

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



**2011**

**New Jersey State Library**



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

Legislative Services Commission



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**Two Hundred and Fourteenth Legislature**

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DAVID C. RUSSO

<sup>1</sup>Resigned 8/25/11.

<sup>2</sup>Sworn in 11/21/11.

<sup>3</sup>Resigned 8/12/11.

<sup>4</sup>Sworn in 11/21/11.

<sup>5</sup>Died 11/10/11.

<sup>6</sup>Sworn in 12/5/11.

<sup>7</sup>Resigned 5/17/11.

<sup>8</sup>Resigned 1/3/12.



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# **LAWS**

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

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CHAPTER 1

AN ACT concerning lost or stolen electronic vehicle identification system transponders, amending N.J.S.2C:20-2 and supplementing Title 2C of the New Jersey Statutes and Title 27 of the Revised Statutes.

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

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

**Consolidation of theft and computer criminal activity offenses; grading; provisions applicable to theft generally.**

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

b. Grading of theft offenses.

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

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

(b) The property is taken by extortion;

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

(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is \$75,000.00 or more; or

(e) The property stolen is human remains or any part thereof; except that, if the human remains are stolen by deception or falsification of a document by which a gift of all or part of a human body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the theft constitutes a crime of the first degree.

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

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

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

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

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

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

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

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

(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than \$75,000.00;

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

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

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

(1) The property stolen consists of anhydrous ammonia and the actor intends it to be used to manufacture methamphetamine.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least \$200.00 but does not exceed \$500.00.

(4) Theft constitutes a disorderly persons offense if:

(a) The amount involved was less than \$200.00; or

(b) The property stolen is an electronic vehicle identification system transponder.

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

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

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

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

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

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

**C.2C:20-38 Penalty for theft of electronic vehicle identification system transponder.**

2. Notwithstanding the provisions of Title 2C of the New Jersey Statutes to the contrary, a person convicted of theft of an electronic vehicle identification system transponder under subparagraph (b) of paragraph (4) of subsection b. of N.J.S.2C:20-2 shall, in lieu of the fine prescribed for that offense, be subject to a fine of not less than \$500 nor more than \$10,000 upon conviction.

**C.27:23-34.6 Report of loss, theft of electronic vehicle identification system transponder; limited liability.**

3. a. A customer who has an account with a New Jersey electronic toll collection system, subject to sections 6 through 10 of P.L.1997, c.59

(C.27:23-34.1 through C.27:23-34.5), and who reports in a timely manner to the operator of the electronic toll collection system the loss or theft of an electronic vehicle identification system transponder shall not be liable for:

(1) unauthorized charges of \$50 or more incurred prior to the reporting of the transponder as lost or stolen; or

(2) unauthorized charges incurred after the reporting of the transponder as lost or stolen.

b. When a customer reports in a timely manner to the operator of the electronic toll collection system the theft of a transponder and submits to the operator a copy of the police report of the theft, the customer shall not be charged any fees for the stolen transponder or for a replacement transponder.

**C.27:25A-21.6 Report of loss, theft of electronic vehicle identification system transponder; limited liability.**

4. a. A customer who has an account with a New Jersey electronic toll collection system, subject to sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5), and who reports in a timely manner to the operator of the electronic toll collection system the loss or theft of an electronic vehicle identification system transponder shall not be liable for:

(1) unauthorized charges of \$50 or more incurred prior to the reporting of the transponder as lost or stolen; or

(2) unauthorized charges incurred after the reporting of the transponder as lost or stolen.

b. When a customer reports in a timely manner to the operator of the electronic toll collection system the theft of a transponder and submits to the operator a copy of the police report of the theft, the customer shall not be charged any fees for the stolen transponder or for a replacement transponder.

5. This act shall take effect immediately.

Approved January 25, 2011.

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CHAPTER 2

AN ACT concerning wireless telephones and electronic communication devices issued by public entities and supplementing P.L.2002, c.129 (C.52:17B-194.1 et seq.).

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

**C.52:17B-194.3a Definitions relative to wireless telephones, electronic communication devices issued by public entities.**

1. As used in this act:

“National Wireless Amber Alerts Initiative” means the voluntary partnership between the wireless industry, the United States Department of Justice, and the National Center for Missing and Exploited Children to distribute Amber Alert text messages to wireless subscribers who register to receive the messages and are able to receive text messages on their wireless telephones or electronic communication devices.

“Public entity” means the State and any county, municipality, district, or political subdivision and any authority, agency, board, or body thereof that, on the effective date of P.L.2011, c.2 (C.52:17B-194.3a et seq.), is under contract with a wireless telephone company providing commercial mobile service as defined in 47 U.S.C. s.332 (d) that participates in the national Wireless Amber Alerts Initiative.

**C.52:17B-194.3b Receipt of wireless Amber Alert text messages by officer, employee of public entity.**

2. Every officer or employee of a public entity who possesses a wireless telephone or electronic communication device which is issued by a public entity, is capable of receiving text messages, and is enrolled in or subscribed to a service or plan that enables the telephone or device to receive text messages shall subscribe with the national Wireless Amber Alerts Initiative to receive wireless Amber Alert text messages. The officer or employee shall, at a minimum, enroll the wireless telephone or electronic communication device in the initiative to receive wireless Amber Alert text messages for a zip code that corresponds to the city of his permanent residence and of his primary place of business. In the event that the officer or employee is not authorized to manage the account for the wireless telephone or electronic communication device issued by a public entity, such officer or employee shall request the administrator of the account to enroll the wireless telephone or electronic communication device to receive Amber Alert text messages in accordance with the provisions of this act.

3. This act shall take effect immediately.

Approved January 25, 2011.

## CHAPTER 3

AN ACT authorizing the display of amber warning lights 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.39:3-54.27 Flashing amber warning lights, display on sanitation vehicles; authorized.**

1. a. Sanitation vehicles operated by a local public entity, or by a licensed solid waste collection company pursuant to a State or local permit, license, contract, or franchise with a local public entity, and used to collect and transport garbage, solid wastes, and refuse may display flashing amber warning lights of a type approved by the chief administrator while stopped upon a street and while engaged in the collection of garbage, solid wastes, and refuse or while moving between stops at a speed not greater than 10 miles per hour.

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

c. The chief administrator shall promulgate guidelines to effectuate the purposes of this act.

2. This act shall take effect immediately.

Approved January 25, 2011.

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CHAPTER 4

AN ACT establishing the State Public Safety Interoperable Communications Coordinating Council amending and supplementing P.L.1989, c.3 and repealing 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.1989, c.3 (C.52:17C-1) is amended to read as follows:

**C.52:17C-1 Definitions.**

1. As used in this act:
  - a. "Automatic number identification (ANI)" means an enhanced 9-1-1 service capability that enables the automatic display of the callback number used to place a 9-1-1 call;
  - b. "Automatic location identification (ALI)" means an enhanced 9-1-1 service capability that enables the automatic display of information defining the geographical location of the telephone used to place a 9-1-1 call;
  - c. "Commission" means the Statewide Public Safety Communications Commission created pursuant to section 5 of P.L.2011, c.4 (C.52:17C-3.2);
  - d. "County 9-1-1 Coordinator" means the County 9-1-1 Coordinator appointed pursuant to section 5 of this act;
  - e. "Enhanced 9-1-1 network" means the switching equipment, trunk system, database operation and connections to the public safety answering point;
  - f. "Enhanced 9-1-1 network features" means those features of selective routing which have the capability of automatic number and location identification;
  - g. "Enhanced 9-1-1 service" means a service consisting of telephone network features and public safety answering points provided for users of the public telephone system enabling the users to reach a public service answering point by dialing the digits "9-1-1." The service directs 9-1-1 calls to appropriate public safety answering points by selective routing based on the location from which the call originated and provides for automatic number identification and automatic location identification features;
  - h. "Enhanced 9-1-1 termination equipment" means the equipment located at the public safety answering point which is needed to receive or record voice and data communications from the enhanced 9-1-1 network;
  - i. "Office" means the Office of Emergency Telecommunications Services established by section 3 of this act;
  - j. "Public safety agency" means a functional division of a municipality, a county, or the State which dispatches or provides law enforcement, fire fighting, emergency medical services, or other emergency services;
  - k. "Private safety agency" means any entity, except a municipality or a public safety agency, providing emergency medical services, fire fighting, or other emergency services;
  - l. "Public safety answering point (PSAP)" means a facility, operated on a 24-hour basis, assigned the responsibility of receiving 9-1-1 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 9-1-1 calls to other public safety agencies. A

public safety answering point is the first point of reception by a public safety agency of 9-1-1 calls and serves the jurisdictions in which it is located or other participating jurisdictions;

m. "Selective routing" means the method employed to direct 9-1-1 calls to the appropriate public safety answering point based on the location from which the call originated;

n. "Emergency enhanced 9-1-1 system" or "system" means the emergency enhanced 9-1-1 telephone system to be established pursuant to this act, including wireless enhanced 9-1-1 service;

o. "Telephone company" means the organization that provides switched local telephone exchange access service;

p. "Wireless telephone company" means any person providing commercial mobile radio service as defined in 47 U.S.C.s.332 (d);

q. "FCC wireless E9-1-1 requirements" means the order adopted in the Federal Communications Commission proceeding entitled "Revision of the Commission's Rules to Ensure Comparability with Enhanced 9-1-1 Emergency Calling Systems," (CC Docket No. 94-102: RM-8143), or any successor proceeding, and the rules adopted by the Federal Communications Commission in any such proceeding, as these rules may be amended from time to time;

r. "Wireless 9-1-1 service" means the service which enables wireless telephone company customers to dial the digits 9-1-1 and be connected to a public safety agency;

s. "Wireless enhanced 9-1-1 service" means the service required to be provided by a wireless telephone company pursuant to FCC wireless E9-1-1 requirements;

t. "Chief Technology Officer" means the person appointed by and serving at the pleasure of the Governor who is responsible for the day-to-day operations of the Office of Information Technology;

u. (Deleted by amendment, P.L.2011, c.4).

v. "Office of Information Technology" means the Office of Information Technology in but not of the Department of the Treasury;

w. "Council" means the Statewide Public Safety Communications Advisory Council created pursuant to section 6 of P.L.2011, c.4 (C.52:17C-3.3);

x. "Delaware River Homeland Security Region Communications Working Group" means the group of individuals from agencies assigned to that region by the Office of Homeland Security and Preparedness that collaborate on common communications issues;

y. "Interoperability" means the ability of diverse information and communication technology systems and the processes they support to effec-

tively work together through compatible communication paths to directly and satisfactorily exchange, correlate, and integrate data, information, and knowledge across jurisdictional boundaries and to use the data, information, and knowledge that has been exchanged;

z. “Northeast/UASI Homeland Security Region Communications Working Group” means the group of individuals from agencies assigned to that region by the Office of Homeland Security and Preparedness that collaborate on common communications issues;

aa. “Northwest Homeland Security Region Communications Working Group” means the group of individuals from agencies assigned to that region by the Office of Homeland Security and Preparedness that collaborate on common communications issues;

bb. “Shore Homeland Security Region Communications Working Group” means the group of individuals from agencies assigned to that region by the Office of Homeland Security and Preparedness that collaborate on common communications issues; and

cc. “State Agency Communications Working Group” means the group of individuals made up of State and quasi-state agencies as defined in the State Preparedness Report that collaborate on common communications issues.

2. Section 3 of P.L.1989, c.3 (C.52:17C-3) is amended to read as follows:

**C.52:17C-3 Office of Emergency Telecommunications Services.**

3. a. There is established in the Office of Information Technology an Office of Emergency Telecommunications Services.

b. The office shall be under the immediate supervision of a director, who shall be a person qualified by training and experience to direct the work of the office. The director shall administer the provisions of this act subject to review by the Chief Technology Officer and shall perform other duties as may be provided by law. The director shall be appointed by the Chief Technology Officer, but the commission shall advise the Chief Technology Officer on the qualifications of the director. The Chief Technology Officer is authorized to appoint, in accordance with Title 11A of the New Jersey Statutes, clerical, technical, and professional assistants, and also may designate any available personnel as shall be necessary to effectuate the purposes of this act.

The office shall designate a staff member from within the Office of Information Technology to be designated as a professional spectrum manager. The professional spectrum manager shall be responsible for approv-

ing all applications for public safety spectrum allocations in the State to ensure that the State fully complies with Federal Communications Commission rules that impact frequency allocation for public safety use. The spectrum manager may be chosen from among the current employees of the office and the chosen employee may continue the duties and responsibilities of their current position in addition to the duties and responsibilities of spectrum manager as provided in this section.

The office shall designate a staff member from within the Office of Information Technology to be designated the Statewide Interoperability Coordinator to coordinate interoperable communications grants and projects consistent with the National Communications Plan. The coordinator may be chosen from among the current employees of the office and the chosen employee may continue the duties and responsibilities of his current position in addition to the duties and responsibilities of coordinator as provided in this section.

The office shall, subject to review by the commission and the Chief Technology Officer, and in consultation with the council, the telephone companies, the Board of Public Utilities and the wireless telephone companies, and with the assistance of the Office of Information Technology in but not of the Department of the Treasury, continue to plan, design, implement, and coordinate the Statewide emergency enhanced 9-1-1 telephone system to be established pursuant to this act as well as any changes to that system needed to provide wireless enhanced 9-1-1 service.

To this end the office shall establish, after review and approval by the commission, in consultation with the council, a State plan for the emergency enhanced 9-1-1 system in this State, which plan shall include:

(1) The configuration of, and requirements for, the enhanced 9-1-1 network. The office with the approval of the commission and the Chief Technology Officer, in consultation with the council, only as provided herein, and assistance and advice of the Office of Information Technology in but not of the Department of the Treasury is empowered to enter into contracts for the provision of this network.

(2) The role and responsibilities of the counties and municipalities of the State in the implementation of the system, consistent with the provisions of this act, including a timetable for implementation.

(3) Technical and operational standards for the establishment of public safety answering points (PSAPs) which utilize enhanced 9-1-1 network features in accordance with the provisions of this act and in alignment with the Next Generation 9-1-1 Planning by the National 9-1-1 Office within the United States Department of Transportation, National Highway Traffic

Safety Administration. Those entities having responsibility for the creation and management of PSAPs shall conform to these standards in the design, implementation and operation of the PSAPs. These standards shall include provision for the training and certification of call-takers and public safety dispatchers or for the adoption of such a program.

The office, after review and approval by the commission and the Chief Technology Officer, in consultation with the council, only as provided herein, may update and revise the State plan from time to time.

The office may inspect each PSAP to determine if it meets the requirements of this act and the technical and operational standards established pursuant to this section. The office shall explore ways to maximize the reliability of the system.

The plan or any portion of it may be implemented by the adoption of regulations pursuant to subsection b. of section 15 of this act.

The State plan shall require the consolidation of PSAPs as appropriate, consistent with revisions in the plan to upgrade the enhanced 9-1-1 system and shall condition the allocation of moneys dedicated for the operation of PSAPs on the merging and sharing of PSAP functions by municipalities, counties and the State Police, consistent with the revised plan. The Treasurer may establish, by regulation, a 9-1-1 call volume minimum that may be utilized as a factor in determining which PSAP functions are to be consolidated under the State plan.

The State plan shall limit the use of sworn law enforcement officers to provide dispatch services and the office shall condition the receipt of moneys dedicated for the operation of PSAPs on the limited use of sworn law enforcement officers, except for officers returning to active duty from an injury or other physical disability.

The office shall plan, implement and coordinate a Statewide public education program designed to generate public awareness at all levels of the emergency enhanced 9-1-1 system. Advertising and display of 9-1-1 shall be in accordance with standards established by the office. Advertising expenses may be defrayed from the moneys appropriated to the office.

c. (Deleted by amendment, P.L.1999, c.125).

d. To this end, the office shall, subject to review and approval by the commission and the Chief Technology Officer, and in consultation with the council, develop a Statewide Communications Interoperability Plan, which shall include:

(1) the strategy to most effectively provide interoperability and coordinate public safety communications between and among State, county and municipal public safety agencies. The office shall submit recommendations

and proposals, as appropriate, to the Regional Planning Committees to which the State is assigned by the Federal Communications Commission; and

(2) the role and responsibilities of the counties and municipalities of the State in the implementation of the New Jersey Interoperable Communications System, consistent with the National Communications Plan and the provisions of this act, including a timetable for implementation.

e. The office, after review and approval by the commission and the Chief Technology Officer, in consultation with the council, only as provided herein, may update and revise the State plan as needed. The plan or any portion of it may be implemented by the adoption of regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. The office, after review and approval by the commission and the Chief Technology Officer, only as provided herein, shall submit a report to the Senate Revenue, Finance and Appropriations Committee and the Assembly Appropriations Committee, or their successors, not later than February 15 of each year, concerning its progress in carrying out the provisions of this act and the expenditure of moneys appropriated thereto and appropriated for the purposes of installation of the Statewide enhanced 9-1-1 network and the New Jersey Interoperable Communications System.

3. Section 4 of P.L.1989, c.3 (C.52:17C-4) is amended to read as follows:

**C.52:17C-4 Enhanced 9-1-1 service.**

4. Each telephone company providing service within the State shall provide enhanced 9-1-1 service to include selective routing, automatic number identification and automatic location identification features as a tariffed service package in compliance with a timetable issued by the office with the approval of the commission.

Each wireless telephone company providing service within the State shall provide wireless enhanced 9-1-1 service pursuant to FCC wireless E9-1-1 requirements and P.L.1999, c.125 (C.52:17C-3.1 et al.).

4. Section 11 of P.L.1989, c.3 (C.52:17C-11) is amended to read as follows:

**C.52:17C-11 Dial tone first capability.**

11. All coin and credit card telephones whether public or private within areas served by enhanced 9-1-1 service shall be converted to dial tone first capability, which shall allow a caller to dial 9-1-1 without first inserting a coin or any other device. On each converted telephone, instructions on how

to access the emergency enhanced 9-1-1 system shall be prominently displayed.

