiable in a manner approved by the commission as a check issued for a purpose listed in paragraph (1) of this subsection;

(3) The check is dated, but not postdated;

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated by the commission in the case of a check issued pursuant to subparagraph (b) or subparagraph (c) of paragraph (1) of this subsection; and

(5) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

No casino licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or

credit to a person to enable the person to take part in gaming activity as a player.

h. Notwithstanding the provisions of subsection b. and subsection c. of this section to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to \$1,500 in exchange for cash or cash equivalents, and may, at such locations within the casino as may be permitted by the commission, accept a personal check or checks for up to \$1,500 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming activity as a player or non-gaming activity, as the case may be, provided that:

(1) The check is drawn on the patron's bank or brokerage cash management account;

(2) The check is for a specific amount;

(3) The check is made payable to the casino licensee;

(4) The check is dated but not post-dated;

(5) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;

(6) The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction; and

(7) The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed \$1,500.

i. Checks cashed pursuant to the provisions of subsection h. of this section which are subsequently uncollectable may not be deducted from the total of all sums received in calculating gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

j. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission,

which shall so inform the credit departments of casinos no later than three days after the submission of the request.

40. Section 102 of P.L.1977, c.110 (C.5:12-102) is amended to read as follows:

C.5:12-102 Junkets and complimentary services.

102. Junkets and Complimentary Services. a. No junkets may be organized or permitted except in accordance with the provisions of this act. No person may act as a junket representative or junket enterprise except in accordance with this section. Notwithstanding any other provisions of P.L.1977, c.110 (C.5:12-1 et seq.), junket enterprises engaged in activities governed by this section shall not be subject to the provisions of section 92 and subsection b. of section 104 of P.L.1977, c.110 (C.5:12-92 and C.5:12-104) with regard to those activities, unless otherwise directed by the commission pursuant to subsection k. of this section.

b. A junket representative shall be licensed as a casino key employee in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that said licensee need not be a resident of this State. Any person who holds a current and valid casino key employee license may act as a junket representative while employed by a casino licensee without further endorsement of his license. No casino licensee or junket enterprise may employ or otherwise engage a junket representative who is not so licensed.

c. A junket enterprise shall be licensed in accordance with the provisions of this section prior to conducting any business whatsoever with a casino licensee, its employees or agents. A junket enterprise, as well as such of its owners, management and supervisory personnel and other principal employees as the commission may consider appropriate for qualification, must qualify under the standards, except residency, established for qualification of a casino key employee under P.L.1977, c.110 (C.5:12-1 et seq.). No casino licensee or junket enterprise may employ or otherwise engage the services of a junket enterprise who is not so licensed.

Notwithstanding the foregoing, any licensed junket representative who is the sole owner and operator of a junket enterprise shall not be required to be licensed as a junket enterprise pursuant to this section if his junket representative license is endorsed as such.

d. Prior to the issuance of any license required by this section, an applicant for licensure shall submit to the jurisdiction of the State of

New Jersey and shall demonstrate to the satisfaction of the commission that he is amenable to service of process within this State. Failure to establish or maintain compliance with the requirements of this subsection shall constitute sufficient cause for the denial, suspension or revocation of any license issued pursuant to this section.

e. (Deleted by amendment, P.L.1987, c.426).

f. Every agreement concerning junkets entered into by a casino licensee and a junket representative or junket enterprise shall be deemed to include a provision for its termination without liability on the part of the casino licensee, if the commission orders the termination upon the suspension, limitation, conditioning, denial or revocation of the licensure of the junket representative or junket enterprise, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.). Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

g. A casino licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on its premises, regardless of the fact that the junket may involve persons not employed by such a casino licensee.

h. A casino licensee shall be responsible for any violation or deviation from the terms of a junket. Notwithstanding any other provisions of this act, the commission may, after hearings in accordance with this act, order restitution to junket participants, assess penalties for such violations or deviations, prohibit future junkets by the casino licensee, junket enterprise or junket representative, and order such further relief as it deems appropriate.

i. The commission shall, by regulation, prescribe methods, procedures and forms for the delivery and retention of information concerning the conduct of junkets by casino licensees. Without limitation of the foregoing, each casino licensee, in accordance with the rules of the commission, shall:

(1) Maintain on file a report describing the operation of any junket engaged in on its premises, which report may include acknowledgments by the participants, signed on the date of arrival, that they understand the terms of the particular junket;

(2) Submit to the commission and division a report on those arrangements which would be junkets but for the fact that those arrangements do not include a selection or approval of participants in accordance with the terms of section 29 of P.L.1977, c.110 (C.5:12-29); and

(3) Submit to the commission and division a list of all its employees who are acting as junket representatives but whose licenses are not endorsed as such.

j. Each casino licensee, junket representative or junket enterprise shall, in accordance with the rules of the commission, file a report with the division with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the casino licensee, junket representative or enterprise.

k. The commission shall have the authority to determine, either by regulation, or upon petition by the holder of a casino license, that a type of arrangement otherwise included within the definition of "junket" established by section 29 of P.L.1977, c.110 (C.5:12-29) shall not require compliance with any or all of the requirements of this section. The commission shall seek the opinion of the division prior to granting any exemption. In granting exemptions, the commission shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this act. In applying the provisions of this subsection, the commission may condition, limit, or restrict any exemption as the commission may deem appropriate.

l. No junket enterprise or junket representative or person acting as a junket representative may:

(1) Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

(2) Exercise approval authority with regard to the authorization or issuance of credit pursuant to section 101 of P.L.1977, c.110 (C.5:12-101);

(3) Act on behalf of or under any arrangement with a casino licensee or a gaming patron with regard to the redemption, consolidation, or substitution of the gaming patron's checks awaiting deposit pursuant to subsection c. of section 101 of P.L.1977, c.110 (C.5:12-101);

(4) Individually receive or retain any fee from a patron for the privilege of participating in a junket;

(5) Pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

m. No casino licensee shall offer or provide any complimentary services, gifts, cash or other items of value to any person unless:

(1) The complimentary consists of room, food, beverage or entertainment expenses provided directly to the patron and his

guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party; or

(2) The complimentary consists of documented transportation expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party, provided that the licensee complies with regulations promulgated by the commission to ensure that a patron's and his guests' documented transportation expenses are paid for or reimbursed only once; or

(3) The complimentary consists of coins, tokens, cash or other complimentary items or services provided through a bus coupon or other complimentary distribution program approved by the commission or maintained pursuant to commission regulation.

Notwithstanding the foregoing, a casino licensee may offer and provide complimentary cash or noncash gifts which are not otherwise included in paragraphs (1) through (3) of this subsection to any person, provided that any such gifts in excess of \$2,000.00 per trip, or such greater amount as the commission may establish by regulation, are supported by documentation regarding the reason the gift was provided to the patron and his guests, including where applicable, a patron's player rating, which documentation shall be maintained by the casino licensee. For the purposes of this paragraph, all gifts presented to a patron and the patron's guests directly by the licensee or indirectly on behalf of the licensee by a third party within any five-day period shall be considered to have been made during a single trip. In the case of cash gifts, the commission shall establish by regulation the total amount of such gifts that a licensee may provide to a patron each year.

Each casino licensee shall maintain a regulated complimentary service account, for those complementaries which are permitted pursuant to this section, and shall submit a quarterly report to the commission based upon such account and covering all complimentary services offered or engaged in by the licensee during the immediately preceding quarter. Such reports shall include identification of the regulated complimentary services and their respective costs, the number of persons by category of service who received the same, and such other information as the commission may require.

n. As used in this subsection, "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or full-time member

of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner or consultant regularly employed or retained by such planning board or zoning board of adjustment.

No casino applicant or licensee shall provide directly or indirectly to any person any complimentary service or discount which is other than such service or discount that is offered to members of the general public in like circumstance.

o. (1) Any person who, on the effective date of this 1987 amendatory act, holds a current and valid plenary junket representative license or a junket enterprise license authorizing the conduct of junket activities, shall be considered licensed in accordance with the provisions of this section as a junket representative or junket enterprise, respectively, for the remaining term of his current license.