**C.52:17C-3.2 Statewide Public Safety Communications Commission.**

5. a. There is established in the Office of Information Technology a Statewide Public Safety Communications Commission which shall oversee the office in the planning, design, and implementation of the Statewide emergency enhanced 9-1-1 telephone system and the New Jersey Interoperable Communications System.

b. The commission shall consist of 16 members as follows: two members of the Senate appointed by the President of the Senate, who shall not be both of the same political party; two members of the General Assembly appointed by the Speaker of the General Assembly, who shall not be both of the same political party; the following members ex officio: Chief Technology Officer of the Office of Information Technology or his designee; Director of the Office of Homeland Security and Preparedness or his designee; Superintendent of State Police or his designee; Commissioner of the Department of Health and Senior Services or his designee; the State Treasurer or his designee; the New Jersey State Fire Marshal or his designee; the following public members appointed by the Governor with the advice and consent of the Senate: a representative of the Northeast/UASI Homeland Security Region; a representative of the Delaware River Homeland Security Region; a representative of the Shore Homeland Security Region; a representative of the Northwest Homeland Security Region; a representative from the State Agency Communications Working Group; and a representative from the Statewide Public Safety Communications Advisory Council.

c. The members of the Senate and General Assembly appointed to the commission shall serve for the term for which they were elected. The members of the Senate and General Assembly appointed to the commission shall be non-voting, advisory members, appointed solely for the purpose of developing and facilitating legislation to assist the commission in fulfilling its statutory mission, and may not exercise any of the executive powers delegated to the commission by law.

d. Of the public members first appointed to the commission by the Governor with the advice and consent of the Senate, two shall be appointed for terms of three years, two shall be appointed for terms of two years, and one shall be appointed for a term of one year. Thereafter, the public members of the commission shall be appointed for terms of three years. Vacancies on the commission shall be filled in the same manner as the original appointment but for the unexpired term. Members may be removed by the

appointing authority for cause. The initial members shall be appointed within 30 days of the effective date of this act. The commission shall have the authority to establish subcommittees as it deems appropriate to carry out the purposes of this act.

e. The commission shall be co-chaired by the Chief Technology Officer within the Office of Information Technology and the Director of the Office of Homeland Security and Preparedness, or their designees.

f. The commission shall be constituted upon the appointment of the majority of its authorized membership and shall have no expiration date.

g. The commission shall meet bi-annually or at more frequent intervals at the discretion of the co-chairs. The meetings of the commission shall be held at the times and in the places necessary and appropriate to fulfill its duties and responsibilities.

h. The Office of Information Technology shall provide such administrative and professional assistance as the commission requires to carry out its work.

i. The commission shall be authorized to call to its assistance and avail itself of the services of the employees of any State, county, or local law enforcement entity, any fire department, paid or volunteer, rescue squad or any other department or agency as it may require. State, county, and municipal agencies shall cooperate with the commission by providing information and data as needed.

j. For security concerns, meetings of the commission shall be exempt from the provisions set forth in the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). Records made or maintained by the commission shall not be considered public or government records under P.L.1963, c.73 (C.47:1A-1 et seq.). The commission may call upon staff members and the expertise of non-council members to participate in commission activities to provide information and advice.

k. The commission shall adopt a charter to effectuate this act within 180 days after the first meeting date.

**C.52:17C-3.3 Statewide Public Safety Communications Advisory Council.**

6. a. There is established in the Office of Information Technology the Statewide Public Safety Communications Advisory Council which shall provide advice and assistance to the commission and the office in the planning, design, and implementation of the Statewide emergency enhanced 9-1-1 telephone system and the New Jersey Interoperable Communications System.

b. The council shall consist of 22 members, the following members ex-officio; the Chief Technology Officer within the Office of Information

Technology who shall serve as the council chairperson; the Deputy Director, Office of Homeland Security and Preparedness, Preparedness Division; the Bureau Chief, New Jersey State Police Communications within the Office of Emergency Management; the Director of the Department of Health and Senior Services, Health Infrastructure Preparedness and Emergency Response; the President of the New Jersey Board of Public Utilities; the New Jersey State Fire Marshal; the following public members: a representative from the Federal Emergency Management Agency, Region II; a representative from the Northeast/USAI Homeland Security Region Communications Working Group; a representative from the Northwest Homeland Security Region Communications Working Group; a representative from the Shore Homeland Security Region Communications Working Group; a representative from the Delaware River Homeland Security Region Communications Working Group; a representative from the State Agency Communications Working Group; a representative from the National Emergency Number Association, New Jersey Chapter; a representative from the Association of Public-Safety Communications Professionals; a representative from the New Jersey Chiefs of Police Association; a representative from the New Jersey Fire Chiefs Association; a representative from the New Jersey State First Aid Council; a representative from the Sheriffs' Association of New Jersey; a representative from the Department of Health and Senior Services, Office of Emergency Medical Services, Emergency Medical Services Council; the Association of Public-Safety Communications Professionals Public Safety Frequency Coordinator; a representative from the New Jersey Emergency Medical Services Task Force, communications branch; and a representative from the New Jersey Urban Search and Rescue Team, communications branch.

c. Public members of the council shall be recommended by the appointing authority and subject to confirmation by the commission and shall serve as a member of the council until replaced or removed for cause by the commission or appointing authority. The council shall have the authority to establish subcommittees as it deems appropriate to carry out the purposes of this act.

d. Members of the council shall serve without compensation.

e. Each ex-officio member may designate an employee of the member's department or agency to represent the member at meetings or hearings of the council. All designees may lawfully vote and otherwise act on behalf of the members for whom they constitute the designees.

f. The council shall be constituted upon the appointment of the majority of its authorized membership and shall have no expiration date.

g. The council shall be governed by the charter established by the commission.

**Repealer.**

7. The following sections are repealed:

Sections 1 through 8 of P.L.2003, c.235 (C.52:17E-1 et seq.);

Section 2 of P.L.1989, c.3 (C.52:17C-2); and

Section 8 of P.L.1999, c.125 (C.52:17C-3.1).

8. This act shall take effect immediately.

Approved January 25, 2011.

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CHAPTER 5

AN ACT concerning the use of wireless telephones and electronic communication devices by operators of public transportation service and supplementing P.L.1979, c.150 (C.27:25-1 et seq.).

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

**C.27:25-5.18 Use of wireless telephone, electronic communication devices by operator of public transportation service prohibited; exceptions.**

1. a. The use of a wireless telephone or electronic communication device by an operator of a moving vehicle involved in the provision of public transportation service, as defined under section 3 of P.L.1979, c.150 (C.27:25-3), and including light rail service or any other operations for the purpose of carrying passengers in this State or between points in this State and points in other states, provided by the New Jersey Transit Corporation, any public or private entity under contract to the corporation, or any private entity operating under the authority of a certificate of public convenience and necessity issued under Title 48 of the Revised Statutes, is unlawful.

“Use” of a wireless telephone or electronic communication device shall include, but not be limited to, talking or listening to another person on the telephone, text messaging, or sending an electronic message via the wireless telephone or electronic communication device. “Use” shall not include listening to or making an announcement on a public address system.

b. The operator of a moving vehicle involved in the provision of public transportation service may use a wireless telephone or electronic communication device under the following circumstances:

(1) in the event of an emergency;  
(2) when radio communication failure occurs; or  
(3) when the wireless telephone or electronic communication device is used hands-free while operating paratransit service and radio communication is not available.

c. A violation of this section is a disorderly persons offense.

2. This act shall take effect immediately.

Approved January 25, 2011.

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## CHAPTER 6

AN ACT requiring New Jersey institutions of higher education to disseminate fire safety information to students, parents or guardians, and employees and supplementing chapter 3B of Title 18A of the New Jersey Statutes.

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

**C.18A:3B-14.1 Dissemination of fire safety information by N.J. institutions of higher education.**

1. a. Every public and independent institution of higher education within the State shall disseminate fire safety information about their facilities to students, or, if the student is a minor, to both the student and parent or guardian, upon initial enrollment. Public and independent institutions of higher education shall also disseminate fire safety information about their facilities to all employees upon initial employment. The information shall include, but is not limited to, information on sprinkler systems, evacuation plans and other fire safety measures.

b. The Commission on Higher Education, in consultation with the Division of Fire Safety in the Department of Community Affairs, shall develop guidelines to implement subsection a. of this section, including the identification of other pertinent fire safety information to be disseminated and the appropriate means of disseminating the fire safety information to students, parents or guardians, and employees.

2. This act shall take effect immediately.

Approved January 25, 2011.

## CHAPTER 7

AN ACT concerning the online posting of municipal and county adopted budgets and amending N.J.S.40A:4-10 and P.L.1966, c.293.

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

1. N.J.S.40A:4-10 is amended to read as follows:

**Adoption of budget; copies; public inspection.**

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 N.J.S.40A:4-8 and N.J.S.40A:4-9 or section 12 of P.L.1995, c.259 (C.40A:4-6.1), as applicable, 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 calendar fiscal year or September 20 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.

Copies of the budget, as adopted, in such form and in such quantity as determined by the Local Finance Board, shall be transmitted to the director, and made available in print for public inspection at the local library, 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.

The adopted budget shall be provided for public inspection on the local unit's website, if one exists, or, if one does not exist, the budget shall be provided for public inspection on the website of the Department of Community Affairs, and made available online and in print as required by this section in a "user-friendly" summary format using plain language. In addition to the current year adopted budget, the local unit's adopted budgets of the immediately preceding three budget years also shall be provided for

public inspection on the local unit's website, if one exists, or, if one does not exist, those budgets also shall be provided for public inspection on the website of the Department of Community Affairs. Any adopted budget posted online pursuant to this section shall remain posted online for the duration of the local budget year. The Local Finance Board shall promulgate a "user-friendly," plain language summary format for use by local units for this purpose pursuant to section 39 of P.L.2007, c.63 (C.40A:5-48).

2. Section 9 of P.L.1966, c.293 (C.52:27D-9) is amended to read as follows:

**C.52:27D-9 Additional powers and duties.**

9. The department shall, in addition to other powers and duties invested in it by this act, or by any other law:

(a) Assist in the coordination of State and Federal activities relating to local government;

(b) Advise and inform the Governor on the affairs and problems of local government and make recommendations to the Governor for proposed legislation pertaining thereto;

(c) Encourage cooperative action by local governments, including joint service agreements, regional compacts and other forms of regional cooperation;

(d) Assist local government in the solution of its problems, to strengthen local self-government;

(e) Study the entire field of local government in New Jersey;

(f) Collect, collate, publish and disseminate information necessary for the effective operation of the department and useful to local government;

(g) Maintain an inventory of data and information and act as a clearing house and referral agency for information on State and Federal services and programs;

(h) Stimulate local programs through publicity, education, guidance and technical assistance concerning Federal and State programs;

(i) Convene meetings of municipal, county or other local officials to discuss ways of cooperating to provide service more efficiently and economically;

(j) Maintain and make available on request a list of persons qualified to mediate or arbitrate disputes between local units of government arising from joint service projects or other cooperative activities, and further to prescribe rates of compensation for all such mediation, factfinding or arbitration services; and

(k) Post on the department's website the annual budget and three immediately preceding adopted budgets of any municipality or county that does not maintain its own website pursuant to the requirements of N.J.S.40A:4-10.

3. This act shall take effect immediately.

Approved January 25, 2011.

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## CHAPTER 8

AN ACT concerning dock fees and boat permits on Greenwood Lake, amending P.L.2009, c.310 and supplementing P.L.1999, c.402 (C.32:20A-1 et seq.).

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

1. Section 1 of P.L.2009, c.310 (C.32:20A-5.1) is amended to read as follows:

**C.32:20A-5.1 Greenwood Lake Commission, authority to charge certain fees.**

1. a. (Deleted by amendment, P.L.2011, c.8).

b. (1) In addition to any other registration or fee required by the State, the Greenwood Lake Commission may require the owner of any mechanically propelled boat or vessel with 10 or more horsepower, and any non-mechanically propelled boat or vessel 18 or more feet in length, used on Greenwood Lake to obtain and possess an annual permit issued by the commission, and assess a fee therefor as follows:

(a) for boats or vessels 20 feet or less in length overall -- \$30;

(b) for boats or vessels 21 to 25 feet in length overall and for rowing shells 21 feet in length or more -- \$37.50;

(c) for boats or vessels over 25 feet in length overall -- \$37.50 plus an additional \$7.50 for each foot by which the length overall exceeds 25 feet; and

(d) for boats or vessels over 25 feet in length overall outfitted for overnight use -- \$37.50 plus an additional \$30 for each foot by which the overall length exceeds 25 feet.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the commission may establish a one week use permit for \$11.25 and a one-day use permit for \$7.50 for any mechanically propelled

boat or vessel or non-mechanically propelled boat or vessel subject to the annual fee established in paragraph (1) of this subsection.

c. The Greenwood Lake Commission may charge a fee to an applicant for a permit issued pursuant to this section in order to recover the costs incurred in reviewing and acting upon an application for such permit.

d. The Greenwood Lake Commission shall establish a separate, nonlapsing, dedicated account to be known as the "Greenwood Lake Commission Fund." All fees and other monies collected by the Greenwood Lake Commission pursuant to this section, or any rule or regulation adopted pursuant thereto, shall be deposited into this fund. Any investment earnings on monies in the fund shall accrue to the fund and shall be available subject to the same terms and conditions as other monies in the fund. The moneys in the fund shall be used by the Greenwood Lake Commission for the purposes set forth in P.L.1999, c.402 (C.32:20A-1 et seq.).

**C.32:20A-5.2 Violations, penalties.**

2. a. Any person who operates a boat on Greenwood Lake without a permit as required pursuant to subsection b. of section 1 of P.L.2009, c.310 (C.32:20A-5.1) shall be liable to a summons from the New Jersey State Police, the New Jersey State Park Police, a State conservation officer, or a sworn New Jersey law enforcement officer, and payment of up to a \$500 penalty per violation, which may be assessed in municipal court.

b. For any penalty collected pursuant to this section, 50 percent thereof shall be provided to the entity issuing the summons and 50 percent shall be deposited into the "Greenwood Lake Commission Fund" established pursuant to section 1 of P.L.2009, c.310 to be used only for the purposes of the fund established by law.

3. This act shall take effect upon the enactment into law by the State of New York of legislation having substantially similar effect, or if the State of New York shall have already enacted such legislation, this act shall take effect immediately.

Approved January 28, 2011.

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CHAPTER 9

AN ACT establishing a long-term capacity agreement pilot program to promote construction of qualified electric generation facilities, amending and supplementing P.L.1999, c.23.

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

**C.48:3-98.2 Findings, declarations relative to a long-term capacity agreement pilot program to promote construction of qualified electric generation facilities.**

1. The Legislature finds and declares:

a. In 2007, PJM Interconnection, L.L.C., the firm that manages the regional electric power grid, changed the method of procuring capacity in the wholesale electricity market with the implementation of the reliability pricing model;

b. The PJM reliability pricing model sought to create enhancements to the previously ineffective capacity procurement mechanism which had resulted in projected capacity deficiencies in New Jersey and other areas of the regional power grid. While the reliability pricing model has resulted in significant capacity additions in the form of new demand response resources, new energy efficiency resources, reversals of generation unit retirements, upgrades of existing generating units and certain new peaking facilities available to the region and the State, the reliability pricing model has not resulted in large additions of peaking facilities or any additions of intermediate or base load resources available to the region and the State;

c. The PJM reliability pricing model could, through structural changes, provide necessary incentives, such as the expansion of the “New Entry Price Adjustment” mechanism for the construction of new capacity, including new intermediate and base load plants, by allowing new resources to qualify and receive a guaranteed capacity price for a longer period of time. However, the implementation of similar structural changes was previously denied by FERC and any future implementation is uncertain at this time;

d. To address the lack of incentives under the reliability pricing model, the construction of new, efficient generation must be fostered by State policy that ensures sufficient generation is available to the region, and thus the users in the State in a timely and orderly manner;

e. Due to PJM’s lack of authority to order new generation as a means to mitigate local electrical system reliability concerns and solve other issues related to the lack of local generation, and since only PJM has the authority to order transmission system upgrades and expansions to mitigate electrical system reliability concerns caused by transmission system overloads or the lack of local generation being developed, New Jersey is experiencing an electric power capacity deficit and high power prices that may result in the loss of jobs and investment due to the necessity for the upgrade of the

transmission system to the west of New Jersey to ensure a reliable supply of electricity and capacity from generators located outside of New Jersey;

f. As a result of a lack of new, efficient electric generation facilities, New Jersey has become more reliant on coal-fired power plants;

g. The PJM State of the Market Report for 2009 by the PJM Independent Market Monitor states that there are over 11,000 megawatts ("MW") of coal-fired units at risk of retirement due to their inability to cover their avoided costs;

h. New Jersey's in-State fleet of electric generation facilities is aging, with over 50 percent of these facilities being more than 30 years old and over 70 percent being more than 20 years old; and

i. Fostering and incentivizing the development of a limited program for new electric generation facilities will help ensure sufficient capacity to stabilize power prices to assist the State's economic development and create opportunities for employment in the energy sector while helping to reduce the cost and volatility of electricity prices in New Jersey.

2. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read as follows:

**C.48:3-51 Definitions relative to competition in the electric power, gas, solar energy and offshore wind industries.**

3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

"Assignee" means a person to which an electric public utility or another assignee assigns, sells or transfers, other than as security, all or a portion of its right to or interest in bondable transition property. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"Base load electric power generation facility" means an electric power generation facility intended to be operated at a greater than 50 percent capacity factor including, but not limited to, a combined cycle power facility and a combined heat and power facility;

"Base residual auction" means the auction conducted by PJM, as part of PJM's reliability pricing model, three years prior to the start of the delivery year to secure electrical capacity as necessary to satisfy the capacity requirements for that delivery year;

"Basic gas supply service" means gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, includ-

ing, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the board;

"Basic generation service" or "BGS" means electric generation service that is provided, to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers for competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the board;

"Basic generation service provider" or "provider" means a provider of basic generation service;

"Basic generation service transition costs" means the amount by which the payments by an electric public utility for the procurement of power for basic generation service and related ancillary and administrative costs exceeds the net revenues from the basic generation service charge established by the board pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period, together with interest on the balance at the board-approved rate, that is reflected in a deferred balance account approved by the board in an order addressing the electric public utility's unbundled rates, stranded costs, and restructuring filings pursuant to P.L.1999, c.23 (C.48:3-49 et al.). Basic generation service transition costs shall include, but are not limited to, costs of purchases from the spot market, bilateral contracts, contracts with non-utility generators, parting contracts with the purchaser of the electric public utility's divested generation assets, short-term advance purchases, and financial instruments such as hedging, forward contracts, and options. Basic generation service transition costs shall also include the payments by an electric public utility pursuant to a competitive procurement process for basic generation service supply during the transition period, and costs of any such process used to procure the basic generation service supply;

"Board" means the New Jersey Board of Public Utilities or any successor agency;

"Bondable stranded costs" means any stranded costs or basic generation service transition costs of an electric public utility approved by the board for recovery pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the board: (1) the cost of retiring existing debt or equity capital of the electric public utility, including accrued interest, premium and other fees, costs and charges relating thereto, with the proceeds of the financing of bondable transition property; (2) if re-

quested by an electric public utility in its application for a bondable stranded costs rate order, federal, State and local tax liabilities associated with stranded costs recovery or basic generation service transition cost recovery or the transfer or financing of such property or both, including taxes, whose recovery period is modified by the effect of a stranded costs recovery order, a bondable stranded costs rate order or both; and (3) the costs incurred to issue, service or refinance transition bonds, including interest, acquisition or redemption premium, and other financing costs, whether paid upon issuance or over the life of the transition bonds, including, but not limited to, credit enhancements, service charges, overcollateralization, interest rate cap, swap or collar, yield maintenance, maturity guarantee or other hedging agreements, equity investments, operating costs and other related fees, costs and charges, or to assign, sell or otherwise transfer bondable transition property;

"Bondable stranded costs rate order" means one or more irrevocable written orders issued by the board pursuant to P.L.1999, c.23 (C.48:3-49 et al.) which determines the amount of bondable stranded costs and the initial amount of transition bond charges authorized to be imposed to recover such bondable stranded costs, including the costs to be financed from the proceeds of the transition bonds, as well as on-going costs associated with servicing and credit enhancing the transition bonds, and provides the electric public utility specific authority to issue or cause to be issued, directly or indirectly, transition bonds through a financing entity and related matters as provided in P.L.1999, c.23, which order shall become effective immediately upon the written consent of the related electric public utility to such order as provided in P.L.1999, c.23;

"Bondable transition property" means the property consisting of the irrevocable right to charge, collect and receive, and be paid from collections of, transition bond charges in the amount necessary to provide for the full recovery of bondable stranded costs which are determined to be recoverable in a bondable stranded costs rate order, all rights of the related electric public utility under such bondable stranded costs rate order including, without limitation, all rights to obtain periodic adjustments of the related transition bond charges pursuant to subsection b. of section 15 of P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments, money and proceeds arising under, or with respect to, all of the foregoing;

"British thermal unit" or "Btu" means the amount of heat required to increase the temperature of one pound of water by one degree Fahrenheit;

"Broker" means a duly licensed electric power supplier that assumes the contractual and legal responsibility for the sale of electric generation

service, transmission or other services to end-use retail customers, but does not take title to any of the power sold, or a duly licensed gas supplier that assumes the contractual and legal obligation to provide gas supply service to end-use retail customers, but does not take title to the gas;

"Buydown" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a reduction in the pricing, or the restructuring of other terms to reduce the overall cost of the power contract, for the remaining succeeding period of the purchased power arrangement or arrangements;

"Buyout" means an arrangement or arrangements involving the buyer and seller in a given power purchase contract and, in some cases third parties, for consideration to be given by the buyer in order to effectuate a termination of such power purchase contract;

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner;

"Class II renewable energy" means electric energy produced at a resource recovery facility or hydropower facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities;

"Co-generation" means the sequential production of electricity and steam or other forms of useful energy used for industrial or commercial heating and cooling purposes;

"Combined cycle power facility" means a generation facility that combines two or more thermodynamic cycles, by producing electric power via the combustion of fuel and then routing the resulting waste heat by-product to a conventional boiler or to a heat recovery steam generator for use by a steam turbine to produce electric power, thereby increasing the overall efficiency of the generating facility;

"Combined heat and power facility" or "co-generation facility" means a generation facility which produces electric energy, steam, or other forms of useful energy such as heat, which are used for industrial or commercial heating or cooling purposes. A combined heat and power facility or co-generation facility shall not be considered a public utility;

"Competitive service" means any service offered by an electric public utility or a gas public utility that the board determines to be competitive pursuant to section 8 or section 10 of P.L.1999, c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

"Commercial and industrial energy pricing class customer" or "CIEP class customer" means that group of non-residential customers with high peak demand, as determined by periodic board order, which either is eligible or which would be eligible, as determined by periodic board order, to receive funds from the Retail Margin Fund established pursuant to section 9 of P.L.1999, c.23 (C.48:3-57) and for which basic generation service is hourly-priced;

"Comprehensive resource analysis" means an analysis including, but not limited to, an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace;

"Customer" means any person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory or a gas public utility's service territory within this State;

"Customer account service" means metering, billing, or such other administrative activity associated with maintaining a customer account;

"Delivery year" or "DY" means the 12-month period from June 1st through May 31st, numbered according to the calendar year in which it ends;

"Demand side management" means the management of customer demand for energy service through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management and energy efficiency measures on and in the residential, commercial, industrial, institutional and governmental premises and facilities in this State;

"Electric generation service" means the provision of retail electric energy and capacity which is generated off-site from the location at which the consumption of such electric energy and capacity is metered for retail billing purposes, including agreements and arrangements related thereto;

"Electric power generator" means an entity that proposes to construct, own, lease or operate, or currently owns, leases or operates, an electric power production facility that will sell or does sell at least 90 percent of its output, either directly or through a marketer, to a customer or customers located at sites that are not on or contiguous to the site on which the facility will be located or is located. The designation of an entity as an electric power generator for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in and of

itself, affect the entity's status as an exempt wholesale generator under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq.;

"Electric power supplier" means a person or entity that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of P.L.1999, c.23 (C.48:3-57);

"Electric public utility" means a public utility, as that term is defined in R.S.48:2-13, that transmits and distributes electricity to end users within this State;

"Electric related service" means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances, lighting, motors or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Electronic signature" means an electronic sound, symbol or process, attached to, or logically associated with, a contract or other record, and executed or adopted by a person with the intent to sign the record;

"Eligible generator" means a developer of a base load or mid-merit electric power generation facility including, but not limited to, an on-site generation facility that qualifies as a capacity resource under PJM criteria and that commences construction after the effective date of P.L.2011, c.9 (C.48:3-98.2 et al.);

"Energy agent" means a person that is duly registered pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the sale of retail electricity or electric related services or retail gas supply or gas related services between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold;

"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator;

"Energy efficiency portfolio standard" means a requirement to procure a specified amount of energy efficiency or demand side management resources as a means of managing and reducing energy usage and demand by customers;

"Energy year" or "EY" means the 12-month period from June 1st through May 31st, numbered according to the calendar year in which it ends;

"Federal Energy Regulatory Commission" or "FERC" means the federal agency established pursuant to 42 U.S.C. s.7171 et seq. to regulate the interstate transmission of electricity, natural gas, and oil;

"Financing entity" means an electric public utility, a special purpose entity, or any other assignee of bondable transition property, which issues transition bonds. Except as specifically provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity which is not itself an electric public utility shall not be subject to the public utility requirements of Title 48 or any rules or regulations adopted pursuant thereto;

"Gas public utility" means a public utility, as that term is defined in R.S.48:2-13, that distributes gas to end users within this State;

"Gas related service" means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Gas supplier" means a person that is duly licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and assume the contractual and legal obligation to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

"Gas supply service" means the provision to customers of the retail commodity of gas, but does not include any regulated distribution service;

"Government aggregator" means any government entity subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written contract with a licensed electric power supplier or a licensed gas supplier for: (1) the provision of electric generation

service, electric related service, gas supply service, or gas related service for its own use or the use of other government aggregators; or (2) if a municipal or county government, the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction;

"Government energy aggregation program" means a program and procedure pursuant to which a government aggregator enters into a written contract for the provision of electric generation service or gas supply service on behalf of business or residential customers within its territorial jurisdiction;

"Governmental entity" means any federal, state, municipal, local or other governmental department, commission, board, agency, court, authority or instrumentality having competent jurisdiction;

"Greenhouse gas emissions portfolio standard" means a requirement that addresses or limits the amount of carbon dioxide emissions indirectly resulting from the use of electricity as applied to any electric power suppliers and basic generation service providers of electricity;

"Incremental auction" means an auction conducted by PJM, as part of PJM's reliability pricing model, prior to the start of the delivery year to secure electric capacity as necessary to satisfy the capacity requirements for that delivery year, that is not otherwise provided for in the base residual auction;

"Leakage" means an increase in greenhouse gas emissions related to generation sources located outside of the State that are not subject to a state, interstate or regional greenhouse gas emissions cap or standard that applies to generation sources located within the State;

"Locational deliverability area" or "LDA" means one or more of the zones within the PJM region which are used to evaluate area transmission constraints and reliability issues including electric public utility company zones, sub-zones, and combinations of zones;

"Long-term capacity agreement pilot program" or "LCAPP" means a pilot program established by the board that includes participation by eligible generators, to seek offers for financially-settled standard offer capacity agreements with eligible generators pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.);

"Market transition charge" means a charge imposed pursuant to section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public utility, at a level determined by the board, on the electric public utility customers for a limited duration transition period to recover stranded costs created as a result of the introduction of electric power supply competition pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes the contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers;

"Mid-merit electric power generation facility" means a generation facility that operates at a capacity factor between baseload generation facilities and peaker generation facilities;

"Net proceeds" means proceeds less transaction and other related costs as determined by the board;

"Net revenues" means revenues less related expenses, including applicable taxes, as determined by the board;

"Offshore wind energy" means electric energy produced by a qualified offshore wind project;

"Offshore wind renewable energy certificate" or "OREC" means a certificate, issued by the board or its designee, representing the environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project;

"Off-site end use thermal energy services customer" means an end use customer that purchases thermal energy services from an on-site generation facility, combined heat and power facility, or co-generation facility, and that is located on property that is separated from the property on which the on-site generation facility, combined heat and power facility, or co-generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way;

"On-site generation facility" means a generation facility, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way, or if the end use customer is purchasing thermal energy services produced by the on-site generation facility, for use for heating or cooling, or both, regardless of whether the customer is located on property that is separated from the property on which the on-site

generation facility is located by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way;

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity;

"PJM Interconnection, L.L.C." or "PJM" means the privately-held, limited liability corporation that is a FERC-approved Regional Transmission Organization, or its successor, that manages the regional, high-voltage electricity grid serving all or parts of 13 states including New Jersey and the District of Columbia, operates the regional competitive wholesale electric market, manages the regional transmission planning process, and establishes systems and rules to ensure that the regional and in-State energy markets operate fairly and efficiently;

"Private aggregator" means a non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of gas supply service, on behalf of multiple end-use customers by combining the loads of those customers;

"Public utility holding company" means: (1) any company that, directly or indirectly, owns, controls, or holds with power to vote, ten percent or more of the outstanding voting securities of an electric public utility or a gas public utility or of a company which is a public utility holding company by virtue of this definition, unless the Securities and Exchange Commission, or its successor, by order declares such company not to be a public utility holding company under the Public Utility Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the Securities and Exchange Commission, or its successor, determines, after notice and opportunity for hearing, directly or indirectly, to exercise, either alone or pursuant to an arrangement or understanding with one or more other persons, such a controlling influence over the management or policies of an electric public utility or a gas public utility or public utility holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in the Public Utility Holding Company Act of 1935 or its successor;

"Qualified offshore wind project" means a wind turbine electricity generation facility in the Atlantic Ocean and connected to the electric transmission system in this State, and includes the associated transmission-related interconnection facilities and equipment, and approved by the board pursuant to section 3 of P.L.2010, c.57 (C.48:3-87.1);

"Regulatory asset" means an asset recorded on the books of an electric public utility or gas public utility pursuant to the Statement of Financial Accounting Standards, No. 71, entitled "Accounting for the Effects of Certain Types of Regulation," or any successor standard and as deemed recoverable by the board;

"Related competitive business segment of an electric public utility or gas public utility" means any business venture of an electric public utility or gas public utility including, but not limited to, functionally separate business units, joint ventures, and partnerships, that offers to provide or provides competitive services;

"Related competitive business segment of a public utility holding company" means any business venture of a public utility holding company, including, but not limited to, functionally separate business units, joint ventures, and partnerships and subsidiaries, that offers to provide or provides competitive services, but does not include any related competitive business segments of an electric public utility or gas public utility;

"Reliability pricing model" or "RPM" means PJM's capacity-market model, and its successors, that secures capacity on behalf of electric load serving entities to satisfy load obligations not satisfied through the output of electric generation facilities owned by those entities, or otherwise secured by those entities through bilateral contracts;

"Renewable energy certificate" or "REC" means a certificate representing the environmental benefits or attributes of one megawatt-hour of generation from a generating facility that produces Class I or Class II renewable energy, but shall not include a solar renewable energy certificate or an offshore wind renewable energy certificate;

"Resource clearing price" or "RCP" means the clearing price established for the applicable locational deliverability area by the base residual auction or incremental auction, as determined by the optimization algorithm for each auction, conducted by PJM as part of PJM's reliability pricing model;

"Resource recovery facility" means a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals and other materials for reuse;

"Restructuring related costs" means reasonably incurred costs directly related to the restructuring of the electric power industry, including the closure, sale, functional separation and divestiture of generation and other competitive utility assets by a public utility, or the provision of competitive services as such costs are determined by the board, and which are not stranded costs as defined in P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited to, investments in management information sys-

tems, and which shall include expenses related to employees affected by restructuring which result in efficiencies and which result in benefits to ratepayers, such as training or retraining at the level equivalent to one year's training at a vocational or technical school or county community college, the provision of severance pay of two weeks of base pay for each year of full-time employment, and a maximum of 24 months' continued health care coverage. Except as to expenses related to employees affected by restructuring, "restructuring related costs" shall not include going forward costs;

"Retail choice" means the ability of retail customers to shop for electric generation or gas supply service from electric power or gas suppliers, or opt to receive basic generation service or basic gas service, and the ability of an electric power or gas supplier to offer electric generation service or gas supply service to retail customers, consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Retail margin" means an amount, reflecting differences in prices that electric power suppliers and electric public utilities may charge in providing electric generation service and basic generation service, respectively, to retail customers, excluding residential customers, which the board may authorize to be charged to categories of basic generation service customers of electric public utilities in this State, other than residential customers, under the board's continuing regulation of basic generation service pursuant to sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the purpose of promoting a competitive retail market for the supply of electricity;

"Shopping credit" means an amount deducted from the bill of an electric public utility customer to reflect the fact that such customer has switched to an electric power supplier and no longer takes basic generation service from the electric public utility;

"Social program" means a program implemented with board approval to provide assistance to a group of disadvantaged customers, to provide protection to consumers, or to accomplish a particular societal goal, and includes, but is not limited to, the winter moratorium program, utility practices concerning "bad debt" customers, low income assistance, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls;

"Societal benefits charge" means a charge imposed by an electric public utility, at a level determined by the board, pursuant to, and in accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

"Solar alternative compliance payment" or "SACP" means a payment of a certain dollar amount per megawatt hour (MWh) which an electric

power supplier or provider may submit to the board in order to comply with the solar electric generation requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

"Solar renewable energy certificate" or "SREC" means a certificate issued by the board or its designee, representing one megawatt hour (MWh) of solar energy that is generated by a facility connected to the distribution system in this State and has value based upon, and driven by, the energy market;

"Standard offer capacity agreement" or "SOCA" means a financially-settled transaction agreement, approved by board order, that provides for eligible generators to receive payments from the electric public utilities for a defined amount of electric capacity for a term to be determined by the board but not to exceed 15 years, and for such payments to be a fully non-bypassable charge, with such an order, once issued, being irrevocable;

"Standard offer capacity price" or "SOCP" means the capacity price that is fixed for the term of the SOCA and which is the price to be received by eligible generators under a board-approved SOCA;

"Stranded cost" means the amount by which the net cost of an electric public utility's electric generating assets or electric power purchase commitments, as determined by the board consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the market value of those assets or contractual commitments in a competitive supply marketplace and the costs of buydowns or buyouts of power purchase contracts;

"Stranded costs recovery order" means each order issued by the board in accordance with subsection c. of section 13 of P.L.1999, c.23 (C.48:3-61) which sets forth the amount of stranded costs, if any, the board has determined an electric public utility is eligible to recover and collect in accordance with the standards set forth in section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery mechanisms therefor;

"Thermal efficiency" means the useful electric energy output of a facility, plus the useful thermal energy output of the facility, expressed as a percentage of the total energy input to the facility;

"Transition bond charge" means a charge, expressed as an amount per kilowatt hour, that is authorized by and imposed on electric public utility ratepayers pursuant to a bondable stranded costs rate order, as modified at any time pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

"Transition bonds" means bonds, notes, certificates of participation or beneficial interest or other evidences of indebtedness or ownership issued pursuant to an indenture, contract or other agreement of an electric public utility or a financing entity, the proceeds of which are used, directly or indirectly, to recover, finance or refinance bondable stranded costs and which

are, directly or indirectly, secured by or payable from bondable transition property. References in P.L.1999, c.23 (C.48:3-49 et al.) to principal, interest, and acquisition or redemption premium with respect to transition bonds which are issued in the form of certificates of participation or beneficial interest or other evidences of ownership shall refer to the comparable payments on such securities;

"Transition period" means the period from August 1, 1999 through July 31, 2003;

"Transmission and distribution system" means, with respect to an electric public utility, any facility or equipment that is used for the transmission, distribution or delivery of electricity to the customers of the electric public utility including, but not limited to, the land, structures, meters, lines, switches and all other appurtenances thereof and thereto, owned or controlled by the electric public utility within this State; and

"Universal service" means any service approved by the board with the purpose of assisting low-income residential customers in obtaining or retaining electric generation or delivery service.

**C.48:3-98.3 Initiation, completion of schedule to support commencement of LCAPP.**

3. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate and complete a proceeding in accordance with the schedule set forth in this section to support the commencement of the LCAPP:

a. The board shall initiate and allow such proceeding to be completed no later than 60 days after the effective date of P.L.2011, c.9 (C.48:3-98.2 et al.) to allow for the commencement of the LCAPP. The SOCA or SOCAs resulting from that proceeding shall be awarded and executed no later than 30 days after the approval of the form of the SOCA or SOCAs. The LCAPP shall require selected eligible generators with board approved and executed SOCAs to participate and be accepted as a capacity resource in the base residual auction conducted by PJM.

b. The board shall require that the electric public utilities within the State retain an agent, with the approval of the board, to administer the LCAPP. The agent retained in accordance with this section shall, on behalf of the board, be responsible for:

(1) assisting the board with the establishment of the LCAPP that allows for offering financially-settled SOCAs for the purpose of facilitating the development of eligible generators;

(2) prequalifying eligible generators for participation in the LCAPP through a showing of environmental, economic, and community benefits,

and through demonstration of reasonable certainty of completion of development, construction and permitting activities necessary to meet the desired in-service date; and

(3) recommending to the board the selection of winning eligible generators based on the net benefit to ratepayers of each prequalified eligible generator's offer price and term. Eligible generators that can enter commercial operation for delivery year 2015 are to be provided with a weighted preference in addition to the net benefit ratepayer test. Eligible generators shall also indicate the amount of capacity they are offering in the LCAPP.

c. In the proceeding initiated by the board pursuant to this section, the board shall adopt, after notice, the opportunity for comment, and public hearing, an order addressing the following requirements for the LCAPP:

(1) that electric public utilities shall procure 2,000 megawatts of financially-settled SOCAs from eligible generators, which shall include new generation capacity;

(2) that eligible generators participating in the LCAPP shall be required to offer a quantity, in megawatts, offer a price per megawatt-day, and a term of the SOCA to be evaluated by the agent and approved by the board;

(3) that, taking into consideration the agent's recommendation, the board approve the selected eligible generators from among the qualified eligible generators participating in the LCAPP for the award of board-approved long-term financially-settled SOCAs for a term to be determined by the board but not to exceed 15 years;

(4) that the board establish a method and the contract terms for providing for selected eligible generators to receive payments from the electric public utilities for the difference between the SOCP and the RCP multiplied by the SOCA capacity in the event the SOCP is greater than the RCP for any applicable delivery year and for providing for electric public utilities to receive refunds from the selected eligible generators for the difference between the SOCP and the RCP multiplied by the SOCA capacity in the event the RCP is greater than the SOCP for any applicable delivery year;

(5) that no single eligible generator or its affiliate may enter into more than 700 megawatts of financially-settled standard offer capacity agreements;

(6) that the board establish criteria associated with the prequalification of eligible generators for participation in the LCAPP through a showing of environmental, economic, and community benefits, and through demonstration of reasonable certainty of completion of development, construction and permitting activities necessary to meet the desired in-service date;

(7) that the board establish a method for evaluating and comparing the net value to ratepayers of each eligible generator's offer price and term;

(8) that the board establish a method for providing a weighted preference for eligible generators that can enter commercial operation for delivery year 2015;

(9) that eligible generators approved by the board, enter into a SOCA with each of the State's four electric public utilities provided that each electric public utility shall pay or receive refunds pursuant to an annually calculated load-ratio share of the capacity of the SOCA based upon each electric public utility's annual forecasted peak demand as determined by PJM;

(10) that the resulting SOCA shall bind the electric public utilities to the board approved SOCAs with selected eligible generators for the term of the SOCA;

(11) that the selected eligible generators with executed SOCAs shall offer the capacity, electricity, and ancillary services into the PJM wholesale markets as required by the PJM market rules; and

(12) that selected eligible generators with executed SOCAs shall participate in and clear the annual base residual auction conducted by the PJM as part of its reliability pricing model for each delivery year of the entire term of the agreement.

d. The board shall order the full recovery of all costs associated with the electric public utilities' resulting SOCAs, and the costs of the agent retained pursuant to subsection b. of this section, from ratepayers through a non-bypassable, irrevocable charge.

e. Notwithstanding any other provision of law, each SOCA shall become irrevocable upon the issuance of such order approving a SOCA.

f. Neither the board or any other governmental entity shall have the authority, directly or indirectly, legally or equitably, to rescind, alter, repeal, modify or amend a SOCA or an LCAPP cost rate order, to revalue, re-evaluate, or revise the amount of LCAPP costs, or to determine that the LCAPP charges or the revenues to recover the LCAPP charges for such SOCAs are unjust or unreasonable.