(2) Any person who, on the effective date of this 1987 amendatory act, holds a current and valid temporary junket representative or junket enterprise license authorizing the conduct of junket activities shall be permitted to act as, or perform the services of a junket representative or junket enterprise so long as such junket representative or junket enterprise files with the commission an application for licensure pursuant to the provisions of this 1987 amendatory act within 90 days of the effective date hereof. Any junket representative or junket enterprise so filing shall be permitted to engage in junket activities until the commission has acted upon such application. Any junket representative or junket enterprise not so filing shall not be permitted to act as, or perform the services of, a junket representative or junket enterprise upon the expiration of 90 days from and after the effective date of this 1987 amendatory act.

41. Section 103 of P.L.1977, c.110 (C.5:12-103) is amended to read as follows:

C.5:12-103 Alcoholic beverages in casino hotel facilities.

103. a. Notwithstanding any law to the contrary, the authority to grant any license for, or to permit or prohibit the presence of,

alcoholic beverages in, on, or about any premises licensed as part of a casino hotel shall exclusively be vested in the commission.

b. Unless otherwise stated, and except where inconsistent with the purpose or intent of this act or the common understanding of usage thereof, definitions contained in Title 33 of the Revised Statutes shall apply to this section. Any definition contained therein shall apply to the same word in any form.

c. Notwithstanding any provision of Title 33 of the Revised Statutes, the rules, regulations and bulletins promulgated by the director of the Division of Alcoholic Beverage Control, or any provision promulgated by any local authority, the authority to issue, renew, transfer, revoke or suspend a Casino Hotel Alcoholic Beverage License or any portion, location, privilege or condition thereof; to fine or penalize a Casino Hotel Alcoholic Beverage Licensee; to enforce all statutes, laws, rulings, or regulations relating to such license; and to collect license fees and establish application standards therefor, shall be, consistent with this act, exclusively vested in the commission or the division.

d. Except as otherwise provided in this section, the provisions of Title 33 of the Revised Statutes and the rules, regulations and bulletins promulgated by the director of the Division of Alcoholic Beverage Control shall apply to a Casino Hotel and Casino Hotel Alcoholic Beverage Licensee licensed under this act.

e. Notwithstanding any provision to the contrary, the commission may promulgate any regulations and special rulings and findings as may be necessary for the proper enforcement, regulation, and control of alcoholic beverages in casino hotels when the commission finds that the uniqueness of casino operations and the public interest require that such regulations, rulings, and findings are appropriate. Regulations of the commission may include but are not limited to: designation and duties of enforcement personnel; all forms necessary or convenient in the administration of this section; inspections, investigations, searches, seizures; licensing and disciplinary standards; requirements and standards for any hearings or disciplinary or other proceedings that may be required from time to time; the assessment of fines or penalties for violations; hours of sale; sales in original containers; sales on credit; out-of-door sales; limitations on sales; gifts and promotional materials; locations or places for sale; control of signs and other displays; identification of licensees and their employees; employment of aliens and minors; storage, transportation and sanitary requirements; records to be kept by the Casino Hotel

Alcoholic Beverage Licensees and availability thereof; practices unduly designed to increase consumption of alcoholic beverages; and such other matters whatsoever as are or may become necessary and consistent with the administration of this act.

f. (1) It shall be unlawful for any person, including any casino licensee or any of its lessees, agents or employees, to expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel, unless said person possesses a Casino Hotel Alcoholic Beverage License.

(2) It shall be unlawful for any person issued a Casino Hotel Alcoholic Beverage License to expose, possess, sell, give, dispense, transfer, or otherwise dispose of alcoholic beverages, other than within the terms and conditions of the Casino Hotel Alcoholic Beverage License issued, the provisions of Title 33 of the Revised Statutes, the rules and regulations promulgated by the director of the Division of Alcoholic Beverage Control, and, when applicable, the regulations promulgated pursuant to this act.

g. In issuing a Casino Hotel Alcoholic Beverage License the commission shall describe the scope of the particular license and the restrictions and limitations thereon as it deems necessary and reasonable. The commission may, in a single Casino Hotel Alcoholic Beverage License, permit the holder of such a license to perform any or all of the following activities, subject to applicable laws, rules and regulations:

(1) To sell any alcoholic beverage by the glass or other open receptacle, but not in an original container, for on-premise consumption within a casino; provided, however, that no alcoholic beverage shall be sold, given or be available for consumption; offered, delivered or otherwise brought to a patron; or consumed at a gaming table unless so requested by the patron.

(2) To sell any alcoholic beverage by the glass or other open receptacle for on-premise consumption within a casino hotel, but not in a casino, or from a fixed location outside a building or structure containing a casino but on a casino hotel premises.

(3) To sell any alcoholic beverage in original containers for consumption outside the licensed area from an enclosed package room not in a casino.

(4) To sell any alcoholic beverage by the glass or other open receptacle or in original containers from a room service location within an enclosed room not in a casino; provided, however, that any sale of alcoholic beverages is delivered only to a guest room

or to any other room in the casino hotel authorized by the commission, other than any room authorized by the commission pursuant to paragraph (1), (3), or (5) of this subsection.

(5) To possess or to store alcoholic beverages in original containers intended but not actually exposed for sale at a fixed location on a casino hotel premises, not in a casino; and to transfer or deliver such alcoholic beverages only to a location approved pursuant to this section; provided, however, that no access to or from a storage location shall be permitted except during the normal course of business by employees or agents of the licensee, or by licensed employees or agents of wholesalers or distributors licensed pursuant to Title 33 of the Revised Statutes and any applicable rules and regulations; and provided further, however, that no provision of this section shall be construed to prohibit a Casino Hotel Alcoholic Beverage Licensee from obtaining an off-site storage license from the Division of Alcoholic Beverage Control.

h. (1) No Casino Hotel Alcoholic Beverage License which authorizes the sale of alcoholic beverages within a casino pursuant to subsection g.(1) of this section shall issue to any applicant who does not hold a casino license issued pursuant to this act.

(2) No Casino Hotel Alcoholic Beverage License which authorizes the possession, sale or storage of alcoholic beverages pursuant to subsection g.(2), (3), (4), or (5) of this section shall issue to any applicant who would not qualify under the standards for licensure of a casino service industry pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

(3) No Casino Hotel Alcoholic Beverage License which authorizes the possession or storage of alcoholic beverages pursuant to subsection g. of this section shall issue to any applicant who does not hold a Casino Hotel Alcoholic Beverage License, permitting any activity pursuant to subsection g.(1), (2), (3), or (4) of this section.

i. The commission may revoke, suspend, refuse to renew or refuse to transfer any Casino Hotel Alcoholic Beverage License, or fine or penalize any Casino Hotel Alcoholic Beverage Licensee for violations of any provision of Title 33 of the Revised Statutes, the rules and regulations promulgated by the director of the Division of Alcoholic Beverage Control, and the regulations promulgated by the commission.

j. Jurisdiction over all alcoholic beverage licenses previously issued with respect to the casino hotel facility is hereby vested in the commission, which in its discretion may by regulation provide

for the conversion thereof into a Casino Hotel Alcoholic Beverage License as provided in this section.

42. Section 105 of P.L.1977, c.110 (C.5:12-105) is amended to read as follows:

C.5:12-105 Disposition of securities by corporate licensee.