**C.48:3-98.4 Challenged provisions; final resolution.**

4. If one or more provisions in P.L.2011, c.9 (C.48:3-98.2 et al.) are challenged in an administrative or judicial proceeding, the board may suspend the applicability of the challenged provision or provisions during the pendency of those proceedings until final resolution of the challenge and any appeals, and shall issue such orders and take such other actions as it deems appropriate to ensure that the provisions that are not challenged are implemented expeditiously to achieve the public purposes of P.L.2011, c.9 (C.48:3-98.2 et al.).

**C.48:3-60.1 Imposition of certain charges by gas public utilities prohibited.**

5. Notwithstanding the provisions of any other law, rule, regulation, or order to the contrary, gas public utilities shall not impose a societal benefits charge pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), or any other charge designed to recover the costs for social, energy efficiency, conservation, environmental or renewable energy programs, on natural gas delivery service or a commodity that is used to generate electricity that is sold for resale.

6. This act shall take effect immediately.

Approved January 28, 2011.

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**CHAPTER 10**

AN ACT establishing “Jersey Fresh Farm to School Week” and providing for its implementation, and supplementing Title 4 of the Revised Statutes.

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

**C.4:10-25.1 “Jersey Fresh Farm to School Week.”**

1. a. The Department of Agriculture, in cooperation with the Department of Education, shall coordinate with farmers in the State, the New Jersey Farm to School Network or its successor entity, public, private, and charter schools and their food services, and other interested and relevant organizations and groups, as determined by the Department of Agriculture and the Department of Education, to establish an annual week of promotional events to be known as “Jersey Fresh Farm to School Week.” The week shall be celebrated each year throughout the State with the holding of relevant promotional events during the last week of September.

b. “Jersey Fresh Farm to School Week” shall highlight and promote the value and importance of New Jersey agriculture and fresh foods produced in New Jersey, and the value and importance of fresh farm foods for children, their general health, and their success in school. The promotional events shall be provided to:

- (1) children through school breakfast, lunch, and snack programs and in the classroom;
- (2) community groups, churches, and service organizations;
- (3) the public at large at farms and community farmers markets; and

(4) other organizations or groups or at other locations in the State determined by the Department of Agriculture to be beneficial for the success of promoting the value and importance of New Jersey agriculture and fresh foods produced in New Jersey.

**C.4:10-25.2 Rules, regulations; development of program.**

2. a. The Department of Agriculture shall develop the program and, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations for its implementation, including, but not necessarily limited to, providing:

(1) encouragement for schools that participate in school meal programs to expand or improve kitchen facilities to allow for producing meals that incorporate more fresh, locally grown or produced farm produce, fruit or other products on a daily basis;

(2) a bidding matrix that provides for school purchases of New Jersey-grown food and allows schools to adopt price preferences for local agricultural and farm products; and

(3) in conjunction and cooperation with the Department of Education, the incorporation and coordination of school curricula with information about:

- (a) New Jersey agriculture;
- (b) the importance and significance of farms and farmers to New Jersey's economy, culture, history, and quality of life; and
- (c) the health value of eating fresh farm foods and locally grown produce and fruits.

b. The Department of Agriculture, in conjunction with the Department of Education, shall develop a training program with the emphasis on the theme of "Farm to School" and shall offer this program to schools, teachers, and other event providers.

c. The Department of Agriculture shall establish a "New Jersey Farm to School" website to provide opportunities for farmers, distributors, and schools to create purchasing networks, to develop and refine promotional events for "Jersey Fresh Farm to School Week," and to disseminate information about the events.

3. This act shall take effect on June 1 next following the date of enactment.

Approved January 28, 2011.

## CHAPTER 11

AN ACT concerning recovery of personal injury protection benefits under certain circumstances and amending P.L.1983, c.362.

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

1. Section 20 of P.L.1983, c.362 (C.39:6A-9.1) is amended to read as follows:

**C.39:6A-9.1 Recovery from tortfeasor.**

20. a. An insurer, health maintenance organization or governmental agency paying benefits pursuant to subsection a., b. or d. of section 13 of P.L.1983, c.362 (C.39:6A-4.3), personal injury protection benefits in accordance with section 4 or section 10 of P.L.1972, c.70 (C.39:6A-4 or 39:6A-10), medical expense benefits pursuant to section 4 of P.L.1998, c.21 (C.39:6A-3.1) or benefits pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3), as a result of an accident occurring within this State, shall, within two years of the filing of the claim, have the right to recover the amount of payments from any tortfeasor who was not, at the time of the accident, required to maintain personal injury protection or medical expense benefits coverage, other than for pedestrians, under the laws of this State, including personal injury protection coverage required to be provided in accordance with section 18 of P.L.1985, c.520 (C.17:28-1.4), or although required did not maintain personal injury protection or medical expense benefits coverage at the time of the accident.

b. In the case of an accident occurring in this State involving an insured tortfeasor, the determination as to whether an insurer, health maintenance organization or governmental agency is legally entitled to recover the amount of payments and the amount of recovery, including the costs of processing benefit claims and enforcing rights granted under this section, shall be made against the insurer of the tortfeasor, and shall be by agreement of the involved parties or, upon failing to agree, by arbitration. Any recovery by an insurer, health maintenance organization or governmental agency pursuant to this subsection shall be subject to any claim against the insured tortfeasor's insurer by the injured party and shall be paid only after satisfaction of that claim, up to the limits of the insured tortfeasor's motor vehicle or other liability insurance policy.

2. This act shall take effect immediately.

Approved January 28, 2011.

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## CHAPTER 12

AN ACT designating a portion of State Highway Route No. 35 in Monmouth County as the “Chosin Few Memorial Highway.”

WHEREAS, The Battle of Chosin Reservoir was a battle in the Korean War in which approximately 25,000 American-led United Nations (“UN”) troops, referred to as the “Chosin Few” or the “Frozen Chosin,” under the command of General Douglas MacArthur faced about 120,000 Chinese volunteers who were under instructions to completely eliminate their enemy; and

WHEREAS, The battle took place in below-freezing temperatures in a mountainous area in the northeastern part of North Korea and was fought over a ten-day period during the months of November and December in 1950; and

WHEREAS, After large numbers of Chinese soldiers surrounded the UN troops at the Chosin Reservoir, a brutal battle ensued, and, although they inflicted enormous casualties on the Chinese forces, the UN troops were forced to evacuate southward out of North Korea; and

WHEREAS, In their withdrawal, the troops were under furious attack from the Chinese, yet the Marines and soldiers who withdrew from the reservoir displayed great tenacity by successfully defending against every Chinese attack and destroying or effectively disabling all seven Chinese divisions that tried to block their escape; and

WHEREAS, Although the American forces fighting in the battle were forced to withdraw from the reservoir, the brave troops fought valiantly and, despite being far outnumbered, avoided annihilation and inflicted heavy casualties as approximately 40,000 Chinese troops were either killed or wounded during the campaign; and

WHEREAS, Time magazine once characterized the brutal and savage running fight from the Chosin Reservoir as a “battle unparalleled in U.S. military history” and “an epic of great suffering and great valor;” and

WHEREAS, Despite the heavy losses they endured, the United States Marines consider the Battle of Chosin Reservoir to be one of the proudest moments in the history of the corps; and

WHEREAS, The Chosin fighters, by decimating and halting the Chinese forces in the mountains, enabled the evacuation of 100,000 North Korean men, women and children, an evacuation which was formally described by the U.S. Government as “the greatest rescue operation in the history of mankind,” as never in recorded history had combatants rescued so many enemy civilians in the midst of battle; and

WHEREAS, A total of 17 Medals of Honor and 70 Navy Crosses were awarded for the Chosin campaign, the most ever for a single battle in U.S. military history, in addition to 12 Distinguished Service Crosses and 9,000 Purple Hearts; and

WHEREAS, The Korean War is often referred to as the “Forgotten War,” despite the vast numbers of brave and determined soldiers from New Jersey and across the United States who fought in the conflict, and the thousands who made the ultimate sacrifice defending their country in the struggle against the threat of Communism; and

WHEREAS, Founded in 1983, the Chosin Few is an organization with chapters across the country, including New Jersey, that is comprised of survivors of the Battle of Chosin Reservoir, and consists of members from all of the United States branches of service, as well as South Korean military veterans, former British Marine Commandos and former Royal Australian Air Force members, whose primary objective is to unite the survivors of the battle into one body of companionship and everlasting remembrance of those who did not survive; and

WHEREAS, It is altogether fitting and proper for a highway to be permanently dedicated to the Chosin Few to serve as a constant reminder of the brave fighting and heroic accomplishments that occurred during the Battle of Chosin Reservoir; now, therefore,

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

1. The Commissioner of Transportation shall designate that portion of State Highway Route No. 35 located in the county of Monmouth as the “Chosin Few Memorial Highway” in honor of those soldiers who fought in the Battle of Chosin Reservoir during the Korean War and shall erect appropriate signs bearing this designation.

2. No State or other public funds shall be used for producing, purchasing, or erecting signs bearing the designation established pursuant to section 1 of this act. The Commissioner of Transportation is authorized to receive gifts, grants or other financial assistance from private sources for the

purpose of funding or reimbursing the Department of Transportation for the costs associated with producing, purchasing, and erecting signs bearing the designation established pursuant to section 1 of this act and entering into agreements related thereto, with such private sources, including but not limited to non-governmental non-profit, educational or charitable entities or institutions. No work shall proceed, and no funding shall be accepted by the Department of Transportation until an agreement has been reached with a responsible party for paying the costs associated with producing, purchasing, erecting and maintaining the signs.

3. This act shall take effect immediately.

Approved January 28, 2011.

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## CHAPTER 13

AN ACT concerning motorcycle safety, amending R.S.39:3-10, R.S.39:3-13, and P.L.1991, c.452, supplementing chapter 3 of Title 39 of the Revised Statutes, and repealing section 3 of P.L.1991, c.452.

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

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

**Licensing of drivers; classifications.**

39:3-10. No person shall drive a motor vehicle on a public highway in this State unless the person is under supervision while participating in a behind-the-wheel driving course pursuant to section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated permit, or a probationary or basic driver's license issued to that person in accordance with this article.

No person under 18 years of age shall be issued a basic license to drive motor vehicles, nor shall a person be issued a validated permit, including a validated examination permit, until the applicant has passed a satisfactory examination and other requirements as to the applicant's ability as an operator. The examination shall include a test of the applicant's vision, the applicant's ability to understand traffic control devices, the applicant's knowledge of safe driving practices and of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle, the ap-

plicant's knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant, and of the laws and ordinary usages of the road. No person shall sit for an examination for any permit without exhibiting photo identification deemed acceptable by the commission, unless that person is a high school student participating in a course of automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State, pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1). The commission may waive the written law knowledge examination for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories of American Samoa, Guam, Puerto Rico, or the Virgin Islands. The commission shall be required to provide that person with a booklet that highlights those motor vehicle laws unique to New Jersey. A road test shall be required for a probationary license and serve as a demonstration of the applicant's ability to operate a vehicle of the class designated. No person shall sit for a road test unless that person exhibits photo identification deemed acceptable by the commission. A high school student who has completed a course of behind-the-wheel automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State, who has been issued a special learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to January 1, 2003, shall not be required to exhibit photo identification in order to sit for a road test. The commission may waive the road test for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories of American Samoa, Guam, Puerto Rico, or the Virgin Islands. The road test shall be given on public streets, where practicable and feasible, but may be preceded by an off-street screening process to assess basic skills. The commission shall approve locations for the road test which pose no more than a minimal risk of injury to the applicant, the examiner, and other motorists. No new locations for the road test shall be approved unless the test can be given on public streets.

A person who successfully completes a road test for a motorcycle license or a motorcycle endorsement when operating a motorcycle or motorized scooter with an engine displacement of less than 231 cubic centimeters shall be issued a motorcycle license or endorsement restricting the person's operation of such vehicles to any motorcycle with an engine displacement of 500 cubic centimeters or less. A person who successfully completes a road test for a motorcycle license or motorcycle endorsement when operat-

ing a motorcycle with an engine displacement of 231 or more cubic centimeters shall be issued a motorcycle license or endorsement without any restriction as to engine displacement. Any person who successfully completes an approved motorcycle safety education course established pursuant to the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a motorcycle license or endorsement without restriction as to engine displacement.

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

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

Up to 20 questions may be added to the examination on subjects to be determined by the commission that are of particular relevance to youthful drivers, after consultation with the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety.

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

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

The commission shall create classified licensing of drivers covering the following classifications:

a. Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering or any vehicle defined as a motorcycle pursuant to R.S.39:1-1 having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed of no more than 35 miles per hour on a flat surface.

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

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

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

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

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

The commission, upon payment of the lawful fee and after it or a person authorized by it has examined the applicant and is satisfied of the applicant's ability as an operator, may, in its discretion, issue a license to the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire, except as otherwise provided, on the last day of the 48th calendar month following the calendar month in which such license was issued.

The commission may, at its discretion and for good cause shown, issue licenses which shall expire on a date fixed by it. If the commission issues a license to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard period of the license, the commission shall fix the expiration date of the license at a date based on the period in which the person is authorized to be present in the United States under federal immigration laws. The commission may renew such a license only if it is demonstrated that the person's continued presence in the United States is authorized under federal law. The fee for licenses with expiration dates fixed by the commission shall be fixed by the commission in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 48-month period shall be as follows:

Motorcycle license or endorsement: \$18.

Omnibus or school bus endorsement: \$18.

Basic driver's license: \$18.

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

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

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

The commission in its discretion may refuse to grant a permit or license to drive motor vehicles to a person who is, in its estimation, not a proper person to be granted such a permit or license, but no defect of the applicant shall debar the applicant from receiving a permit or license unless it can be shown by tests approved by the commission that the defect incapacitates the applicant from safely operating a motor vehicle.

In addition to requiring an applicant for a driver's license to submit satisfactory proof of identity and age, the commission also shall require the applicant to provide, as a condition for obtaining a permit and license, satisfactory proof that the applicant's presence in the United States is authorized under federal law.

If the commission has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the commission shall refuse to grant the permit or license until such time as the document may be verified by the issuing agency to the commission's satisfaction.

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

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

2. Section 6 of P.L.1991, c.452 (C.39:3-10.31) is amended to read as follows:

**C.39:3-10.31 Motorcycle road test, waiver.**

6. The Chief Administrator of the Motor Vehicle Commission may waive the written law and knowledge and road test portion of the examinations required for a motorcycle license or endorsement under R.S.39:3-10 for the holder of an examination permit who has successfully completed a motorcycle safety education course established under the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36).

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

**Examination permits.**

39:3-13. The chief administrator may, in the chief administrator's discretion, issue to a person over 17 years of age an examination permit, under the hand and seal of the chief administrator, allowing such person, for the

purpose of fitting the person to become a licensed driver, to operate a designated class of motor vehicles other than passenger automobiles and motorcycles for a specified period of not more than 90 days, while in the company and under the supervision of a driver licensed to operate such designated class of motor vehicles.

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

For six months immediately following the validation of an examination permit, and until the holder passes the road test, the holder who is less than 21 years of age shall operate the passenger automobile only when accompanied by, and under the supervision of, a New Jersey licensed driver who is at least 21 years of age and has been licensed to drive a passenger automobile for not less than three years. The holder of an examination permit who is at least 21 years of age shall operate the passenger automobile for the first three months under such supervision and until the holder passes the road test. The supervising driver of the passenger automobile shall sit in the front seat of the vehicle. Whenever operating a vehicle while in possession of an examination permit, the holder of the permit shall operate the passenger automobile with only one additional passenger in the vehicle excluding dependents of the permit holder, except that this passenger restriction shall not apply when the permit holder is at least 21 years of age or when the permit holder is accompanied by a parent or guardian. Further, the holder of the passenger automobile permit who is less than 21 years of age shall not drive during the hours between 11:01 p.m. and 5 a.m.; provided, however, that this condition may be waived for an emergency which, in the judgment of local police, is of sufficient severity and magnitude to substantially endanger the health, safety, welfare, or property of a person, or for any bona fide employment or religion-related activity if the employer or appropriate religious authority provides written verification of such activity in a manner provided for by the chief administrator. The holder of the examination permit shall not use any hand-held or hands-free interactive wireless communication device, except in an emergency, while operating a

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

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

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

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

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

When notified by a court of competent jurisdiction that an examination permit holder has been convicted of a violation which causes the permit holder to accumulate more than two motor vehicle points or has been convicted of a violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of N.J.S.2C:12-1; or any other motor vehicle-related law the chief administrator deems significant and applicable pursuant to regulation, in addition to any other penalty that may be imposed, the chief administrator shall, without the exercise of discretion or a hearing, suspend the examination permit holder's examination permit for 90 days. The chief administrator shall restore the permit following the term of the permit suspension if the permit holder satisfactorily completes a remedial training course of not less than four hours which may be given by the commission, a driving school licensed by the chief administrator pursuant to section 2 of P.L.1951, c.216 (C.39:12-2), or any Statewide safety organization approved by the chief administrator. The course shall be subject to oversight by the commission according to its guidelines. The permit holder shall also remit a course fee prior to the commencement of the course. The chief administrator also shall postpone without the exercise of discretion or a hearing the issuance of a basic license for 90 days if the chief administrator is notified by a court of competent jurisdiction that the examination permit holder, after completion of the remedial training course, has been convicted of any motor vehicle violation which results in the imposition of any motor vehicle points or has been convicted of a violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.182 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5, subsection c. of N.J.S.2C:12-1 or any other motor vehicle-related law the chief administrator deems significant and applicable pursuant to regulation. When the chief administrator is notified by a court of competent jurisdiction that an examination permit holder has been convicted of any alcohol or drug-related offense unrelated to the operation of a motor vehicle and is not otherwise subject to any other suspension penalty therefor, the chief administrator shall, without the exercise of discretion or a hearing, suspend the examination permit for six months.

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

Each permit shall be sufficient license for the person to operate such designated class of motor vehicles in this State during the period specified,

while in the company of and under the control of a driver licensed by this State to operate such designated class of motor vehicles, or, in the case of a commercial driver license permit, while in the company of and under the control of a holder of a valid commercial driver license for the appropriate license class and with the appropriate endorsements issued by this or any other state. Such person, as well as the licensed driver, except for a motor vehicle examiner administering a driving skills test, shall be held accountable for all violations of this subtitle committed by such person while in the presence of the licensed driver. In addition to requiring an applicant for an examination permit to submit satisfactory proof of identity and age, the chief administrator also shall require the applicant to provide, as a condition for obtaining the permit, satisfactory proof that the applicant's presence in the United States is authorized under federal law. If the chief administrator has reasonable cause to suspect that any document presented by an applicant as proof of identity, age, or legal residency is altered, false, or otherwise invalid, the chief administrator shall refuse to grant the permit until such time as the document may be verified by the issuing agency to the chief administrator's satisfaction.

The holder of an examination permit shall be required to take a road test in order to obtain a probationary license. No road test for any person who has been issued an examination permit to operate a passenger vehicle shall be given unless the person has met the requirements of this section. No road test for a probationary license shall be given unless the applicant has first secured an examination permit and no such road test shall be scheduled for an applicant who has secured an examination permit for a passenger vehicle or a motorcycle for which an endorsement is not required until at least six months for an applicant under 21 years of age or three months for an applicant 21 years of age or older shall have elapsed following the validation of the examination permit for practice driving or, in the case of an examination permit for other vehicles, until 20 days have elapsed. In the case of an omnibus endorsement or school bus, no road test shall be scheduled until at least 10 days shall have elapsed. Every applicant for an examination permit to qualify for an omnibus endorsement or an articulated vehicle endorsement shall be a holder of a valid basic driver's license.

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

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

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

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

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

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

Specific use of the examination permit and any information stored or encoded, electronically or otherwise, in relation thereto shall be in accordance with P.L.1997, c.188 (C.39:2-3.3 et seq.) and the federal Driver's Privacy Protection Act of 1994, Pub.L.103-322. Notwithstanding the provisions of any other law to the contrary, the digitized picture or any access thereto or any use thereof shall not be sold, leased, or exchanged for value.

4. Section 1 of P.L.1991, c.452 (C.27:5F-36) is amended to read as follows:

**C.27:5F-36 Motorcycle safety education program.**

1. a. The chief administrator of the New Jersey Motor Vehicle Commission shall establish a motorcycle safety education program. The program shall consist of a course of instruction and training designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation and riding of a motorcycle and shall meet or exceed the standards and requirements of the rider's course developed by the Motorcycle Safety Foundation.

b. The motorcycle safety education course shall be open to any applicant for a New Jersey motorcycle license or endorsement and to any person

who has been issued a New Jersey motorcycle license or endorsement. The course shall be scheduled for such times and places as the chief administrator shall determine are appropriate to enable interested applicants for and persons with motorcycle licenses and endorsements to participate.

c. The chief administrator may assign employees of the Motor Vehicle Commission to serve as instructors for the course, or may contract with such other persons who are certified as motorcycle safety education instructors pursuant to section 2 of P.L.1991, c.452 (C.27:5F-37) to serve as instructors for the course. A person with a motorcycle safety education instructor endorsement to an instructor's license issued pursuant to section 5 of P.L.1951, c.216 (C.39:12-5) may also be selected by the chief administrator to serve as an instructor for the course.

d. The chief administrator may impose a registration fee to be paid by the participants in the course.

e. The motorcycle safety education course may also be provided by:

(1) public and private educational institutions which are approved by the chief administrator to offer the course;

(2) drivers' schools licensed pursuant to P.L.1951, c.216 (C.39:12-1 et seq.);

(3) dealers engaged in the business of selling new motorcycles and licensed pursuant to R.S.39:10-19 and which are approved by the chief administrator to offer the course. A dealer approved to offer the motorcycle safety education course shall not restrict enrollment therein to persons who have purchased or agreed to purchase a motorcycle or other vehicle from that dealer, and shall not charge a higher fee for enrollment therein based upon whether a person has made or has agreed to make such a purchase; or

(4) private entities which are approved by the chief administrator to offer the course. The motorcycle safety education course provided by a private entity shall meet or exceed the standards and requirements of the rider's course developed by the Motorcycle Safety Foundation including, but not limited to, course curriculum, motorcycle range, and motorcycle instructor certification.

f. Upon and after the effective date of this act, the chief administrator may impose upon an entity seeking approval to provide the motorcycle safety education course in accordance with subsection e. of this section, a course certification fee for each location at which the entity intends to offer motorcycle range instruction. The chief administrator shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to fix the amount of the course certification fee. Monies collected pursuant to this subsection shall be deposited in the Motorcy-

cle Safety Education Fund, pursuant to section 4 of P.L.1991, c.452 (C.27:5F-39).

g. The chief administrator may collect from each entity approved to provide the motorcycle safety education course pursuant to subsection e. of this section, a road test waiver fee for each student who has successfully completed the course and has qualified for a waiver of the road test portion of the examination required pursuant to section 6 of P.L.1991, c.452 (C.39:3-10.31) to obtain a motorcycle license or endorsement. The chief administrator shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to fix the amount of the road test waiver fee. Moneys collected pursuant to this subsection shall be deposited in the Motorcycle Safety Education Fund, pursuant to section 4 of P.L.1991, c.452 (C.27:5F-39).

h. Notwithstanding subsection a. of this section, the chief administrator may enter into a contract with a public or private entity authorizing such entity to implement and administer the motorcycle safety education course established by the chief administrator pursuant to this section. The chief administrator may suspend or revoke an authorization to administer the motorcycle safety education course on any reasonable ground.

5. Section 2 of P.L.1991, c.452 (C.27:5F-37) is amended to read as follows:

**C.27:5F-37 Instructors, certification.**

2. To qualify for certification as an instructor of the motorcycle safety education course established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36), a person shall:

- a. be the holder of a motorcycle operator's license or endorsement issued by any state;
- b. have at least two years of motorcycle riding experience;
- c. have no record of a suspension or revocation of his driver's license or motorcycle license or endorsement during the past two years;
- d. have no convictions for violating the provisions of R.S.39:4-50 during the past five years;
- e. have accumulated no more than four points assessed against his driver's license or motorcycle license or endorsement by the chief administrator for motor vehicle offenses during the past two years;
- f. be the holder of a current Motorcycle Safety Foundation certification as a motorcycle instructor; and

g. meet such other requirements as the Director of the Office of Highway Traffic Safety may deem appropriate and necessary.

Any person who meets the requirements set forth in this section may apply to the Chief Administrator of the Motor Vehicle Commission to be certified as a motorcycle safety education instructor. The application shall be in writing and contain such information as the chief administrator shall require. No certification fee shall be charged by the chief administrator. A certification so issued shall be valid during such period as the instructor meets the requirements of subsections a. through g. of this section.

A person who holds a valid instructor's license issued pursuant to section 5 of P.L.1951, c.216 (C.39:12-5) may apply to the Chief Administrator of the Motor Vehicle Commission for a motorcycle safety education instructor endorsement as provided for in section 5 of P.L.1951, c.216 (C.39:12-5).

6. Section 4 of P.L.1991, c.452 (C.27:5F-39) is amended to read as follows:

**C.27:5F-39 Motorcycle Safety Education Fund.**

4. There is established a Motorcycle Safety Education Fund in the Motor Vehicle Commission. Such registration fees as may be imposed at the discretion of the Chief Administrator of the Motor Vehicle Commission upon participants in a motorcycle safety education course, \$5.00 of the fee collected by the Chief Administrator of the Motor Vehicle Commission for each motorcycle license or endorsement issued under the provisions of R.S.39:3-10, and any other moneys which may become available for motorcycle safety education shall be deposited in the fund. The moneys in the fund shall be used exclusively by the Motor Vehicle Commission to defray the costs of the motorcycle safety education program established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36). In addition, moneys in the fund may be used to provide for a full or part-time motorcycle safety education program coordinator.

**C.39:3-76.11 Certain motorcycles prohibited on certain roads.**

7. A motorcycle having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed of no more than 35 miles per hour on a flat surface shall not be operated upon limited-access interstate highways or public roads or highways with posted speed limits greater than 35 miles per hour.

Every person operating a motorcycle upon a public road or highway shall be subject to all of the duties applicable to the driver of a vehicle under chapter 4 of Title 39 of the Revised Statutes and N.J.S.2C:11-5 and all amendments and supplements thereto.

8. Section 5 of P.L.1991, c.452 (C.27:5F-40) is amended to read as follows:

**C.27:5F-40 Rules, regulations.**

5. The Chief Administrator of the Motor Vehicle Commission, pursuant to 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, including, but not limited to, the minimum level of knowledge, skill and ability required for the successful completion of the motorcycle safety education program established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36).

**Repealer.**

9. Section 3 of P.L.1991, c.452 (C.27:5F-38) is repealed.

10. Sections 2, 4, 5, 6, 7, 8, 9, and this section of this act shall take effect immediately, section 3 shall take effect on the first day of the fourth month following enactment, and section 1 shall take effect immediately but shall remain inoperative until the date the Chief Administrator of the Motor Vehicle Commission certifies to the Governor that the commission is prepared to issue motorcycle licenses and endorsements with restriction as to engine displacement, but such operative date shall be as soon as practicable and no later than January 1, 2013. The chief administrator may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 28, 2011.

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CHAPTER 14

AN ACT concerning horse racing and supplementing P.L.1940, c.17 (C.5:5-22 et seq.).

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

**C.5:5-62.1 Single parimutuel pools permitted, certain circumstances.**

1. Notwithstanding the provisions of any other law to the contrary, in order to create larger parimutuel pools capable of handling a greater variety of wagers and in order to reduce the adverse effect of large wagers, the New Jersey Racing Commission may authorize permitholders to combine all wagers placed on the results of one or more running or harness horse races into a single parimutuel pool, provided that all take-out percentages for wager types from this combined pool are consistent with the percentages provided for in P.L.1940, c.17 (C.5:5-22 et seq.).

The New Jersey Racing Commission shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this section.

2. This act shall take effect immediately.

Approved January 28, 2011.

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**CHAPTER 15**

AN ACT concerning the placement of wagers on the results of horse races, amending P.L.2002, c.89, and supplementing chapter 5 of Title 5 of the Revised Statutes.

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

**C.5:5-168 Short title.**

1. This act shall be known and may be cited as the "Exchange Wagering Act."

**C.5:5-169 Findings, declarations relative to exchange wagers.**

2. The Legislature finds and declares that:

a. The horse racing industry is economically important to this State, and the general welfare of the people of the State will be promoted by the advancement of horse racing and related projects and facilities in the State.

b. It is the intent of the Legislature, by authorizing exchange wagering in this State, to promote the economic future of the horse racing industry in this State, to foster the potential for increased commerce, employment and

recreational opportunities in this State and to preserve the State's open spaces.

c. It is the further intent of the Legislature that exchange wagers may be taken in person, by direct telephone call, or by communication through other electronic media from residents of this State on horse races conducted within and outside of this State and may be matched and pooled on an exchange.

d. The Legislature has determined that the New Jersey Racing Commission is best suited to oversee, license and regulate exchange wagering in the State.

**C.5:5-170 Definitions relative to exchange wagers.**

3. As used in this act:

"Authority" means the New Jersey Sports and Exposition Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

"Back" means to wager on a selected outcome occurring in a given market.

"Commission" means the New Jersey Racing Commission created by section 1 of P.L.1940, c.17 (C.5:5-22).

"Corrective wager" means an exchange wager placed by the exchange wagering licensee in a given market, under circumstances approved by the commission, in order to address the impact on that market of the cancellation or voiding of a given matched wager or given part of a matched wager.

"Exchange" means a system operated by the exchange wagering licensee in which the exchange wagering licensee maintains one or more markets in which persons may back or lay a selected outcome.

"Exchange revenues" means all charges and fees of any kind assessed or collected by the exchange wagering licensee in connection with the submission of any exchange wagers to the exchange wagering licensee by residents of this State.

"Exchange wagers" means wagers submitted to the exchange wagering licensee to be posted in a market on an exchange.

"Exchange wagering" means a form of parimutuel wagering in which two or more persons place identically opposing wagers in a given market.

"Exchange wagering account" means the account established with the exchange wagering licensee by a person participating in exchange wagering and may include an account wagering account established with the exchange wagering licensee pursuant to applicable law.

"Exchange wagering licensee" means the authority, provided that the commission has granted its approval for the authority to establish an exchange as provided for in this act.

“Exchange wagering system” means a system through which exchange wagers are processed.

“Identically opposing wagers” means wagers in which one or more persons offer to lay a selected outcome at the same price at which one or more persons offer to back that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back.

“Interstate Exchange Pool” means an exchange wagering system established within this State or in another state or foreign nation within which is combined unmatched wagers on one or more horse races in order to form identically opposing wagers.

“Lay” means to wager on a selected outcome not occurring in a given market.

“Market” means, in relation to a given horse race or a given set of horse races, a particular outcome that is subject to exchange wagering as determined by the exchange wagering licensee.

“Matched wager” means the wager that is formed when two or more persons are confirmed by the exchange operator as having placed identically opposing wagers in a given market on the exchange.

“Net winnings” means the aggregate amounts payable to a person as a result of that person’s winning matched wagers in a pool less the aggregate amount paid by that person as a result of that person’s losing matched wagers in that pool.

“Parimutuel” means any system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool conducted by an authorized person, and in which the participants are wagering with each other and not against the person conducting the wagering pool.

“Pool” means the total of all matched wagers in a given market.

“Price” means the odds for a given exchange wager.

“State” means the State of New Jersey.

“Unmatched Wager” means a wager or portion of a wager placed in a given market within an exchange that does not become part of a matched wager because there are not one or more available exchange wagers in that market with which to form one or more identically opposing wagers.

**C.5:5-171 Exchange wagering permitted; conditions.**

4. Notwithstanding any law, rule, or regulation to the contrary, exchange wagering by residents of this State on the results of horse races conducted in this State or jurisdictions outside of this State shall be lawful provided that:

a. exchange wagering shall only be conducted by the exchange wagering licensee pursuant to a valid exchange wagering license issued by the commission as provided for in this act;

b. exchange wagering shall be conducted pursuant to and in compliance with the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. ss.3001–3007, as amended, this act, and rules and regulations promulgated by the commission pursuant to this act;

c. the commission has approved a contract or agreement, if any, with a person or entity to conduct or operate the exchange and to act as the agent for the authority in all exchange wagering matters approved by the commission, pursuant to section 5 of this act, P.L.2011, c.15 (C.5:5-172), including but not limited to the portion of exchange revenues payable to such person or entity conducting or operating the exchange;

d. exchange wagers are submitted to and accepted by the exchange wagering licensee in person, by direct telephone call, or by communication through other electronic media; and

e. exchange wagers are placed through the exchange wagering system authorized in accordance with the provisions of this act, P.L.2011, c.15 (C.5:5-168 et al.), and in accordance with commission rules, regulations, and conditions established therefor.

**C.5:5-172 Issuance of license authorized.**

5. The commission is hereby authorized to issue a license to the authority to establish an exchange in accordance with the provisions of this act, P.L.2011, c.15 (C.5:5-168 et al.). The licensing process shall include the filing by the authority of an exchange wagering license application developed by the commission.

At the time of filing an application for licensure under this section, the authority shall submit to the commission a nonrefundable filing fee in an amount established by regulation by the commission, and a certification in a form prescribed by the commission which specifies, but is not limited to, information about the operation of the exchange and the authority's participation therein.

Within 14 days of receipt of a completed application, certification and applicable fees, the commission's executive director shall determine whether the same is in due form and meets the requirements of law in all respects. No later than 60 days following the receipt of the application, the commission shall make a final determination on the application. The commission shall approve the application if it determines that the authority has demonstrated by clear and convincing evidence that wagers placed through

the proposed exchange wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State.

The commission's determination shall be submitted to the Attorney General for review and approval. The determination of the commission shall be deemed approved by the Attorney General if affirmatively approved or not disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the commission shall issue to the authority a license to establish the exchange. The exchange wagering license shall be valid for a term of one year, and shall be subject to renewal annually, unless a different timeframe is otherwise prescribed by regulation of the commission.

With the approval of the commission, the authority may enter into a contract or agreement with a person or entity to conduct or operate the exchange and to act as the agent of the authority in all exchange wagering matters approved by the commission. The exchange wagering license may not be transferred or assigned to a successor in interest without the approval of the commission and the Attorney General, which approval may not be unreasonably withheld.

**C.5:5-173 Powers of commission.**

6. a. The commission shall have full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in this State, consistent with this act, P.L.2011, c.15 (C.5:5-168 et al.), including the manner in which exchange wagers may be accepted, the requirements for any person to participate in exchange wagering, and the reasonable approval of any and all agreements made pursuant to subsections b. and c. of section 4 of this act, P.L.2011, c.15 (C.5:5-171).

b. The commission shall have full power to prescribe rules, regulations and conditions under which the exchange wagering license is issued or renewed in this State, including requiring an annual audit of the exchange wagering licensee's books and records pertaining to exchange wagering, and to revoke, suspend or refuse to renew the license if in the opinion of the commission the revocation of, suspension of or refusal to renew such license is in the public interest; provided, however, that such rules, regulations and conditions shall be uniform in their application.

c. The commission shall have no right or power to determine who shall be officers, directors or employees of any exchange wagering licensee, or the salaries thereof; provided, however, that the commission may

compel the discharge of any official or employee of the exchange wagering licensee or the exchange who: (1) fails or refuses for any reason to comply with the rules or regulations of the commission; (2) fails or refuses for any reason to comply with any of the provisions of this act; (3) fails to establish by clear and convincing evidence in the opinion of the commission good character, honesty, competency and integrity; or (4) has been convicted of a crime involving fraud, dishonesty or moral turpitude.

**C.5:5-174 Compliance with law required for exchange wagering.**

7. a. A person within this State shall not be permitted to open an exchange wagering account, or place an exchange wager through the exchange wagering system, except in accordance with federal law and this act, and through the exchange wagering licensee, and no entity, other than the exchange wagering licensee, shall accept an exchange wager from a person within this State. A person may not place an exchange wager unless the person has established an exchange wagering account with the exchange wagering licensee. To establish an exchange wagering account, a person shall be at least 18 years of age, and a resident of this State, except that any person on the self-exclusion list established pursuant to section 1 of P.L.2002, c.89 (C.5:5-65.1) shall be prohibited from establishing an exchange wagering account.

b. The exchange wagering account shall be in the name of a natural person and may not be in the name of any beneficiary, custodian, joint trust, corporation, partnership or other organization or entity.

c. An exchange wagering account may be established in person, by mail, telephone, or other electronic media, by a person completing an application form approved by the commission. The form shall include the address of the principal residence of the prospective exchange wagering account holder and a statement that a false statement made in regard to an application may subject the applicant to prosecution. The exchange wagering licensee must verify the identification, residence, and age of the exchange wagering account holder using methods and technologies approved by the commission.

d. The prospective exchange wagering account holder shall submit the completed application in person, by mail, telephone, or other electronic media, including the Internet and wireless devices, to the exchange wagering licensee or such other person or entity as may be approved by the commission. The exchange wagering licensee may accept or reject an application after receipt and review of the application and certification, or other proof, of age and residency for compliance with this act.

e. Any prospective exchange wagering account holder who provides false or misleading information on the application is subject to rejection of the application or cancellation of the exchange wagering account by the exchange wagering licensee without notice.

f. The exchange wagering licensee shall have the right to suspend or close any exchange wagering account at its discretion.

g. Any person not in good standing with the commission shall not be entitled to maintain an exchange wagering account.

h. The address provided by the applicant in the application shall be deemed the proper address for the purposes of mailing checks, exchange wagering account withdrawals, notices and other materials.

i. An exchange wagering account shall not be assignable or otherwise transferable.

j. The exchange wagering licensee may cancel or allow to be cancelled, any unmatched wagers, without cause, at any time. Except as otherwise provided in this act or in regulations which the commission may adopt hereunder, all matched wagers shall be final and no wager shall be canceled by the exchange wagering account holder at any time after the wager has been matched by the exchange wagering licensee.

k. The commission may prescribe rules governing when an exchange wagering licensee may cancel or void a matched wager or part of a matched wager, and the actions which an exchange wagering licensee may take when all or part of a matched wager is cancelled or voided. Such rules may include, but are not limited to, permitting the exchange wagering licensee to place corrective wagers under circumstances approved in the rules adopted by the commission.

l. The exchange wagering licensee may at any time declare the exchange wagering system closed for receiving any wagers on any race or closed for all exchange wagering.