105. Disposition of Securities by Corporate Licensee. a. The sale, assignment, transfer, pledge or other disposition of any security issued by a corporation which holds a casino license is conditional and shall be ineffective if disapproved by the commission.

b. Every security issued by a corporation which holds a casino license shall bear, on both sides of the certificate evidencing such security, a statement of the restrictions imposed by this section, except that in the case of a publicly traded corporation incorporated prior to the effective date of this act, a statement of restriction shall be necessary only insofar as certificates are issued by such corporation after the effective date of this act.

c. The Secretary of State shall not accept for filing any articles of incorporation of any corporation which includes as a stated purpose the conduct of casino gaming, or any amendment which adds such purpose to articles of incorporation already filed, unless such articles or amendments have been approved by the commission and a copy of such approval is annexed thereto upon presentation for filing with the Secretary of State.

d. If at any time the commission finds that an individual owner or holder of any security of a corporate licensee or of a holding or intermediary company with respect thereto is not qualified under this act, and if as a result the corporate licensee is no longer qualified to continue as a casino licensee in this State, the commission shall, pursuant to the provisions of this act, take any necessary action to protect the public interest, including the suspension or revocation of the casino license of the corporation; provided, however, that if the holding or intermediary company is a publicly traded corporation and the commission finds disqualified any holder of any security thereof who is required to be qualified under section 85d. of this act, and the commission also finds that: (1) the holding or intermediary company has complied with the provisions of section 82d.(7) of this act; (2) the holding or intermediary company has made a good faith effort, including the prosecution of all legal remedies, to comply with any order of the commission requiring the divestiture of the security interest held by the disqualified holder; and (3) such disqualified holder does not have the ability to control the corporate licensee or any holding or intermediary company with respect

thereto, or to elect one or more members of the board of directors of such corporation or company, the commission shall not take action against the casino licensee or the holding or intermediary company with respect to the continued ownership of the security interest by the disqualified holder. For purposes of this act, a security holder shall be presumed to have the ability to control a publicly traded corporation, or to elect one or more members of its board of directors, if such holder owns or beneficially holds 5% or more of the equity securities of such corporation, unless such presumption of control or ability to elect is rebutted by clear and convincing evidence.

e. Commencing on the date the commission serves notice upon a corporation of the determination of disqualification under subsection d. of this section, it shall be unlawful for the named individual:

- (1) To receive any dividends or interest upon any such securities;
- (2) To exercise, directly or through any trustee or nominee, any right conferred by such securities; or
- (3) To receive any remuneration in any form from the corporate licensee for services rendered or otherwise.

f. After a nonpublicly traded corporation has been issued a casino license pursuant to the provisions of this act, but prior to the issuance or transfer of any security to any person required to be but not yet qualified in accordance with the provisions of this act, such corporation shall file a report of its proposed action with the commission, and shall request the approval of the commission for the transaction. If the commission shall deny the request, the corporation shall not issue or transfer such security. After a publicly traded corporation has been issued a casino license, such corporation shall file a report quarterly with the commission, which report shall list all owners and holders of any security issued by such corporate casino licensee.

g. Each corporation which has been issued a casino license pursuant to the provisions of this act shall file a report of any change of its corporate officers or members of its board of directors with the commission. No officer or director shall be entitled to exercise any powers of the office to which he was so elected or appointed until qualified by the commission in accordance with the provisions of this act.

43. Section 106 of P.L.1977, c.110 (C.5:12-106) is amended to read as follows:

C.5:12-106 Casino employment.

106. Casino Employment. a. A casino licensee shall not appoint or employ any person not registered or not possessing a current and valid license permitting such appointment or employment.

b. A casino licensee shall, within 24 hours of receipt of written notice thereof, terminate the appointment or employment of any person whose license or registration has been revoked or has expired. A casino licensee shall comply in all respects with any order of the commission imposing limitations or restrictions upon the terms of employment or appointment in the course of any investigation or hearing.

44. Section 111 of P.L.1977, c.110 (C.5:12-111) is amended to read as follows:

C.5:12-111 Penalties for willful evasion of payment of license fees, other acts and omissions.

111. Penalties for Willful Evasion of Payment of License Fees, Other Acts and Omissions. Any person who willfully fails to report, pay or truthfully account for and pay over any license fee or tax imposed by the provisions of this act, or willfully attempts in any manner to evade or defeat any such license fee, tax, or payment thereof is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00, and shall in addition be liable for a penalty of three times the amount of the license fee evaded and not paid, collected or paid over, which penalty shall be assessed by the commission and collected in accordance with the provisions of this act.

45. Section 112 of P.L.1977, c.110 (C.5:12-112) is amended to read as follows:

C.5:12-112 Unlicensed casino gambling games unlawful; penalties.

112. Unlicensed Casino Gambling Games Unlawful; Penalties. a. Any person who violates the provisions of section 80 or 82 or of Article 7 of this act, or permits any gambling game, slot machine or device to be conducted, operated, dealt or carried on in any casino by a person other than a person licensed for such purposes pursuant to this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

b. Any licensee who places games or slot machines into play or displays such games or slot machines in a casino without authority of the commission to do so is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may

be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

c. Any person who operates, carries on or exposes for play any gambling game, gaming device or slot machine after his license has expired and prior to the actual renewal thereof is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

C.5:12-113.1 Use of certain devices in playing casino game, disorderly persons offense.

46. A person commits a disorderly persons offense if, in playing a game in a licensed casino, the person uses, or assists another in the use of, an electronic, electrical or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any game in a licensed casino. A device used by any person in violation of this section shall be subject to forfeiture pursuant to the provisions of N.J.S.2C:64-1 et seq.

Each casino licensee shall post notice of this prohibition and the penalties of this section in a manner determined by the commission.

47. Section 115 of P.L.1977, c.110 (C.5:12-115) is amended to read as follows:

C.5:12-115 Cheating games and devices in a licensed casino; penalty.

115. Cheating Games and Devices in a Licensed Casino; Penalty. a. It shall be unlawful:

(1) Knowingly to conduct, carry on, operate, deal or allow to be conducted, carried on, operated or dealt any cheating or thieving game or device; or

(2) Knowingly to deal, conduct, carry on, operate or expose for play any game or games played with cards, dice or any mechanical device, or any combination of games or devices, which have in any manner been marked or tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the game which could determine or alter the result of the game.

b. It shall be unlawful knowingly to use or possess any marked cards, loaded dice, plugged or tampered with machines or devices.

c. Any person who violates this section is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

48. Section 116 of P.L.1977, c.110 (C.5:12-116) is amended to read as follows:

C.5:12-116 Unlawful possession of device, equipment or other material illegally manufactured, distributed, sold or serviced.

116. Unlawful possession of device, equipment or other material illegally manufactured, distributed, sold or serviced. Any person who possesses any device, equipment or material which he knows has been manufactured, distributed, sold, tampered with or serviced in violation of the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

49. Section 117 of P.L.1977, c.110 (C.5:12-117) is amended to read as follows:

C.5:12-117 Employment without license or registration; penalty.

117. Employment Without License or Registration; Penalty. a. Any person who, without obtaining the requisite license or registration as provided in this act, works or is employed in a position whose duties would require licensing or registration under the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$10,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$50,000.00.

b. Any person who employs or continues to employ an individual not duly licensed or registered under the provisions of this act in a position whose duties require a license or registration under the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$10,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$50,000.00.

c. (Deleted by amendment, P.L.1991, c.182).

d. Any person violating the provisions of subsection 101e. of this act shall be guilty of a crime of the third degree, and shall be subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00. Any licensee permitting or allowing such a violation shall also be punishable under this subsection, in addition to any other sanctions the commission may impose.

50. Section 118 of P.L.1977, c.110 (C.5:12-118) is amended to read as follows:

C.5:12-118 Regulations requiring exclusion or rejection of certain persons from licensed casinos; unlawful entry by person whose name has been placed on list; penalty.

118. Regulations Requiring Exclusion or Rejection of Certain Persons from Licensed Casinos; Unlawful Entry by Person Whose Name Has Been Placed on List; Penalty. Any person whose name is on the list of persons promulgated by the commission pursuant to the provisions of section 71 of this act who knowingly enters the premises of a licensed casino is guilty of a disorderly persons offense, except that any person who has been convicted of this offense three times is guilty of a crime of the fourth degree for each subsequent offense.

51. Section 119 of P.L.1977, c.110 (C.5:12-119) is amended to read as follows:

C.5:12-119 Gaming by certain persons prohibited; penalties; defenses.