**C.5:5-175 Credits to exchange wagering accounts.**

8. a. Credits to an exchange wagering account shall be made as follows:

(1) The exchange wagering account holder's deposits to the exchange wagering account shall be submitted by the exchange wagering account holder to the exchange wagering licensee and shall be in the form of one of the following:

(a) cash given to the exchange wagering licensee;

(b) check, money order, negotiable order of withdrawal, or wire or electronic transfer, payable and remitted to the exchange wagering licensee; or

(c) charges made to an exchange wagering account holder's debit or credit card upon the exchange wagering account holder's direct and personal instruction, which instruction may be given by telephone communication or other electronic means to the exchange wagering licensee or its agent by the exchange wagering account holder if the use of the card has been approved by the exchange wagering licensee.

(2) Credit for winnings from wagers placed with funds in an exchange wagering account shall be posted to the exchange wagering account by the exchange wagering licensee.

(3) The exchange wagering licensee shall have the right to refuse for any reason all or part of any exchange wager or deposit to the exchange wagering account.

(4) Funds deposited in the exchange wagering account shall not bear interest to the exchange wagering account holder.

b. Debits to an exchange wagering account shall be made as follows:

(1) Upon receipt by the exchange wagering licensee of an exchange wager properly placed pursuant to section 9 of this act, P.L.2011, c.15 (C.5:5-176), the exchange wagering licensee shall determine whether there are sufficient funds in the exchange wagering account holder's exchange wagering account to cover the total liability resulting from the exchange wager, taking into consideration other exchange wagers made by the exchange wagering account holder in the same market, and any additional applicable transaction or other fees due to the exchange wagering licensee under the commission's rules and regulations, and deduct such amounts from the exchange wagering account holder's exchange wagering account. Following the matching of the exchange wager to an identically opposing wager or wagers, and determination of the outcome of the horse race or races on which the exchange wagers were placed by two or more exchange wagering account holders, the amounts due shall be paid accordingly to the exchange wagering account of the exchange wagering account holder who won the wager, and any applicable transaction or other fees on the exchange wagering accounts shall be additionally deducted and retained by the exchange wagering licensee for use and distribution pursuant to the commission's rules and regulations.

(2) The exchange wagering licensee may authorize a withdrawal from an exchange wagering account when the exchange wagering account holder submits to the exchange wagering licensee, the exchange wagering licensee's agent, or such other entity as may be approved by the commission, his or her exchange wagering account number and proper means of identification pursuant to procedures approved by the commission. Exchange wager-

ing account holders may request a withdrawal in person, by mail, by telephone, or by other electronic means. If there are sufficient funds in the exchange wagering account to cover the withdrawal, after taking into consideration any existing exchange wagers made by the exchange wagering account holder, the exchange wagering licensee shall make payment within three business days of receipt of the exchange wagering account holder's withdrawal request. Notwithstanding the foregoing, the exchange wagering licensee may decline or delay fulfilling a withdrawal request if the exchange wagering licensee reasonably suspects: (a) fraud; (b) that the exchange wagering account holder was ineligible to make one or more of the exchange wagers made from the exchange wagering account; or (c) any other conditions which the commission may prescribe or approve. At the discretion of the exchange wagering licensee, withdrawals may be payable in cash, by a check sent to the exchange wagering account holder's verified residence address, by wire transfer, or by other electronic transfer. Withdrawals shall be made payable only to the holder of the exchange wagering account and in no more than the amount of the requested withdrawal.

**C.5:5-176 Acceptance of exchange wagers, conditions.**

9. The exchange wagering licensee may accept exchange wagers from residents of this State only in accordance with this act, federal law, and as follows:

a. A wager to back or lay a particular outcome in a given market, specifying the price of the wager, shall be placed directly with the exchange wagering licensee by the holder of the exchange wagering account.

b. The exchange wagering account holder placing the wager shall provide the exchange wagering licensee with the correct personal identification number of the holder of the exchange wagering account.

c. An exchange wagering licensee may not accept an exchange wager, or series of exchange wagers, where the results of which would create a liability for the exchange wagering account holder in excess of funds on deposit in the exchange wagering account of that holder.

d. Only the holder of an exchange wagering account shall place a wager. Unless otherwise approved by the commission, no person, corporation or other entity shall directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for a holder of an exchange wagering account; provided, however, that the use of credit or debit cards specifically approved by the exchange wagering licensee or the use of checks, money orders or negotiable orders of withdrawal or the use of telephonic, com-

puter or electronic means by the exchange wagering account holder to place such wagers shall not be prohibited.

e. The exchange wagering account holder may place a wager in person, by direct telephone call or by communication through other electronic media.

**C.5:5-177 Posting of exchange wagers in interstate exchange pool.**

10. Subject to federal law and notwithstanding any law, rule, or regulation of this State to the contrary, the exchange wagering licensee shall be permitted to post exchange wagers submitted by residents of this State in an interstate exchange pool in order to form identically opposing wagers, and to treat any resulting matched wagers as part of one or more common pools with any other matched wagers in the interstate exchange pool.

**C.5:5-178 Permitted actions of exchange wagering licensee.**

11. Notwithstanding any other law, rule or regulation to the contrary, the exchange wagering licensee shall not be required to include any pools of exchange wagers in the wagering pools at the track conducting the races, nor shall the exchange wagering licensee be required to retain, withhold, or take out any amounts from any exchange wagers.

**C.5:5-179 Collection of exchange revenue.**

12. Subject to the approval of the commission, the exchange wagering licensee shall be permitted to collect exchange revenues in the manner and amounts determined by the exchange wagering licensee, including but not limited to assessing a surcharge on any person's net winnings.

**C.5:5-180 Requirements of exchange wagering licensees.**

13. Notwithstanding any other law, rule or regulation to the contrary, the commission shall require each exchange wagering licensee to:

a. pay such portions of the exchange wagering licensee's exchange revenues as may be required pursuant to subsections b. and c. of section 4 of this act, P.L.2011, c.15 (C.5:5-171);

b. pay to overnight purses in this State 50% of exchange revenues retained by the exchange wagering licensee after the payments required pursuant to subsection a. of this section are made, and after deducting all reasonable and necessary expenses incurred by the licensee in administering, marketing and operating the exchange wagering system; and

c. reach a business agreement with all permit holders within this State, within one year from the date when the exchange wagering system becomes operational, for the distribution of the net exchange wagering

revenues remaining after the payments are made pursuant to subsections a. and b. of this section and after the payment of operating expenses, pursuant to approval by the commission; provided that, if an agreement is not reached within that time frame, the commission shall distribute the exchange wagering revenues among the exchange wagering licensees and the permit holders in this State as it deems appropriate.

**C.5:5-181 Payment of moneys derived from exchange wagering.**

14. Of the monies distributed to overnight purses pursuant to subsection b. of section 13 of this act, P.L.2011, c.15 (C.5:5-180), all moneys derived from exchange wagering on thoroughbred races shall be paid to overnight purses for thoroughbred races and all monies derived from exchange wagering on standardbred races shall be paid to overnight purses for standardbred races. On or after January 1, 2014, the formula for allocating overnight purse monies from exchange wagering to overnight purses set forth in this section may be modified by the mutual agreement of the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Thoroughbred Horsemen's Association. Nothing contained in this section shall be construed as a precedent for establishing the division of overnight purse amounts between standardbred races and thoroughbred races.

**C.5:5-182 Distribution of remaining amounts.**

15. All amounts remaining in exchange wagering accounts inactive or dormant for such period and under such conditions as established by regulation shall be distributed in accordance with the commission's rules and regulations.

**C.5:5-183 License, registration required.**

16. All persons engaged in conducting wagering-related activities through the exchange, whether employed directly by the exchange wagering licensee or by a person or entity conducting or operating the exchange pursuant to a contract or agreement with the exchange wagering licensee, shall be licensed or registered in accordance with such regulations as may be promulgated by the commission hereunder. All other employees of the exchange shall be licensed or registered in accordance with regulations of the commission. The commission shall have full power to prescribe rules, regulations and conditions under which all such licenses are issued, or registrations made, in this State and to revoke or refuse to issue a license, or revoke or refuse to accept a registration, if in the opinion of the commission the revocation or refusal is in the public interest, provided, however, that

such rules, regulations and conditions shall be uniform in their application, and further provided that no fee shall be in excess of \$50 for each license so granted or registration accepted.

**C.5:5-184 Severability.**

17. The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence or provision of this act is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this act shall not thereby be deemed to be unconstitutional or invalid.

**C.5:5-185 Rules, regulations.**

18. The commission shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act, P.L.2011, c.15 (C.5:5-168 et al.).

19. Section 1 of P.L.2002, c.89 (C.5:5-65.1) is amended to read as follows:

**C.5:5-65.1 List of persons voluntarily excluded from certain racetracks, off-track wagering facilities, account wagering, or exchange wagering.**

1. a. The commission shall provide by regulation for the establishment of a list of persons who voluntarily seek to be excluded from entry into permitted racetracks and licensed off-track wagering facilities located in this State and from opening or maintaining a wagering account with the account wagering system or with the exchange wagering system established in this State. A person may request placement on the self-exclusion list by acknowledging in a manner to be established by the commission that the person is a problem gambler and by agreeing that, during a period of voluntary exclusion, the person may not collect winnings or recover losses resulting from wagering at a racetrack or off-track wagering facility or from account wagering or exchange wagering.

b. The commission shall promulgate regulations to: (1) establish procedures for placements on, and removals from, the list of self-excluded persons; (2) establish procedures for the transmittal to the permitted racetracks, licensed off-track wagering facilities, the account wagering system, and the exchange wagering licensee of identifying information concerning persons on the self-exclusion list; and (3) require permitted racetracks, licensed off-track wagering facilities, the account wagering system, and the exchange wagering licensee to establish procedures designed, at a minimum, to remove persons on the self-exclusion list from targeted mailings or other

forms of advertising or promotions and deny such persons access to credit, complimentaries, check cashing privileges, club programs, and other similar benefits.

c. The commission, a permitted racetrack, a licensed off-track wagering facility, the account wagering system, the exchange wagering licensee, or an employee thereof shall not be liable to a person on the self-exclusion list or to another party in a judicial proceeding for harm, monetary or otherwise, which may arise as a result of:

(1) the failure of a permitted racetrack, licensed off-track wagering facility or the account wagering system or the exchange wagering licensee to withhold wagering privileges from, or restore wagering privileges to, a person on the self-exclusion list; or

(2) permitting a person on the self-exclusion list to engage in wagering activity at a permitted racetrack or licensed off-track wagering facility, or through the account wagering system, or through the exchange wagering system.

d. Notwithstanding the provisions of section 8 of P.L.1940, c.17 (C.5:5-28), the commission's self-exclusion list shall be privileged and confidential and shall not be accessible to the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

e. The commission, a permitted racetrack, a licensed off-track wagering facility, the account wagering system, the exchange wagering licensee, or an employee thereof shall not be liable to a person on the self-exclusion list or to another party in a judicial proceeding for harm, monetary or otherwise, which may arise as a result of disclosure or publication, other than a willfully unlawful disclosure or publication, of the identity of a self-excluded person.

20. Section 2 of P.L.2002, c.89 (C.5:5-65.2) is amended to read as follows:

**C.5:5-65.2 Regulations applicable to persons on self-exclusion list; enforcement; sanctions.**

2. a. A person on the self-exclusion list established pursuant to section 1 of P.L.2002, c.89 (C.5:5-65.1), shall not collect, in any manner or proceeding, winnings or recover losses arising as a result of wagering activity at a permitted racetrack or licensed off-track wagering facility, or through the account wagering system, or through the exchange wagering system.

b. Money or a thing of value which has been obtained by, or is owed to, a person on the self-exclusion list from a permitted racetrack, licensed

off-track wagering facility or account wagering system or exchange wagering system as a result of wagers made by that person shall be subject to forfeiture by order of the executive director of the commission, following notice to the person on the self-exclusion list and opportunity to be heard.

Money or a thing of value forfeited shall be deposited into the State General Fund for appropriation by the Legislature to the Department of Human Services to provide funds for compulsive gambling treatment and prevention programs in the State.

c. In a proceeding brought by the commission against a live racing permit holder, the off-track wagering licensee, the account wagering licensee, or the exchange wagering licensee for a willful violation of the commission's self-exclusion regulations, the commission may order in addition to a permit or license suspension, a fine not to exceed \$5,000 per wagering incident, the forfeiture of money or a thing of value obtained by the permit holder, off-track wagering licensee, account wagering licensee, or exchange wagering licensee from a person on the self-exclusion list and other remedial conditions the commission deems appropriate. Money or a thing of value so forfeited shall be disposed of in the same manner as money or a thing of value forfeited pursuant to subsection b. of this section.

21. This act shall take effect immediately.

Approved January 28, 2011.

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## CHAPTER 16

AN ACT concerning assisted living residences and comprehensive personal care homes and supplementing Title 26 of the Revised Statutes.

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

**C.26:2H-12.61 Discharge of patients from certain residences; provision for care in alternate facility.**

1. a. If a facility licensed to operate as an assisted living residence or comprehensive personal care home pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) opts to surrender its license and has promised a resident of the facility or the resident's responsible party, in writing through a resident agreement or other instrument, or through a condition of licensure or certificate

of need with the Department of Health and Senior Services, that it will not discharge a resident who becomes Medicaid-eligible, as that term is defined in section 1 of P.L.2001, c.234 (C.26:2H-12.16), the facility shall escrow sufficient funds, as determined by the Commissioner of Health and Senior Services, to cover the cost of providing such a resident with care in an alternate State-licensed assisted living residence or comprehensive personal care home for as long as the resident shall require such care.

b. The facility shall cover any costs necessary to utilize such actuarial services as the Department of Health and Senior Services may require to determine the amount to be escrowed pursuant to subsection a. of this section.

c. In the event of a facility bankruptcy, any monies left over after all creditors have been paid shall be used, to the maximum extent practicable, to cover the cost of care provided to a resident in an alternate State-licensed assisted living residence or comprehensive personal care home pursuant to subsection a. of this section.

2. This act shall take effect immediately.

Approved January 28, 2011.

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## CHAPTER 17

AN ACT concerning motor vehicle license plates and supplementing Title 39 of the Revised Statutes.

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

**C.39:3-27.141 Issuance of Gold Star Family License Plates.**

1. a. Upon proper application, the Chief Administrator of the New Jersey Motor Vehicle Commission shall issue Gold Star Family license plates for any motor vehicle owned or leased by a family member of a member of the armed services who lost his life while on active duty for the United States, and registered in the State. In addition to the registration number and other markings or identification otherwise prescribed by law, the Gold Star Family license plate shall display a gold star and the words "Gold Star Family." The license plates shall be designed by the Department of New Jersey of American Gold Star Mothers, Inc., and approved by the Chief Administrator of the New Jersey Motor Vehicle Commission.

b. As used in this section, “family member” means a spouse, parent, brother, sister, child, legal guardian or other legal custodian, whether of the whole or half blood or by adoption.

**C.39:3-27.142 Application procedure, documentation.**

2. a. Application for issuance of a Gold Star Family license plate shall be made to the chief administrator on forms and in a manner prescribed by the chief administrator. In order to be deemed complete, an application shall be accompanied by proof satisfactory to the Chief Administrator that the applicant is a family member of a member of the armed services who died while on active duty for the United States. Proof satisfactory may include any or all of the following:

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

(2) documentation deemed acceptable by the Chief Administrator, including but not limited to a federal DD Form 1300, Report of Casualty, which identifies the member of the armed services who died while on active duty for the United States; or

(3) documentation indicating the applicant’s relationship to the service member.

The chief administrator may consult with the Adjutant General of the Department of Military and Veterans’ Affairs when establishing the documentation that may constitute satisfactory proof of an applicant’s relationship to a deceased service member. In instances where an applicant is unable to produce documentation deemed acceptable to the Chief Administrator, the Adjutant General shall assist the chief administrator in making a determination of the applicant’s eligibility for a Gold Star Family license plate.

b. The chief administrator may designate a representative of the Department of New Jersey of American Gold Star Mothers, Inc., or any other organization formed for the support of parents of members of the armed services who lost their lives while on active duty for the United States, who shall serve as a liaison between such organization and the commission. The chief administrator may require an applicant for a Gold Star Family license plate to submit the application to the representative for approval. Upon approval, the representative shall certify on the application that the appli-

cant is either the spouse, parent, brother, sister, child, legal guardian or other legal custodian, whether of the whole or half blood or by adoption, of a member of the armed services who died while on active duty for the United States and thereby eligible for receipt of the Gold Star Family license plate. The application shall then be forwarded to the chief administrator for final approval.

**C.39:3-27.143 Rules, regulations.**

3. The Chief Administrator of the New Jersey Motor Vehicle Commission may promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), governing the issuance and use of Gold Star Family license plates. In promulgating such rules and regulations, the chief administrator may consult with the Adjutant General of the Department of Military and Veterans' Affairs, the Department of New Jersey of American Gold Star Mothers, Inc., or any other organization formed for the support of parents of members of the armed services who lost their lives while on active duty for the United States.

4. This act shall take effect immediately, but shall remain inoperative until the Chief Administrator of the New Jersey Motor Vehicle Commission certifies that the commission is able to issue the Gold Star Family license plate as a flat, digital license plate, but not later than the first day of the sixth month after enactment.

Approved January 31, 2011.

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CHAPTER 18

AN ACT providing for the establishment of the Atlantic City Tourism District and for the transfer of the Atlantic City Convention and Visitors Authority, together with its functions, powers, and duties, to the Casino Reinvestment Development Authority, amending P.L.1984, c.218 and supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

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

**C.5:12-218 Definitions relative to the Atlantic City Tourism District.**

1. As used in P.L.2011, c.18 (C.5:12-218 et al.):

“Atlantic City” or “city” means the City of Atlantic City, Atlantic County.

“Atlantic City convention center project” or “convention center project” means the project authorized by paragraph (9) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6).

“Atlantic City Tourism District” or “tourism district” means the district within Atlantic City established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

“Authority” means the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153).

“Convention center authority” means the Atlantic City Convention and Visitors Authority established pursuant to section 3 of P.L.1981, c.459 (C.52:27H-31).

“Convention Center Division” or “division” means the division created pursuant to paragraph (1) of subsection b. of section 12 of P.L.2011, c.18 (C.5:12-226) to exist within the authority as a division of the authority.

“Corporation” means the not-for-profit corporation with which the authority is to undertake an agreement pursuant to subsection a. of section 7 of P.L.2011, c.18 (C.5:12-221).

“Development and design guidelines” means the development and design guidelines for site plan applications, which guidelines are to be adopted by the authority pursuant to section 6 of P.L.2011, c.18 (C.5:12-220).