119. Gaming by Certain Persons Prohibited; Penalties; Defenses. a. No person under the age at which a person is authorized to purchase and consume alcoholic beverages, other than a person licensed under the provisions of this act in the regular course of his licensed activities, shall enter a licensed casino except by way of passage to another room.

b. Any licensee or employee of a casino who allows a person under the age at which a person is authorized to purchase and consume alcoholic beverages to remain in a casino is guilty of a disorderly persons offense; except that the establishment of all of the following facts by a licensee or employee allowing any such underage person to remain shall constitute a defense to any prosecution therefor:

(1) That the underage person falsely represented in writing that he or she was at or over the age at which a person is authorized to purchase and consume alcoholic beverages;

(2) That the appearance of the underage person was such that an ordinary prudent person would believe him or her to be at or over the age at which a person is authorized to purchase and consume alcoholic beverages; and

(3) That the admission was made in good faith, relying upon such written representation and appearance, and in the reasonable belief that the underage person was actually at or over the age at which a person is authorized to purchase and consume alcoholic beverages.

52. Section 120 of P.L.1977, c.110 (C.5:12-120) is amended to read as follows:

C.5:12-120 Prohibited political contributions; penalty.

120. Prohibited Political Contributions; Penalty. Any person who makes or causes to be made a political contribution prohibited by the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$100,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$250,000.00.

53. Section 121 of P.L.1977, c.110 (C.5:12-121) is amended to read as follows:

C.5:12-121 Authority of gaming licensee and agents to detain or question persons suspected of cheating; immunity from liability; posted notice required.

121. Authority of gaming licensee and agents to detain or question persons suspected of cheating; immunity from liability; posted notice required.

a. Any licensee or its officers, employees or agents may question any individual in the casino reasonably suspected of violating any of the provisions of sections 113 through 116 of P.L.1977, c.110 (C.5:12-113 through 116) or of section 46 of P.L.1991, c.182 (C.5:12-113.1). No licensee or its officers, employees or agents shall be criminally or civilly liable by reason of any such questioning.

b. Any licensee or its officers, employees or agents who shall have probable cause for believing there has been a violation of sections 113 through 116 of P.L.1977, c.110 (C.5:12-113 through 116) or of section 46 of P.L.1991, c.182 (C.5:12-113.1) in the casino by any person may take such person into custody and detain him in the establishment in a reasonable manner for a reasonable length of time, for the purpose of notifying law enforcement or commission authorities. Such taking into custody and detention shall not render

such licensee or its officers, employees or agents criminally or civilly liable for false arrest, false imprisonment, slander or unlawful detention, unless such taking into custody or detention is unreasonable under all of the circumstances.

c. No licensee or his officers, employees or agents shall be entitled to any immunity from civil or criminal liability provided in this section unless there is displayed in a conspicuous manner in the casino a notice in bold face type clearly legible and in substantially this form:

“Any gaming licensee or officer, employee or agent thereof who has probable cause for believing that any person is violating any of the provisions of the Casino Control Act prohibiting cheating or swindling in gaming may detain such person in the establishment for the purpose of notifying a police officer or Casino Control Commission authorities.”

54. Section 31 of P.L.1978, c.7 (C.5:12-130.1) is amended to read as follows:

C.5:12-130.1 Institution of conservatorship and appointment of conservators.

31. Institution of Conservatorship and Appointment of Conservators.

a. Notwithstanding any other provision of the Casino Control Act, (1) upon the revocation of a casino license, (2) upon, in the discretion of the commission, the suspension of a casino license or operation certificate for a period of in excess of 120 days, or (3) upon the failure or refusal to renew a casino license, and notwithstanding the pendency of any appeal therefrom, the commission may appoint and constitute a conservator to, among other things, take over and into his possession and control all the property and business of the licensee relating to the casino and the approved hotel; provided, however, that this subsection shall not apply in any instance in which the casino in the casino hotel facility for which the casino license had been issued has not been, in fact, in operation and open to the public, and provided further that no person shall be appointed as conservator unless the commission is satisfied that he is individually qualified according to the standard applicable to casino key employees, except that casino experience shall not be necessary for qualification.

b. (Deleted by amendment, P.L.1987, c.410).

c. The commission may proceed in a conservatorship action in a summary manner or otherwise and shall have the power to appoint and remove one or more conservators and to enjoin the

former or suspended licensee from exercising any of its privileges and franchises, from collecting or receiving any debts and from paying out, selling, assigning or transferring any of its property to other than a conservator, except as the commission may otherwise order. The commission shall have such further powers as shall be appropriate for the fulfillment of the purposes of this act.

d. Every conservator shall, before assuming his duties, execute and file a bond for the faithful performance of his duties payable to the commission in the office of the commission with such surety or sureties and in such form as the commission shall approve and in such amount as the commission shall prescribe.

e. When more than one conservator is appointed pursuant to this section, the provisions of this article applicable to one conservator shall be applicable to all; the debts and property of the former or suspended licensee may be collected and received by any of them; and the powers and rights conferred upon them shall be exercised by a majority of them.

f. The commission shall require that the former or suspended licensee purchase liability insurance, in an amount determined by the commission, to protect a conservator from liability for any acts or omissions of the conservator occurring during the duration of the conservatorship which are reasonably related to, and within the scope of, the conservator's duties.

C.5:12-130.1a Instructions to, supervision of conservator.

55. Upon the appointment of a conservator, the commission shall provide the conservator with written instructions which enumerate the specific powers and duties conferred by the commission on the conservator with respect to the conservatorship. A conservator shall be under the direct supervision of the commission and shall exercise only those powers and perform only those duties expressly conferred on the conservator by the commission. The commission may, at any time after a conservatorship is established, modify the powers of the conservator by providing the conservator with a new set of written instructions.

56. Section 32 of P.L.1978, c.7 (C:5:12-130.2) is amended to read as follows:

C.5:12-130.2 Powers, authorities and duties of conservators.

32. Powers, Authorities and Duties of Conservators.

a. Upon his appointment, the conservator shall become vested with the title of all the property of the former or suspended licensee relating to the casino and the approved hotel, subject to any

and all valid liens, claims, and encumbrances. The conservator shall have the duty to conserve and preserve the assets so acquired to the end that such assets shall continue to be operated on a sound and businesslike basis.

b. Subject to the direct supervision of the commission and pursuant to the written instructions of the commission issued pursuant to section 55 of P.L.1991, c.182 (C.5:12-130.1a) and any other order the commission may deem appropriate, a conservator shall have power to:

(1) Take into his possession all the property of the former or suspended licensee relating to the casino and the approved hotel, including its books, records and papers;

(2) Institute and defend actions by or on behalf of the former or suspended licensee;

(3) Settle or compromise with any debtor or creditor of the former or suspended licensee, including any taxing authority;

(4) Continue the business of the former or suspended licensee and to that end enter into contracts, borrow money and pledge, mortgage or otherwise encumber the property of the former or suspended licensee as security for the repayment of the conservator's loans; provided, however, that such power shall be subject to any provisions and restrictions in any existing credit documents;

(5) Hire, fire and discipline employees;

(6) Review all outstanding agreements to which the former or suspended licensee is a party that fall within the purview of subsection b. of section 104 of P.L.1977, c.110 (C.5:12-104) and advise the commission as to which, if any, of such agreements should be the subject of scrutiny, examination or investigation by the commission; and

(7) Do all further acts as shall best fulfill the purposes of the Casino Control Act.

c. Except during the pendency of a suspension or during the pendency of any appeal from any action or event set forth in section 31 a. of this amendatory and supplementary act which precipitated the conservatorship or in instances in which the commission finds that the interests of justice so require, the conservator, subject to the prior approval of and in accordance with such terms and conditions as may be prescribed by the commission, and after appropriate prior consultation with the former licensee as to the reasonableness of such terms and conditions, shall endeavor to and be authorized to sell, assign, convey or otherwise dispose of in bulk, subject to any and all valid liens,

claims, and encumbrances, all the property of a former licensee relating to the casino and the approved hotel only upon prior written notice to all creditors and other parties in interest and only to such persons who shall be eligible to apply for and shall qualify as a casino licensee in accordance with the provisions of the Casino Control Act. Prior to any such sale, the former licensee shall be granted, upon request, a summary review by the commission of such proposed sale.

d. The commission may direct that the conservator, for an indefinite period of time, retain the property and continue the business of the former or suspended licensee relating to the casino and the approved hotel. During such period of time or any period of operation by the conservator, he shall pay when due, without in any way being personally liable, all secured obligations and shall not be immune from foreclosure or other legal proceedings to collect the secured debt, nor with respect thereto shall such conservator have any legal rights, claims, or defenses other than those which would have been available to the former or suspended licensee.

e. A conservator shall cooperate fully with any investigation or inquiry conducted by the commission or the division during the conservatorship or after the discontinuation of the conservatorship.