“District land use regulations” means the regulations, applicable within the tourism district, that are to be adopted by the authority pursuant to P.L.2011, c.18 (C.5:12-218 et al.).

“Gaming” means, in addition to any meaning otherwise provided by law, any legalized form of gambling in New Jersey including, but not limited to, casino gambling and horse racing.

“Nonconforming use” means a legal or pre-existing use or activity which fails to conform to the development and design guidelines or land use regulations adopted by the authority pursuant to P.L.2011, c.18 (C.5:12-218 et al.).

“Public safety improvements” means the development of infrastructure in the tourism district made for the purpose of increasing safety. Such improvements would include the development of appropriate security technology and the installation of increased lighting in outdoor areas, the installation of surveillance cameras, and the installation of emergency phones and lights throughout the tourism district for use by appropriate security and law enforcement personnel.

“Road and highway authority” means any State or local entity, including, but not limited to, Atlantic City or any agency thereof, Atlantic County or any agency thereof, the New Jersey Department of Transportation, and the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4), or any other State or local entity having jurisdiction over (a) the roads and highways in the tourism district, (b) the roads and highways adjacent to the tourism district, (c) the land area in which the authority is an interested party pursuant to subsection c. of section 6 of P.L.2011, c.18 (C.5:12-220), or (d) the portion of the roads and highways in Atlantic City which provide direct access to the tourism district.

“Tourism district master plan” or “Master plan,” or “plan,” means the authority’s comprehensive master plan for the redevelopment of the tourism district.

“Transfer Date” means, with respect to the assumption by the authority of the powers, duties, assets, and responsibilities of the convention center authority, the date on which (a) the chairs of the authority and the convention center authority certify to the Governor that all of the bonds issued by the convention center authority cease to be outstanding within the meaning of the resolutions pursuant to which the bonds were issued, and (b) the authority assumes all debts and statutory responsibilities of the convention center authority.

2. Section 8 of P.L.1984, c.218 (C.5:12-156) is amended to read as follows:

**C.5:12-156 Compensation of public members; reimbursement.**

8. Each appointed and voting public member of the Casino Reinvestment Development Authority other than the chairman shall receive compensation of \$18,000.00 per annum. The compensation of the chairman shall be \$23,000.00 per annum. The casino industry representatives shall not be deemed to be public members and shall not receive this compensation. All members shall be reimbursed for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment, or any benefits or emoluments thereof by reason of his acceptance of the office of an ex officio or appointed member of the Casino Reinvestment Development Authority or his services therein. Upon enactment of P.L.2011, c.18 (C.5:12-218 et al.), any member of the authority, reappointed upon expiration of the member’s initial term, shall be eligible to receive compensation pursuant to

this section; provided, however, that any such member shall not, upon re-appointment, be eligible to receive any benefit or compensation in the form of health benefits or pension credits for service with the Casino Reinvestment Development Authority.

3. Section 12 of P.L.1984, c.218 (C.5:12-160) is amended to read as follows:

**C.5:12-160 Purpose of authority.**

12. The purposes of the Casino Reinvestment Development Authority shall be:

a. to maintain public confidence in the casino gaming industry as a unique tool of urban redevelopment for the city of Atlantic City and to directly facilitate the redevelopment of existing blighted areas and to address the pressing social and economic needs of the residents of the city of Atlantic City and the State of New Jersey by providing eligible projects in which licensees shall invest;

b. to provide licensees with an effective method of encouraging new capital investment in Atlantic City which investment capital would not otherwise be attracted by major casino-hotel convention complexes or by normal market conditions and which will not supplant capital, either public or private, that would otherwise be invested in the city of Atlantic City or in the jurisdiction in which the investment is to be made and which will have the effect of benefiting the public at large and increasing opportunities and choices of those of low and moderate income in particular;

c. to provide, further and promote tourist industries in New Jersey and especially Atlantic county, by providing financial assistance for the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public which may include an arts center, cultural center, historic site or landmark, or sports center;

d. to provide loans and other financial assistance for the planning, acquisition, construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities to provide decent, safe and sanitary dwelling units for persons of low, moderate, median range, and middle income in need of housing, and to provide mortgage financing for such units;

e. to assist in the financing of structures, franchises, equipment and facilities for operation of, expansion of and the development of public transportation or for terminal purposes, including but not limited to devel-

opment and improvement of port terminal structures, facilities and equipment for public use;

f. to provide loans and other financial assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of convention halls in Atlantic county and the State of New Jersey, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors;

g. to make loans and assist in the financing of the construction, reconstruction, rehabilitation, repair or acquisition of infrastructure projects, including but not limited to sewage disposal facilities, water facilities, solid waste disposal facilities, roads, highways and bridges;

h. to assist in financing buildings, structures and other property to increase opportunities in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State so as to induce and to accelerate opportunity for employment in these enterprises, particularly of unemployed and underemployed residents of the jurisdiction in which the investment is to be made; to provide loans and other financial assistance for the planning, developing or preservation of new and existing small businesses as well as the planning, acquisition, construction, reconstruction, rehabilitation, conversion or alteration of the facilities that house these enterprises, particularly those which provide services or employment to unemployed or underemployed residents of the State; and to provide loans and other financial assistance to provide employment training and retraining, particularly for unemployed and underemployed residents of the State;

i. to cooperate with and assist local governmental units in financing any eligible project;

j. to encourage investment in, or financing of, any plan, project, facility, or program which directly serves pressing social and economic needs of the residents of the jurisdiction or region in which the investment is to be made, including but not limited to supermarkets, commercial establishments, day care centers, parks and community service centers, and any other plan, project, facility or program which best serves the interest of the public in accordance with section 25 of this 1984 amendatory and supplementary act;

k. to encourage investment in, or financing of, projects which are made as part of a comprehensive plan to improve blighted or redevelopment areas or are targeted to benefit low through middle income residents of the jurisdiction or region in which the investments are to be made;

- l. to make loans for those eligible projects according to the projected allocated amounts to be available;
- m. to establish and exercise authority over the Atlantic City Tourism District pursuant to the provisions of P.L.2011, c.18 (C.5:12-218 et al.); and
- n. any combination of the foregoing.

4. Section 13 of P.L.1984, c.218 (C.5:12-161) is amended to read as follows:

**C.5:12-161 Powers of authority.**

13. The Casino Reinvestment Development Authority shall have the following powers:

- a. To adopt and have a common seal and to alter the same at pleasure;
- b. To sue or be sued;
- c. To acquire, hold, use and dispose of any eligible project in which it is making an investment;
- d. To acquire, rent, hold, use, and dispose of other personal property for the purposes of the Casino Reinvestment Development Authority;
- e. To acquire by purchase, gift, or otherwise, or lease as lessee, real property or easements or interests therein necessary or useful and convenient for the purposes of the Casino Reinvestment Development Authority which real property, easements or interests may be subject to mortgages, deeds of trust, or other liens or otherwise, and to hold and to use the same, and to dispose of the property so acquired no longer necessary for the purposes of the Casino Reinvestment Development Authority;
- f. To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance, and operation of any facility, and to amend the same;
- g. To enter into any agreements or contracts, execute any instruments, and do and perform any acts or things necessary, convenient, or desirable for the purposes of the Casino Reinvestment Development Authority, including the entering into of agreements or contracts with any governmental unit to provide for the payment of principal of and interest on any obligation issued by that governmental unit, the maintenance of necessary reserves in connection with these obligations or the payments under any lease entered into in connection with any eligible project;
- h. To determine eligibility for investments in eligible projects in order to accomplish the purposes of the Casino Reinvestment Development Authority;

i. To collect and invest any proceeds received under subsection b. of section 3 and section 14 of this act;

j. To invest in obligations of local governmental units issued to finance eligible projects, provided that the investment shall only be effected through direct negotiation by the Casino Reinvestment Development Authority with the local governmental unit;

k. To make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any eligible project for consideration and for periods of time and upon other terms and conditions as the Casino Reinvestment Development Authority may fix and agree upon, which agreements may include a partnership, limited partnership, joint venture or association in which the Casino Reinvestment Development Authority is a general or limited partner or participant;

l. To require and collect fees and charges as the Casino Reinvestment Development Authority shall determine to be reasonable in connection with the exercise of any power given to the Casino Reinvestment Development Authority under the act;

m. To the extent permitted under a contract of the Casino Reinvestment Development Authority with purchasers of its bonds entered into pursuant to section 3 of this 1984 amendatory and supplementary act, to invest and reinvest any of its moneys not required for immediate use, including moneys received for the purchase of its bonds prior to the bonds being issued as it shall deem prudent. A pro rata share of 66 2/3 % of all interest earned by the Casino Reinvestment Development Authority on any such investments shall be paid to the licensees who entered into a contract with the Casino Reinvestment Development Authority for the purchase of its bonds and who contributed to the moneys which were received by the Casino Reinvestment Development Authority and were invested pursuant to this subsection. All functions, powers and duties relating to the investment or reinvestment of these funds, including the purchase, sale or exchange of any investments or securities, may, upon the request of the Casino Reinvestment Development Authority, be exercised and performed by the Director of the Division of Investment, in accordance with written directions of the Casino Reinvestment Development Authority signed by an authorized officer, without regard to any other law relating to investments by the Director of the Division of Investment;

n. To the extent permitted under the contract of the Casino Reinvestment Development Authority with the holders of its bonds, to invest and reinvest any of its moneys not required for immediate use, including proceeds from the sale of any obligations, securities or other investments as it

shall deem prudent. All functions, powers and duties relating to the investment or reinvestment of these funds, including the purchase, sale or exchange of any investments or securities, may upon the request of the Casino Reinvestment Development Authority be exercised and performed by the Director of the Division of Investment, in accordance with written directions of the Casino Reinvestment Development Authority signed by an authorized officer, without regard to any other law relating to investments by the Director of the Division of Investment;

o. To enter into all agreements or contracts with any governmental unit or person, execute any instruments, and do and perform any acts or things necessary, convenient or desirable for the purposes of the Casino Reinvestment Development Authority to carry out any power expressly given in this act;

p. To exercise the right of eminent domain in the city of Atlantic City;

q. To establish and exercise authority over the Atlantic City Tourism District established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and, in addition to the powers provided in this section, to exercise, with regard to the tourism district, those powers granted to the authority pursuant to P.L.2011, c.18 (C.5:12-218 et al.);

r. To meet and hold hearings at places as it shall designate; and

s. To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly, through lessees, licensees or agents, projects consisting of facilities, at a site or sites within the State of New Jersey, that are related to, incidental to, necessary for or complementary to, the accomplishment of any of the purposes of the authority or of any project of the authority authorized in accordance with P.L.1984, c.218 (C.5:12-144.1 et seq.), as amended.

**C.5:12-219 Atlantic City Tourism District.**

5. a. (1) There shall be established by resolution of the authority the Atlantic City Tourism District, which shall consist of those lands within Atlantic City that comprise an area to be designated by the resolution. The area so designated shall include the facilities comprising licensed Atlantic City casinos, casino hotels, and any appurtenant property, any property under the ownership or control of the authority, the Atlantic City Special Improvement District established by ordinance of the City of Atlantic City, any property under the ownership or control of the convention center authority prior to the transfer date, any property within Atlantic City under the ownership or control of the New Jersey Sports and Exposition Authority

established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) prior to the transfer date, the Atlantic City Convention Center, Boardwalk Hall and any part of the property consisting of the Atlantic City convention center project prior to the transfer date, and any specified part of Atlantic City which the authority finds by resolution to be an area in which the majority of private entities are engaged primarily in the tourism trade, and the majority of public entities, if any, serve the tourism industry. Notwithstanding section 7 of P.L.1984, c.218 (C.5:12-155), the authority shall adopt the resolution by an affirmative vote of two-thirds of the voting members of the authority no more than 90 days after the effective date of P.L.2011, c.18 (C.5:12-218 et al.). Notwithstanding section 7 of P.L.1984, c.218, adoption by the authority of any subsequent resolution to revise, in a manner consistent with this subsection, the area designated as comprising the tourism district shall also be by an affirmative vote of two-thirds of the voting members of the authority.

(2) If, on the 91st day after the effective date of P.L.2011, c.18 (C.5:12-218 et al.), the authority has not adopted the resolution establishing the tourism district as provided pursuant to paragraph (1) of this subsection, the authority shall carry out the purposes of P.L.2011, c.18 (C.5:12-218 et al.) within the following areas of Atlantic City:

(a) the area known as Bader Field;

(b) the area known as the Marina District beginning at a point north of White Horse Pike and continuing northwesterly along State Route 87 and Huron Avenue, and the casinos and hotels adjacent thereto, and bounded to the east by the body of water known as Clam Thorofare and bounded to the west by Huron Avenue and which area shall also encompass the area known as Farley Marina; and

(c) all that certain area bounded by a line, having as its point of origin the intersection of Kingston Avenue and Ventnor Avenue, which line of boundary proceeds from that point of origin as follows:

Northeasterly along Ventnor Avenue to its junction with Capt. John A. O'Donnell Parkway;

Thence northeasterly along that Parkway to its intersection with Atlantic Avenue;

Thence northeasterly along Atlantic Avenue to its junction with Florida Avenue;

Thence northwesterly along Florida Avenue to its junction with North Turnpike Road;

Thence northwesterly along North Turnpike Road to its junction with Sunset Avenue;

Thence along Sunset Avenue as it curves to its intersection with Mediterranean Avenue;

Thence northeasterly along Mediterranean Avenue to its junction with North Mississippi Avenue;

Thence continuing southeasterly along North Mississippi Avenue to its junction with Fairmont Avenue;

Thence northeasterly along Fairmount Avenue to its intersection with Christopher Columbus Boulevard;

Thence northwesterly along Christopher Columbus Boulevard to the point at which it borders the Atlantic City Expressway, to its junction with the Atlantic City Expressway and Arkansas Avenue;

Thence continuing westerly and northerly along the perimeter of the Atlantic City Expressway along the points of that perimeter to the point at which the perimeter is parallel to the northwest facing perimeter of the property encompassing the Atlantic City Convention Center;

Thence continuing southerly and westerly along the northwest facing perimeter of the property encompassing the Atlantic City Convention Center to the point at which such property, and any property immediately adjacent thereto, intersects with Bacharach Boulevard;

Thence continuing southerly and easterly along Bacharach Boulevard to its junction with Arctic Avenue;

Thence continuing northeasterly along Arctic Avenue to its junction with Tennessee Avenue;

Thence continuing southeasterly along Tennessee Avenue to its junction with Atlantic Avenue;

Thence continuing northeasterly along Atlantic Avenue at a width extending westerly of 100 feet from all points along the western side of Atlantic Avenue to its junction with Maine Avenue;

Thence continuing from the intersection of Maine Avenue and Atlantic Avenue easterly in a line extending through the Boardwalk and beach, to the tidal shore of Atlantic City;

Thence continuing from the intersection of the end point of that line and the tidal shore, southerly along the tidal shores as it jogs and curves to the point the tidal shore turns to a southwesterly direction;

Thence continuing along such southwesterly direction of the tidal shores as it jogs and curves to the point on the tidal shore at which the shoreline would intersect with a straight-line projection oceanward of southern Kingston Avenue;

Thence continuing northerly and westerly along Kingston Avenue to its junction with Ventnor Avenue.

b. Upon and after the adoption, pursuant to subsection a. of this section, of the resolution establishing the tourism district, or upon and after the establishment of the tourism district under paragraph (2) of subsection a. of this section, as appropriate the authority shall have jurisdiction within the tourism district to impose land use regulations, implement development and design guidelines and implement initiatives that promote cleanliness, commercial development, and safety, undertake redevelopment projects, and institute public safety improvements in coordination with security and law enforcement personnel.

c. (1) Notwithstanding any law, rule, or regulation to the contrary, upon and after the adoption, pursuant to subsection a. of this section, of the resolution establishing the tourism district, or upon and after the establishment of the tourism district under paragraph (2) of subsection a. of this section, as appropriate, the authority shall have, in conjunction with the appropriate road and highway authority or authorities, as appropriate, jurisdiction with respect to the approval of development projects upon those roads and highways over which such road and highway authority or authorities have jurisdiction as of the date of enactment of P.L.2011, c.18 (C.5:12-218 et al.).

(2) Notwithstanding any law, rule, or regulation to the contrary, upon and after the adoption, pursuant to subsection a. of this section, of the resolution establishing the tourism district, or upon and after this establishment of the tourism district under paragraph (2) of subsection a. of this section, as appropriate, the authority shall have, with respect to the roads and highways located within the tourism district, exclusive jurisdiction with respect to the promulgation of rules and regulations affecting the control and direction of traffic within the tourism district.

d. The authority may, by resolution, authorize the commencement of studies and the development of preliminary plans and specifications relating to the creation and maintenance of the tourism district. These studies and plans shall include, whenever possible, estimates of construction and maintenance costs, and may include criteria to regulate the construction and alteration of facades of buildings and structures in a manner which promotes unified or compatible design.

e. In furtherance of the development of an economically viable and sustainable tourism district, the authority shall, within one year after the date of enactment of P.L.2011, c.18 (C.5:12-218 et al.), adopt a tourism district master plan. The authority shall initiate a joint planning process with the participation of: State departments and agencies, corporations, commissions, boards, and, prior to the transfer date, the convention center author-

ity; metropolitan planning organizations; Atlantic County; Atlantic City; and appropriate private interests.

f. After the creation of the tourism district pursuant to subsection a. of this section, the authority shall create a commission to be known as the Atlantic City Tourism District Advisory Commission, or "ACT Commission," consisting of members to be appointed by the authority. Persons appointed as members of the commission shall include public officials of Atlantic City and Atlantic County, representatives of the casino and tourism industries, public citizens, and any other individual or organization the authority deems appropriate. The commission shall be authorized to review the authority's annual budget and the authority's plans concerning the tourism district. The commission shall, from time to time, make recommendations to the authority concerning the authority's development and implementation of the tourism district master plan, and the authority shall give due consideration to those recommendations. In order to ensure coordination, compatibility, and consistency between the tourism district master plan and the city's master plan, the authority shall consult with the city in developing the tourism district master plan.

g. The tourism district master plan shall establish goals, policies, needs, and improvement of the tourism district, the implementation of clean and safe initiatives, and the expansion of the Atlantic City boardwalk area to reflect an authentic New Jersey boardwalk experience. The authority may consult with public and private entities, including, but not limited to, those entities that are present in, or that have been involved with the development of, boardwalk areas in New Jersey such as the boardwalk areas of Ocean City, the Wildwoods, and Cape May.

h. In developing the tourism district master plan, the authority shall place special emphasis upon the following:

(1) the facilitation, with minimal government direction, of the investment of private capital in the tourism district in a manner that promotes economic development;

(2) making use of marina facilities in a way that increases economic activity;

(3) the development of the boardwalk area;

(4) the development of the Marina District; and

(5) the development of nongaming, family centered tourism related activities such as amusement parks.

i. The authority shall solicit funds from private sources to aid in support of the tourism district.

j. The authority shall administer and manage the tourism district and carry out such additional functions as provided under P.L.2011, c.18 (C.5:12-218 et al.). The authority shall oversee the redevelopment of the tourism district and implementation of the tourism district master plan. The authority shall enter into agreements with public and private entities for the purposes of promoting the economic and general welfare of Atlantic City and the tourism district. Any resolution adopted by the city of Atlantic City to establish a program of municipal financial assistance, in the form of grants, loans, tax credits or abatements, or other incentives, or to enter into an agreement providing such financial assistance, to support a development or redevelopment project located within the tourism district shall require the approval of the authority. If such resolution shall receive the approval of the authority, then notwithstanding any law, rule, or order to the contrary, the program may be implemented by the mayor without the adoption of any municipal ordinance. A program adopted pursuant to this subsection shall not be subject to repeal or suspension by voter initiative.

k. The authority shall provide that all available assets and revenues of the authority shall be devoted to the purposes of the tourism district and community development in Atlantic City, unless otherwise provided by contract entered into prior to the effective date of P.L.2011, c.18 (C.5:12-218 et al.) or by law.

l. The authority shall coordinate and collaborate with the city of Atlantic City Planning and Zoning Departments with respect to code enforcement, planning and zoning. The authority shall coordinate and collaborate with any of the city's departments, agencies, and authorities with respect to administrative operations relating to the implementation of the tourism district master plan. If the city determines that it is unable to coordinate and collaborate with the authority pursuant to this subsection, the Department of Community Affairs, shall, at the request of the authority, assume jurisdiction over the Atlantic City Planning and Zoning Departments and any other appropriate departments, agencies, or authorities of the city responsible for code enforcement and administrative operations of the city to provide that the authority shall receive necessary assistance regarding code enforcement and administrative actions undertaken in its implementation of the tourism district master plan. The assumption of jurisdiction by the Department of Community Affairs over any department, agency, or authority of the city, undertaken pursuant to this subsection, shall not be construed as affecting the jurisdiction of any such department, agency, or authority, or of the city, with respect to regulatory control or the provision of services by the city, unless such regulatory control or provision of ser-

vices is directly related to the provision of assistance to the authority regarding code enforcement and administrative actions undertaken in furtherance of the implementation of the tourism district master plan.

m. Two years after the adoption of the tourism district master plan, the authority shall conduct a formal evaluation of the plan to assess the functionality of its implementation. The authority may make any changes concerning its implementation of the master plan, as necessary, to improve its functionality. Such changes may include the reallocation of the resources of any division under the authority's jurisdiction and the reorganization of the functions and operations of those entities which pertain to the tourism district master plan. The authority may make any changes concerning the employment of authority employees which would improve the functionality of the authority's implementation of the master plan.