57. Section 33 of P.L.1978, c.7 (C.5:12-130.3) is amended to read as follows:

C.5:12-130.3 Compensation of conservators and others.

33. Compensation of Conservators and Others. In any proceeding pursuant to section 31 of P.L.1978, c.7 (C.5:12-130.1), the commission shall, upon the appointment of a conservator, establish a reasonable rate of compensation for the services, costs and expenses in the conservatorship action of the conservator. The commission shall also designate the party or parties responsible for the payment of compensation to the conservator and shall direct that the responsible party or parties guarantee payment in such manner as the commission shall deem appropriate. The rate of compensation payable to the attorney for the conservator, the appraiser, the auctioneer, the accountant and such other persons as the commission may appoint in connection with the conservatorship action shall be established by the commission at the time of appointment. All requests for payment by the conservator and other persons appointed by the commission in connection with the conservatorship shall be subject to the approval of the commis-

sion, and the commission shall reduce any fee which it deems to be excessive. Fees payable to the conservator and expenses incurred in the course of the conservatorship shall have priority for payment over all other debts or obligations of the former or suspended licensee, including debts or obligations secured by the former or suspended licensee's property.

58. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read as follows:

C.5:12-145 Casino revenue fund.

145. Casino revenue fund. a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Revenue Fund," into which shall be deposited all revenues from the tax imposed by section 144 of this act; the investment alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-144.1); and all penalties levied and collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first \$500,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health to provide funds to the Council on Compulsive Gambling of New Jersey.

b. The commission shall require at least monthly deposits by the licensee of the tax established pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer. The deposits shall be deposited to the credit of the Casino Revenue Fund. The commission may require a monthly report and reconciliation statement to be filed with it on or before the 10th day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

c. Moneys in the Casino Revenue Fund shall be appropriated exclusively for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues

received in the Casino Revenue Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

59. Section 150 of P.L.1977, c.110 (C.5:12-150) is amended to read as follows:

C.5:12-150 Penalties.

150. Penalties. a. Any licensee who shall fail to file his return when due or to pay any tax or deposit 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 State Treasurer determines that the failure to comply with any provision of this Article was excusable under the circumstances, he may remit such part or all of the penalty as shall be appropriate under such circumstances.

b. Any person failing to file a return, failing to pay the tax or deposit, 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 act, or rules or regulations adopted hereunder which is willfully false, or failing to keep any records required by this 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 and subject to the penalties therefor, except that the amount of a fine may be up to \$100,000.00.

c. Except as to those determinations required to be made by the commission pursuant to section 149 of P.L.1977, c.110 (C.5:12-149), the certificate of the State Treasurer to the effect that a tax or deposit 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 act or rules or regulations adopted hereunder, shall be presumptive evidence thereof.

d. If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

60. Section 4 of P.L.1981, c.142 (C.52:13D-17.2) is amended to read as follows:

C.52:13D-17.2 "Person" defined; conflict of interest; violations; penalty.

4. a. As used in this section "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for mat-

ters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or any full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner, or consultant regularly employed or retained by such planning board or zoning board of adjustment.

b. No State officer or employee, nor any person, nor any member of the immediate family of any State officer or employee, or person, nor any partnership, firm or corporation with which any such State officer or employee or person is associated or in which he has an interest, nor any partner, officer, director or employee while he is associated with such partnership, firm, or corporation, shall hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter. No special State officer or employee without responsibility for matters affecting casino activity, excluding those serving in the Departments of Education, Health, Higher Education and Human Services, shall hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter. However, a special State officer or employee without responsibility for matters affecting casino activity may hold employment directly with any holder of or applicant for a casino license or any holding or intermediary company thereof and if so employed may hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, his employer, except as otherwise prohibited by law.

c. No person or any member of his immediate family, nor any partnership, firm or corporation with which such person is associated or in which he has an interest, nor any partner, officer,

director or employee while he is associated with such partnership, firm or corporation, shall, within two years next subsequent to the termination of the office or employment of such person, hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of, any holder of, or applicant for, a casino license in connection with any cause, application or matter, or any holding or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development, permitting, licensure or any other matter whatsoever related to casino activity. Nothing herein contained shall alter or amend the post-employment restrictions applicable to members and employees of the Casino Control Commission and employees and agents of the Division of Gaming Enforcement pursuant to subsection b. (2) of section 59 and to section 60 of P.L.1977, c.110 (C.5:12-59 and C.5:12-60).

d. This section shall not apply to the spouse of a State officer or employee, which State officer or employee is without responsibility for matters affecting casino activity, who becomes the spouse subsequent to the State officer's or employee's appointment or employment as a State officer or employee and who is not individually or directly employed by a holder of, or applicant for, a casino license, or any holding or intermediary company.

e. The Joint Legislative Committee on Ethical Standards and the Executive Commission on Ethical Standards, as appropriate, shall forthwith determine and publish, and periodically update, a list of those positions in State government with responsibility for matters affecting casino activity.

f. No person shall solicit or accept, directly or indirectly, any complimentary service or discount from any casino applicant or licensee which he knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstance.

g. No person shall influence, or attempt to influence, by use of his official authority, the decision of the commission or the investigation of the division in any application for licensure or in any proceeding to enforce the provisions of this act or the regulations of the commission. Any such attempt shall be promptly reported to the Attorney General; provided, however, that nothing in this section shall be deemed to proscribe a request for information by any person concerning the status of any application for licensure or any proceeding to enforce the provisions of this act or the regulations of the commission.

h. Any person who willfully violates the provisions of this section is a disorderly person and shall be subject to a fine not to exceed \$500.00 or imprisonment not to exceed six months, or both.

Repealer.

61. Sections 48 and 142 of P.L.1977, c.110 (C.5:12-48 and 5:12-142) are repealed.

62. This act shall take effect immediately.

Approved June 29, 1991.

CHAPTER 183

AN ACT concerning the New Jersey Turnpike Authority, amending parts of the statutory law and supplementing P.L.1948, c.454 (C.27:23-1 et seq.).

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

C.27:23-23a Findings, declarations.

1. The Legislature finds and declares that the highway corridor between the Delaware Memorial Bridge and the George Washington Bridge is the main artery of the State's integrated highway system and of vital importance to the economy and vitality of the State and the region; that both the Department of Transportation and the New Jersey Turnpike Authority have mutually consistent and coordinate responsibilities within the corridor for the planning, construction and maintenance of highway projects; that it is in the public interest that the Department of Transportation and the New Jersey Turnpike Authority be authorized to enter into agreements to provide for an enhanced coordination and unification of responsibilities for the planning, acquisition, construction, operation and maintenance of highway projects in order to ensure a safe, effective and efficient highway system; and that any such agreements shall acknowledge the obligation of the New Jersey Turnpike Authority to the holders of its bonds under all covenants, contracts and agreements.

2. R.S.27:7-21 is amended to read as follows:

Additional powers of commissioner.

27:7-21. In addition to, and not in limitation of, his general powers, the commissioner may:

- a. Determine and adopt rules, regulations and specifications and enter into contracts covering all matters and things incident to the acquisition, improvement, betterment, construction, reconstruction, maintenance and repair of State highways;
- b. Execute and perform as an independent contractor or through contracts made in the name of the State, all work incident to the maintenance and repair of State highways;
- c. Establish and maintain as an independent contractor or employer a patrol repair system for the proper and efficient maintenance and repair of State highways;
- d. Employ and discharge, subject to the provisions of the Civil Service law, all foremen and laborers, prescribe their qualifications and furnish all equipment, tools and material necessary for such patrol repair system;
- e. Widen, straighten and regrade State highways;
- f. Vacate any State highway or part thereof;
- g. The commissioner and his authorized agents and employees may enter upon any lands, waters and premises in the State, after giving written notice to the recorded owner at least three days prior thereto, for the purpose of making surveys, soundings, drillings, borings and examinations as he may deem necessary or convenient for the purposes of this Title, and such entry shall not be deemed a trespass; nor shall such entry be deemed an entry under any condemnation proceedings which may be then pending. The commissioner shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities;
- h. Enter into cooperative agreements with any State department, agency or authority or any county or municipality enabling the State to negotiate for and condemn lands and also provide relocation services and payments deemed necessary for the effectuation of State or federally financed State Aid Transportation and related Programs;
- i. Enter into agreements with the New Jersey Turnpike Authority with respect to the funding of the resurfacing, restoring, rehabilitation and reconstructing of the I-95 Extension of the New Jersey Turnpike through the allocation of monies apportioned by the United States Department of Transportation pursuant to 23

U.S.C. §119 or a successor program. Any such agreement shall be subject to the continued eligibility of the I-95 Extension for federal aid, the availability of funds appropriated by Congress and the appropriation of funds by the Legislature for that purpose. No such agreement shall constitute or create a debt or liability of the State within the meaning of any constitutional or statutory limitation nor shall any such agreement constitute a pledge of either the faith and credit or the taxing power of the State; and

j. Do whatever may be necessary or desirable to effectuate the purposes of this Title.

3. Section 1 of P.L.1948, c.454 (C.27:23-1) is amended to read as follows:

C.27:23-1 Turnpike projects.

1. Turnpike projects. In order to facilitate vehicular traffic and remove the present handicaps and hazards on the congested highways in the State, and to provide for the acquisition and construction of modern express highways embodying every known safety device including center divisions, ample shoulder widths, long sight distances, multiple lanes in each direction and grade separations at all intersections with other highways and railroads, the New Jersey Turnpike Authority (hereinafter created) is hereby authorized and empowered to acquire, construct, maintain, repair and operate turnpike projects (as hereinafter defined) or any part thereof at such locations as shall be established by law, and to issue turnpike revenue bonds of the Authority, payable solely from tolls, other revenues, and proceeds of such bonds to finance such projects.

4. Section 3 of P.L.1948, c.454 (C.27:23-3) is amended to read as follows:

C.27:23-3 New Jersey Turnpike Authority.

3. New Jersey Turnpike Authority. (A) There is hereby established in the State Department of Transportation a body corporate and politic, with corporate succession, to be known as the "New Jersey Turnpike Authority." The authority is hereby constituted an instrumentality exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this act in the acquisition, construction, operation and maintenance of turnpike projects or any part thereof shall be deemed and held to be an essential governmental function of the State.

(B) The New Jersey Turnpike Authority shall consist of six members, as follows: the Commissioner of Transportation, ex officio, or his designee; and five members appointed by the Governor, with the advice and consent of the Senate, each of whom shall be a resident of the State and shall have been a qualified elector therein for a period of at least one year next preceding his appointment. Each appointed member of the authority shall serve for a term of five years and until his successor is appointed and has qualified; except that of the first appointments hereunder, one shall be for a term of two years and one for a term of three years, and they shall serve until their respective successors are appointed and have qualified. The term of each of the first appointees hereunder shall be designated by the Governor. Each appointed member of the authority may be removed from office by the Governor, for cause, after a public hearing. Each member of the authority before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State. Any vacancies in the appointed membership of the authority occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

(C) The Governor shall designate one of the members of the authority as chairman thereof and another member as vice chairman thereof. The chairman and vice chairman of the authority so designated shall serve as such at the pleasure of the Governor and until their respective successors have been designated. The authority shall elect a secretary and a treasurer who need not be members. At the option of the authority the same person may be elected to serve both as secretary and treasurer. Four members of the authority shall constitute a quorum and the vote of four members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(D) Each member of the authority shall execute a surety bond in the penal sum of \$25,000.00 and the treasurer shall execute a surety bond in the penal sum of \$50,000.00, each such surety bond to be conditioned upon the faithful performance of the duties of the office of such member or treasurer, as the case may be, to be executed by a surety company authorized to transact business in the State of New Jersey as surety and to be approved by the Attorney General and filed in the office of the Secretary of State.

(E) The members of the authority shall not receive compensation for their services as members of the authority. Each member shall be reimbursed by the authority for his actual expenses necessarily incurred in the performance of his duties. Notwithstanding the provisions of any other law, no member shall be deemed to have forfeited, nor shall the member forfeit, the member's office or employment or any benefits or emoluments thereof by reason of the member's acceptance of the office of ex officio member of the authority or the member's services therein.

(F) No resolution or other action of the authority providing for the issuance of bonds, refunding bonds or other obligations or for the fixing, revising or adjusting of tolls for the use of any turnpike project or parts or sections thereof shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and at least one of the following: the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting such action shall be null and of no effect. The Governor may approve all or part of the action taken at such meeting prior to said 10-day period. The powers conferred in this subsection (F) upon the Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection (F) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

(G) The ex officio member of the authority may designate an employee of his department to represent him at meetings of the authority. A designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. The designations shall be in writing and delivered to the authority and shall be effective until revoked or amended by a writing delivered to the authority.

5. Section 4 of P.L.1948, c.454 (C.27:23-4) is amended to read as follows:

C.27:23-4 Definitions.

4. Definitions. As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "authority" shall mean the New Jersey Turnpike Authority, created by section 3 of this act, or, if said authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the authority shall be given by law.

(b) The word "project" or the words "turnpike project" shall mean any express highway, superhighway or motorway at such locations and between such termini as may hereafter be established by law, and acquired or to be acquired or constructed or to be constructed under the provisions of this act by the authority, and shall include, but not be limited to all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communications facilities, and administration, storage and other buildings, directly related to the use of the express highway, superhighway or motorway, intersecting highways and bridges and feeder roads which the authority may deem necessary for the operation of such project, together with all property, rights, easements and interests which may be acquired by the authority for the construction or the operation of such project.

(c) The word "bonds" or the words "turnpike revenue bonds" shall mean bonds of the authority authorized under the provisions of this act.

(d) The word "public highways" shall include all public highways, roads and streets in the State, whether maintained by the State or by any county, city, borough, town, township, village, or other political subdivision.

(e) The word "owner" shall include all individuals, copartnerships, associations, private or municipal corporations and all political subdivisions of the State having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

6. Section 5 of P.L.1948, c.454 (C.27:23-5) is amended to read as follows:

C.27:23-5 General grant of powers.

5. General grant of powers. The authority shall be a body corporate and politic and shall have perpetual succession and shall have the following powers:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To maintain an office at such place or places within the State as it may designate;

(d) To sue and be sued in its own name;

(e) To acquire, construct, maintain, repair and operate turnpike projects or any part thereof at such locations as shall be established by law;

(f) To issue turnpike revenue bonds of the authority, for any of its corporate purposes, payable solely from the tolls, other revenues and proceeds of such bonds, and to refund its bonds, all as provided in this act;

(g) In the exercise of any of its powers, to fix and revise from time to time and charge and collect tolls for transit over each turnpike project or any part thereof constructed or acquired by it;

(h) To establish rules and regulations for the use of any project;

(i) To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(j) To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain except as against the State of New Jersey, any land and other property which it may determine is reasonably necessary for any turnpike project or feeder road or for the relocation or reconstruction of any highway by the authority under the provisions of this act and any and all rights, title and interest in such land and other property, including public lands, parks, playgrounds, reservations, highways or parkways, owned by or in which the State of New Jersey or any county, city, borough, town, township, village, or other political subdivision of the State of New Jersey has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect turnpike projects.

Upon the exercise of the power of eminent domain, the compensation to be paid thereunder shall be ascertained and paid in

the manner provided in the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), insofar as the provisions thereof are applicable and not inconsistent with the provisions contained in this act. The authority may join in separate subdivisions in one petition or complaint the descriptions of any number of tracts or parcels of land or property to be condemned and the names of any number of owners and other parties who may have an interest therein and all such land or property included in said petition or complaint may be condemned in a single proceeding; provided, however, that separate awards be made for each tract or parcel of land or property; and provided, further, that each of said tracts or parcels of land or property lies wholly in or has a substantial part of its value lying wholly within the same county.

Upon the filing of such petition or complaint or at any time thereafter the authority may file with the clerk of the county in which such property is located and also with the Clerk of the Superior Court a declaration of taking, signed by the authority, declaring that possession of one or more of the tracts or parcels of land or property described in the petition or complaint is thereby being taken by and for the use of the authority. The said declaration of taking shall be sufficient if it sets forth: (1) a description of each tract or parcel of land or property to be so taken sufficient for the identification thereof, to which there may or may not be attached a plan or map thereof; (2) a statement of the estate or interest in the said land or property being taken; (3) a statement of the sum of money estimated by the authority by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration; and (4) that, in compliance with the provisions of this act, the authority has established and is maintaining a trust fund as hereinafter provided.

Upon the filing of the said declaration, the authority shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration. In addition to the said deposits with the Clerk of the Superior Court, the authority at all times shall maintain a special trust fund on deposit with a bank or trust company doing business in this State, in an amount at least equal to twice the aggregate amount deposited with the Clerk of the Superior Court, as estimated compensation for all property described in declaration of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. Said trust fund shall consist of cash or securities readily convertible into cash, constitut-

ing legal investments for trust funds under the laws of this State. Said trust fund shall be held solely to secure and may be applied to the payment of just compensation for the land or other property described in such declarations of taking. The authority shall be entitled to withdraw from said trust fund from time to time so much as may then be in excess of twice the aggregate of the amount deposited with the Clerk of the Superior Court, as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court.

Upon the filing of the said declaration as aforesaid and depositing with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration, the authority, without other process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in said declaration and may forthwith enter into and take possession of said land or property, it being the intent of this provision that the proceedings for compensation or any other proceedings relating to the taking of said land or interest therein or other property shall not delay the taking of possession thereof and the use thereof by the authority for the purpose or purposes for which the authority is authorized by law to acquire or condemn such land or other property or interest therein.

The authority shall cause notice of the filing of said declaration and the making of said deposit to be served upon each party in interest named in the petition residing in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each party in interest residing out of the State, by mailing a copy thereof to him at his residence, if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made within 10 days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the authority, any judge of the Superior Court assigned to sit for said county may order that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said proceeding; provided, that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event

the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice as herein provided and hearing, may determine his liability, if any, for the return of such difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the authority the difference between the amount of the deposit and the amount of the award, with interest at the rate of six per centum (6%) per annum thereon from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the authority, unless the amount of the deposit or any part thereof shall have theretofore been distributed, in which event the court, on petition of the authority and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the authority for such difference against the party or parties liable for the return thereof. The authority shall cause notice of the date fixed for such hearing to be served upon each party thereto residing in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each party residing out of the State, by mailing a copy to him at his residence, if known. In the event that the residence of any party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made at least 10 days before the date fixed for such hearing.

Whenever under the "Eminent Domain Act of 1971" the amount of the award may be paid into court, payment may be made into the Superior Court and may be distributed according to law. The authority shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as herein provided;

(k) To designate the locations, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(l) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(m) To appoint such additional officers, who need not be members of the authority, as the authority deems advisable, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment; to fix their compensation; and to promote and discharge such officers, employees and agents, all without regard to the provisions of Title 11 of the Revised Statutes;

(n) To receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the acquisition or construction of any turnpike project or any part thereof, and to receive and accept aid or contributions, except appropriations by the Legislature, from any source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and

(o) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

7. Section 1 of P.L.1949, c.40 (C.27:23-5.1) is amended to read as follows:

C.27:23-5.1 Feeder road.

1. For the purposes of this act, a feeder road is defined to be any road which in the opinion of the New Jersey Turnpike Authority is needed to create or facilitate access to a turnpike project.

8. Section 2 of P.L.1949, c.40 (C.27:23-5.2) is amended to read as follows:

C.27:23-5.2 Authorized to construct and maintain feeder road.

2. The New Jersey Turnpike Authority is authorized to acquire, construct, reconstruct, repair and maintain any feeder road which in the opinion of the said Turnpike Authority will increase the use of a turnpike project to which the said road is a feeder.

9. Section 3 of P.L.1949, c.40 (C.27:23-5.3) is amended to read as follows:

C.27:23-5.3 May take over existing roads, procedure.

3. The Turnpike Authority is authorized to take over for reconstruction, maintenance and repair any existing road which is needed as a feeder road. Before exercising the powers contained in this section, the consent of the local authorities, then exercis-

ing jurisdiction over the said existing road, must be obtained. The Turnpike Authority is authorized to realign any such existing road and to build additional sections of road over new alignment in connection with such existing road or roads.

10. Section 6 of P.L.1949, c.40 (C.27:23-5.6) is amended to read as follows:

C.27:23-5.6 Return of roads to local authorities.

6. The Turnpike Authority is authorized to turn back to local authorities any road or portions of road taken over from such local authorities in connection with the establishing of a feeder road. No road or portion of road constructed upon a new alignment shall be turned back until the turnpike project shall have been turned over to the Department of Transportation, except where a new alignment has been constructed in substitution of existing alignment.

11. Section 1 of P.L.1966, c.8 (C.27:23-5.8) is amended to read as follows:

C.27:23-5.8 Additional powers.

1. The New Jersey Turnpike Authority shall have, in addition to the powers heretofore granted to it, power:

a. To pay or make any advance or contribution to the United States Government or the State of New Jersey or any agency thereof for the purpose of paying the State's share or any portion thereof under the federal aid highway laws of the cost of construction of any highway improvement determined by the authority to be a major improvement necessary to restore or prevent physical damage to any turnpike project or any feeder roads, for the safe or efficient operation of such project, or to prevent loss of revenues therefrom.

b. Subject to the rights and security interests of the holders from time to time of bonds or notes heretofore or hereafter issued by the New Jersey Turnpike Authority, to enter into contracts with the State or the New Jersey Transportation Trust Fund Authority established by section 4 of the "New Jersey Transportation Trust Fund Authority Act of 1984," P.L.1984, c.73 (C.27:1B-4), providing for the payment from the revenues of the New Jersey Turnpike Authority to the State or to the New Jersey Transportation Trust Fund Authority of the amount or amounts of revenues that may be set forth in or determined in accordance with the contracts. Any contracts authorized pursuant to this sec-

tion may include conditions and covenants necessary and desirable to facilitate the issuance and sale of bonds, notes and other obligations of the New Jersey Transportation Trust Fund Authority. Any agreements entered into between the State and the Turnpike Authority pursuant to this subsection shall terminate upon the effective date of any agreement entered into between the Turnpike Authority and the New Jersey Transportation Trust Fund Authority providing for the payment of revenues of the Turnpike Authority directly from the Turnpike Authority to the New Jersey Transportation Trust Fund Authority.

c. To enter into agreements with the Department of Transportation with respect to the funding of the resurfacing, restoring, rehabilitation and reconstruction of the I-95 Extension of the New Jersey Turnpike through the allocation of monies apportioned by the United States Department of Transportation pursuant to 23 U.S.C. §119 or a successor program. Any such agreement shall be subject to the continued eligibility of the I-95 Extension for federal aid, the availability of funds appropriated by Congress and the appropriation of funds by the Legislature for that purpose. No such agreement shall constitute or create a debt or liability of the State within the meaning of any constitutional or statutory limitation nor shall any such agreement constitute a pledge of either the faith and credit or the taxing power of the State. Funds payable or paid to the authority pursuant to any such agreement shall not be pledged as security for any indebtedness of the authority.

12. Section 2 of P.L.1969, c.197 (C.27:23-5.9) is amended to read as follows:

C.27:23-5.9 Limitation.

2. The authority shall not engage in the acquisition, construction or operation of any facility or activity not directly related to the use of a turnpike project except as may be specially authorized by law.

13. Section 7 of P.L.1948, c.454 (C.27:23-7) is amended to read as follows:

C.27:23-7 Bonds.

7. The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of the authority for any of its corporate purposes, including the refunding of its bonds. The principal of and the interest on any issue of

such bonds shall be payable solely from and may be secured by a pledge of tolls and other revenues of all or any part of the turnpike projects. The proceeds of any such bonds may be used or pledged for the payment or security of the principal of or interest on bonds and for the establishment of any or all reserves for such payment or security or for other corporate purposes as the authority may authorize in the resolution authorizing the issuance of bonds or in the trust agreement securing the same. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The bonds shall be signed by the chairman of the authority or shall bear his facsimile signature and the official seal of the authority or a facsimile thereof shall be impressed, imprinted, engraved or otherwise reproduced thereon. The official seal or facsimile thereof shall be attested by the secretary and treasurer of the authority, or by such other officer or agent as the authority shall appoint and authorize and any coupons attached to such bonds shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the State. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner and for such price, as it may determine to be for the best

interests of the authority. Neither the members of the authority nor any person executing the bonds shall be personally liable on the bonds or be accountable by reason of the issuance thereof in accordance with the provisions of this act.

The proceeds of the bonds of each issue shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. 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 things than those proceedings, conditions or things which are specifically required by this act.

The State of New Jersey does pledge to and agree with the holders of the bonds issued pursuant to authority contained in this act, that the State will not limit or restrict the rights hereby vested in the authority to acquire, maintain, construct, reconstruct, and operate any projects as defined in this act, or to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds authorized by this act or in any way impair the rights or remedies of the holders of such bonds until, the bonds, together with interest thereon, are fully paid and discharged.

14. Section 8 of P.L.1948, c.454 (C.27:23-8) is amended to read as follows:

C.27:23-8 Trust agreement.

8. Trust agreement. In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds (subject to the provisions of section 7 of this act) may pledge

or assign tolls or other revenues to which the Authority's right then exists or may thereafter come into existence, and the moneys derived therefrom, and the proceeds of such bonds, but shall not convey or mortgage any turnpike project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the acquisition, construction, improvement, maintenance, repair, operation and insurance of the turnpike project or projects or any part thereof, the rates of tolls and revenues to be charged, the payment, security or redemption of bonds, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the acquisition, construction or operation of such turnpike project or projects or any part thereof. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual rights of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the turnpike project or projects.

Any pledge of tolls or other revenues or other moneys made by the Authority shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority.

15. Section 9 of P.L.1948, c.454 (C.27:23-9) is amended to read as follows:

C.27:23-9 Revenues.

9. Revenues. (A) The authority is hereby authorized to fix, revise, charge and collect tolls for the use of each turnpike project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, and restaurants, or for any other purpose, except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use; provided, that a sufficient number of gas stations may be authorized to be established in each service area along any such highway to permit reasonable competition by private business in the public interest; and provided further, that no contract shall be required, and no rent, fee or other charge of any kind shall be imposed for the use and occupation of any turnpike project for the installation, construction, use, operation, maintenance, repair, renewal, relocation or removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or other equipment or appliances in, on, along, over or under any such turnpike project by any public utility as defined in R.S.27:7-1, which is subject to taxation pursuant to either P.L.1940, c.4 (C.54:30A-16 et seq.) or P.L.1940, c.5 (C.54:30-49 et seq.), or pursuant to any other law imposing a tax for the privilege of using the public streets, highways, roads or other public places in this State. Such tolls shall be so fixed and adjusted as to carry out and perform the terms and provisions of any contract with or for the benefit of bondholders. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State. The use and disposition of tolls and revenues shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same.

(B) At any time that tolls are not required for the purpose of carrying out and performing the terms and provisions of any contract with or for the benefit of bondholders, the authority shall cause tolls for the use of the turnpike projects to be charged and collected at the same rates as were last charged and collected by the authority under the provisions of subsection (A) hereof and no change or revision shall be made in such rates, except as shall be specifically authorized by law.

(C) All revenues and other funds of the authority not pledged or otherwise required to pay or secure the payment of principal and interest on any indebtedness of the authority existing from time to time under, and not otherwise required for the purpose of, this act and not pledged under a contract providing for payment of funds to the State or New Jersey Transportation Trust Fund Authority created pursuant to P.L.1984, c.73 (C.27:1B-1 et seq.) shall be applied to the authority's corporate purposes or as hereafter provided by law.

16. Section 14 of P.L.1948, c.454 (C.27:23-14) is amended to read as follows:

C.27:23-14 Miscellaneous.

14. Miscellaneous. Each turnpike project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. Each such project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ. The expenses for this maintenance and operation shall be paid by the authority from its own funds or from funds made available to the authority.

All counties, cities, boroughs, towns, townships, villages, and other political subdivisions and all public departments, agencies and commissions of the State of New Jersey, notwithstanding any contrary provision of law, are hereby authorized and empowered to sell, lease, lend, grant or otherwise convey to the Authority at its request upon such terms and conditions as the proper authorities of such counties, cities, boroughs, towns, townships, villages, and political subdivisions and departments, agencies or commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public roads and other real property already devoted to public use.

On or before the thirtieth day of January in each year the Authority shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The Authority shall cause an audit of its books and accounts to be made at least

once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operation of the project.

Any member, agent or employee of the Authority who is interested, either directly or indirectly, in any contract of another with the Authority, or in the sale of any property, either real or personal, to the Authority shall be guilty of a misdemeanor and punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one year, or both.

17. Section 15 of P.L.1948, c.454 (C.27:23-15) is amended to read as follows:

C.27:23-15 Refunding bonds.

15. Refunding bonds. The Authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions, or enlargements of the turnpike project or projects in connection with which the bonds to be refunded shall have been issued. The Authority is further authorized to provide by resolution for the issuance of its bonds for the combined purpose of (a) refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of any additional project or projects or feeder roads. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable.

18. Section 1 of P.L.1951, c.264 (C.27:23-25) is amended to read as follows:

C.27:23-25 Tolls, payment required.

1. No vehicle shall be permitted to make use of any turnpike project or part thereof operated by the New Jersey Turnpike Authority created pursuant to P.L.1948, c.454 (C.27:23-1 et seq.) (hereinafter called the "Authority") except upon the payment of such tolls, if any, as may from time to time be prescribed by the Author-

ity. It is hereby declared to be unlawful for any person to refuse to pay, or to evade or to attempt to evade the payment of such tolls.

C.27:23-23.7 I-95 Extension authorized.

19. a. The New Jersey Turnpike Authority is authorized and directed to acquire, maintain, repair and operate a project addition and extension to the New Jersey Turnpike consisting of a 4.4 mile section of high-speed limited access superhighway being that portion of Interstate Highway 95 under the jurisdiction of the Department of Transportation beginning at the existing northern terminus of the New Jersey Turnpike and thence in a general northerly direction to the vicinity of the George Washington Bridge (and hereinafter referred to as the "I-95 Extension."). Notwithstanding any other provision of law to the contrary, the I-95 Extension shall remain forever free of toll.

b. The State shall sell, convey and transfer to the authority all rights of way, property, easements or interests and other rights with respect to the project addition and extension and the authority shall pay to the State in consideration therefor the sum of \$400,000,000. The State shall deposit that sum in the General Fund.

The State and the authority are authorized, in connection with this transfer, to enter into an agreement containing indemnification and defense provisions which the State and the authority agree are necessary or advisable to protect the interests of the State, or the authority, or both, as they determine.

C.27:23-24a Department of Transportation control over I-95 Extension to cease.

20. At such time as the New Jersey Turnpike Authority shall acquire the I-95 Extension, the jurisdiction and control of the Department of Transportation over that route shall cease except as otherwise provided by law.

C.27:23-7a New Jersey Turnpike Authority to protect bondholders.

21. Nothing in or done pursuant to the powers and obligations set forth in this amendatory and supplementary act (P.L.1991, c.183) shall in any way limit or restrict the obligations or powers of the New Jersey Turnpike Authority to carry out and perform each and every covenant, agreement or contract heretofore made or entered into by the Authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

22. This act shall take effect immediately.

Approved June 30, 1991.