**C.5:12-220 Development and design guidelines, land use regulations.**

6. a. In conjunction with the adoption, pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), of the resolution establishing the tourism district, or in conjunction with the establishment of the tourism district under paragraph (2) of subsection a. of section 5, as appropriate, the authority shall propose and adopt development and design guidelines and land use regulations for the tourism district. Such guidelines and regulations shall be consistent with and in furtherance of the tourism district master plan. Provisions may be made by the authority for the waiver, according to definite criteria adopted by regulation of the authority pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), of strict compliance with the standards promulgated, where necessary to alleviate hardship. Upon and after the adoption of the resolution establishing the tourism district, or upon and after the establishment of the tourism district under paragraph (2) of subsection a. of section 5, as appropriate, the development and design guidelines and land use regulations adopted by the authority shall supersede the master plans, the zoning and land use ordinances and regulations, and the zoning maps of Atlantic City adopted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or any other State or local law. Until such time as the authority proposes development and design guidelines and land use regulations for the tourism district as authorized pursuant to P.L.2011, c.18 (C.5:12-218 et al.), the master plan, zoning and land use ordinances and regulations, and the zoning maps adopted by the city pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or any other State or local law shall remain in full force and effect within the tourism district. The authority

shall consult with the city concerning site development of development and design guidelines and land use regulations.

b. Notwithstanding the provisions to the contrary of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or any other law, rule, or regulation, upon and after the adoption of the resolution establishing the tourism district, or upon and after the establishment of the tourism district under paragraph (2) of subsection a. of section 5, as appropriate, the review and approval or denial of site plans and development proposals for development upon and improvements to land within the tourism district that would otherwise be performed by the governing bodies or agencies of the county or municipality in which the tourism district is located shall instead be performed by the authority, but this assignment of responsibility to the authority shall not be deemed to supersede requirements of State or federal law pertaining to the review and approval of such plans or proposals by other agencies. In performing the review, the authority shall utilize the development and design guidelines and land use regulations that it shall have adopted in conjunction with its adoption of the resolution establishing the tourism district or in conjunction with the establishment of the tourism district under paragraph (2) of subsection a. of section 5, as appropriate. The procedures used by the authority for the approval of site plans and developments within the tourism district shall be the same as the procedures that would otherwise be used by a county or municipal governing body or other local entity pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), including, but not limited to, procedures for hearings and for the issuance of notice thereof, for the payment of application fees, for appeals, and for the posting of escrow deposits, if any. The authority shall establish an office to issue permits for site plans and development projects. The authority shall by regulation provide for mandatory conceptual review, by or on behalf of the authority, of site plan and development applications; provided, however, that unless accompanied by a request for a variance to be granted by the authority pursuant to subsection d. of this section, any such mandatory conceptual review shall be completed within 45 days of the authority's receipt of the application, or within such later time period if agreed to by the applicant. The authority shall consult with the city concerning site plans and development proposals.

c. The authority shall be deemed an interested party entitled to notice of all applications for properties within the tourism district or within 200 feet of the tourism district's boundaries, irrespective of whether the authority owns the portion of the project area within 200 feet.

d. (1) The provisions of subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) notwithstanding and except as provided in paragraph (2) of this subsection, the authority shall have sole and exclusive jurisdiction to grant for special reasons shown, a variance from the requirements that it shall have established in conjunction with the adoption pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), of the resolution establishing the tourism district, or in conjunction with the establishment of the tourism district under paragraph (2) of subsection a. of section 5, as appropriate, including development and design guidelines or land use regulations adopted by the authority, or from the requirements of the master plan, as appropriate, to permit: (a) a use or principal structure in the district restricted against such use or principal structure, (b) a continuation or an expansion of a nonconforming use, (c) deviation from a specification or standard pursuant to land use regulations adopted by the authority pertaining solely to a conditional use, (d) an increase in the permitted floor area ratio as established by the land use regulations adopted by the authority, (e) an increase in the permitted density as established by the land use regulations adopted by the authority, or (f) a height of a principal structure which exceeds by 10 feet or 10 percent the maximum height permitted in the district for a principal structure. Such variances shall not be granted unless the applicant demonstrates to the satisfaction of the authority that special reasons exist for the granting of such variance, that the granting of the requested variance will not substantially impair the intent and purpose of the master plan, and that the variance can be granted without substantial detriment to the public good. Application for such a variance shall be submitted together with or prior to an application for mandatory conceptual review pursuant to subsection b. of this section, and the authority shall approve or deny the application within 120 days of a complete submission unless the applicant agrees to extend the time. In lieu of granting a variance, the authority in its discretion may require the adoption of a plan amendment.

(2) Variances granted pursuant to subparagraphs (a) through (e) of paragraph (1) of this subsection shall require the affirmative vote of a majority of the members of the authority.

e. Notwithstanding any other provision of P.L.2011, c.18 (C.5:12-218 et al.) or any other law, rule or regulation to the contrary, upon and after the adoption pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) of the resolution establishing the tourism district, or upon and after the establishment of the tourism district under paragraph (2) of subsection a. of section 5, as appropriate, the filing of a petition with the authority upon or after commencement of a redevelopment project undertaken in furtherance of the

master plan shall not effect a delay in or cessation of any action concerning the redevelopment project.

f. Notwithstanding any other provision of P.L.2011, c.18 (C.5:12-218 et al.) or any other law, rule or regulation to the contrary, upon and after the adoption pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), of the resolution establishing the tourism district, or upon and after the establishment of the tourism district under paragraph (2) of subsection a. of section 5, as appropriate, Atlantic City shall not designate the tourism district or any portion thereof as an area in need of redevelopment or an area in need of rehabilitation, or adopt a redevelopment plan for any property within the tourism district pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) without the consent of the authority.

g. The authority may prescribe penalties for the violation of its regulations concerning the enforcement of construction codes, development and design guidelines, and land use regulations in conformance with the master plan by a fine, the amount of which shall be determined by resolution of the authority and shall be reasonable with regard to the violation.

The authority may prescribe that for the violation of any particular regulation at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.

The court before which any person is convicted of violating any regulation of the authority shall have power to impose any fine not less than the minimum and not exceeding the maximum fixed in such regulation.

Any person who is convicted of violating a regulation within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be subject to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the regulation, but shall be calculated separately from the fine imposed for the violation of the regulation.

If the authority imposes a fine in an amount greater than \$1,250 upon an owner for violations of building or zoning codes, the authority shall provide a 30-day period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

A fine imposed as permitted by this subsection against an owner of real property for a zoning or property maintenance violation shall be filed with the authority, or the city, or any department, agency, or authority thereof, as determined through coordination and collaboration undertaken pursuant to subsection l. of section 5 of P.L.2011, c.18 (C.5:12-219), as appropriate, as a lien against the property cited in the offense, if such fine is not paid in full within 20 days of its imposition, upon the certification of the authority employee or code enforcement officer who issued the citation. The authority code enforcement officer or authority employee shall file a copy of the lien and certification with the city's municipal tax collector. This lien shall be added to and become and form part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes and the amounts collected shall be payable by the city to the authority for the support of the tourism district.

**C.5:12-221 Actions of authority after creation of tourism district.**

7. a. After the creation of the tourism district pursuant to section 5 of P.L.2011, c.18 (C.5:12-219):

(1) The authority shall enter into an agreement establishing a public-private partnership with a not-for-profit corporation comprising a majority of the casino licensees of this State whose investors have invested a minimum of \$1 billion in Atlantic City. The purpose of the partnership shall be to undertake a full scale, broad-based, five-year, marketing program; provided, however, that the corporation shall be primarily responsible for the development and implementation of the program. If such not-for-profit corporation is created after the Transfer Date, the authority shall delegate its duty to enter into such an agreement to the Convention Center Division created pursuant to paragraph (1) of subsection b. of section 12 of P.L.2011, c.18 (C.5:12-226). In its implementation of the marketing program, the corporation shall develop a brand identity for Atlantic City and the tourism district that can be effectively and widely communicated. The brand identity shall be designed in a manner that will emphasize, to potential investors and tourists, Atlantic City's unique character, boardwalk attractions, and appeal as a destination resort. The corporation shall submit its plans for the marketing program, and any revisions thereto, to the authority, or division, as appropriate, for recommendations. The agreement between the authority, or the division, and the corporation shall have a term of five years, and may be extended for an additional term as determined by the authority, or the division, and the corporation. In addition to providing for the establishment of

the marketing program, the agreement may provide that the corporation provide assistance to the authority concerning the establishment of the tourism district and implementation of the master plan. The agreement shall provide that the corporation, or the casino licensees which shall comprise its membership, will make a contribution of \$5,000,000 prior to 2012 toward the formation of the corporation and the marketing plan, or for the support and furtherance of the tourism district, and the percentage of such contribution by each casino licensee shall be made in proportion to such casino licensee's gross revenue in the preceding fiscal year. The authority, or the Convention Center Division, as the case may be, shall not enter into an agreement with the corporation, unless the corporation provides evidence that it has taken appropriate steps to ensure that it has the necessary administrative resources to assess and collect the contributions. Such contributions shall be allocated for the support of the marketing program, but any contributions not utilized or allocated for such purposes during the term of the agreement or any extension thereof shall be remitted to the authority for its use to support the marketing program or the tourism district.

Any public-private partnership or similar arrangement under this paragraph shall, subject to the oversight of the authority or the Convention Center Division, permit the corporation to control and employ other public and private funds made available to further implement the marketing program and advance the purposes of the tourism district.

(2) The authority or the Convention Center Division, as appropriate, shall assess a fee upon each casino licensee that does not make a contribution to the corporation as prescribed under paragraph (1) of this subsection, calculated in the same manner as the contribution. The fee so assessed shall be collected by the authority, and shall be remitted to and held by the corporation in trust for expenditure exclusively in accordance with the terms of the agreement with the authority or the division.

(3) The corporation shall file with the authority, or the division, a quarterly report of its expenditures made pursuant to the agreement.

(4) Assessment and collection of the contributions under paragraph (1) and fees under paragraph (2) of this subsection shall commence on January 1, 2012. If the establishment of the agreement created pursuant to paragraph (1) of this subsection shall commence after January 1, 2012, such assessment and collection shall commence upon the date the agreement is established. The total amount to be assessed, as contributions or fees, as appropriate, collectively upon all casino licensees for each year shall be \$30,000,000, in proportion to the casino licensee's gross revenues generated in the preceding fiscal year, but the authority and not-for-profit corpo-

ration described in paragraph (1) of this subsection shall provide in the agreement entered into pursuant to paragraph (1) of this subsection that the assessed contributions and fees may be increased for the marketing program, or for the support of the tourism district, and allocation of the revenue from any such additional contributions and fees shall be made in accordance with the terms of the agreement entered into pursuant to paragraph (1) of this subsection. Any moneys collected pursuant to this subsection not used for the marketing program shall be allocated to the support of the tourism district according to terms set forth in the agreement established pursuant to paragraph (1) of this subsection.

(5) Any moneys collected pursuant to this subsection not used for or obligated to any purpose prior to the expiration of the agreement entered into pursuant to paragraph (1) of this subsection, or any extension thereof, shall be allocated by the authority for the support of the tourism district.

b. If within one year after the effective date of P.L.2011, c.18 (C.5:12-218 et al.), the not-for-profit corporation described under paragraph (1) of subsection a. of this section does not exist or is unable to perform its obligations under an agreement with the authority, or if the agreement is not renewed upon expiration of the term of the agreement, the authority, or the Convention Center Division, shall create a commission to be known as the Atlantic City Tourism Marketing Advisory Commission, consisting of members to be appointed by the authority. The authority shall appoint to the commission representatives of the casino and tourism industries, public citizens, and any other individual or organization the authority deems appropriate. The division shall develop and implement a full scale, broad-based, five-year marketing program. The commission shall be authorized to review the authority's annual budget and the authority's plans concerning the marketing program, and the authority shall give due consideration to those recommendations. The commission shall, from time to time, make recommendations to the authority concerning the authority's development and implementation of the marketing program. In its implementation of the marketing program, the authority, or the Convention Center Division, as the case may be, shall develop a brand identity for Atlantic City and the tourism district that can be effectively and widely communicated. The brand identity shall be designed in a manner that will emphasize, to potential investors and tourists, Atlantic City's unique character, boardwalk attractions, and appeal as a destination resort.

c. After the Transfer Date, all duties assumed by the authority pursuant to subsection a. of this section shall be delegated by the authority to the Convention Center Division.

**C.5:12-222 Development of public safety plan.**

8. In conjunction with the establishment of the tourism district pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), the Attorney General and Superintendent of State Police in the Department of Law and Public Safety, in consultation with the Mayor of Atlantic City, the Director of Public Safety and the Police Chief of the Atlantic City Police Department, and the Atlantic County Prosecutor, shall work collaboratively to develop a public safety plan to address law enforcement strategies and public safety in the tourism district. In constructing the plan, the Attorney General and Superintendent shall solicit input and recommendations from key stakeholders, including Atlantic City residents, local business owners, and representatives from the casino and entertainment industries.

The plan shall be designed with the following goals: to utilize and enhance the existing leadership and competencies of the Atlantic City Police Department, and to promote sustainable best practices by leveraging improved communications, data collection and information-sharing processes. Components of the plan shall include, but shall not be limited to: deploying or detailing of sworn law enforcement officers, who may be Division of State Police personnel, special investigators assigned to the Department of Law and Public Safety, current or former Atlantic City Police Officers, or other law enforcement officers assigned to the detail; the procurement and implementation of new technological equipment upgrades to the Atlantic City Police Department systems, with related training and support provided to the detailed officers and to the Atlantic City Police Department personnel by the Division of State Police, and featuring appropriate compliance monitoring; and the development and implementation of a coordinated law enforcement strategy to address crime and public safety concerns both within and outside of the casino tourism district.

The plan shall include policy, technical and operational benchmarks, which, when met and sustained, will promote the ultimate goal of improved safety and efficiency, both within and outside the tourism district. As part of the Public Safety Plan, the Superintendent shall appoint a District Commander, who shall be charged with overseeing and coordinating the implementation and monitoring of the public safety plan. The District Commander shall coordinate with the Director of Public Safety and the Chief of the Atlantic City Police Department, and shall report directly to the Superintendent of the State Police.

**C.5:12-223 Determination of amount of cost savings relative to revision of laws; allocation to New Jersey Racing Commission.**

9. a. Notwithstanding any law, rule, or regulation to the contrary, the Division of Gaming Enforcement in the Department of Law and Public

Safety shall in each of the first three State fiscal years commencing in the State fiscal year in which P.L.2011, c.18 (C.5:12-218 et al.) is enacted, determine the amount of cost savings effected by the reduction in fees paid by casino licensees pursuant to revisions to law concerning regulation of the casino industry, and provide that an amount, as determined by the New Jersey Racing Commission in the Department of Law and Public Safety pursuant to this subsection shall be paid annually by casino licensees to the authority, and such payment shall be made in each of the first three State fiscal years commencing in the State fiscal year in which P.L.2011, c.18 (C.5:12-218 et al.) is enacted. The New Jersey Racing Commission shall determine an amount to be allocated from the amounts collected by the Division of Gaming Enforcement pursuant to this section, in an amount not exceeding \$15,000,000 in the first State fiscal year; \$10,000,000 in the second State fiscal year; and \$5,000,000 in the third State fiscal year. The moneys collected pursuant to this subsection shall be allocated to the authority, and allocated by the authority to the New Jersey Racing Commission to the support of the horse racing industry in this State through the augmentation of purses. The amount of any funds authorized in this section to be collected and allocated in support of horse racing through the augmentation of purses shall be established by the New Jersey Racing Commission at a regular meeting of the commission held during the fiscal year in which any such payment is authorized, which amount shall be reflected in the meeting minutes delivered by the executive director to the Governor with respect to the meeting at which such action is taken in the manner provided under section 31 of P.L.2001, c.199 (C.5:5-22.1).

b. If the amount paid to the authority pursuant to subsection a. of this section in the first three State fiscal years described herein is insufficient to allocate the amount required for the augmentation of purses in any one of those three State fiscal years, the authority shall, from any appropriate revenue source or account, allocate the amount necessary to cover the difference between the amounts to be allocated to the horse racing industry in this State through the augmentation of purses in the first three State fiscal years and the amount paid to the authority pursuant to subsection a. of this section and shall be reimbursed from the amount collected by the Division of Gaming Enforcement pursuant to subsection a. of this section in the subsequent State fiscal year.

c. If, one year after the effective date of P.L.2011, c.18 (C.5:12-218 et al.), the not-for-profit corporation does not exist as provided in section 7 of P.L.2011, c.18 (C.5:12-221), or is unable to perform its obligations under an agreement with the authority, or Convention Center Division, or if the

agreement is terminated, as provided under that section, and is not renewed, the authority shall assess a fee payable by each casino licensee for the State fiscal year, for a period of five State fiscal years. The fee assessed under this subsection shall be in proportion to the casino licensee's gross revenues generated in the fiscal year preceding the assessment. The total fees assessed collectively upon all casino licensees shall be no less than \$30,000,000 for each State fiscal year for which the fees are assessed.

d. Such fees shall be used exclusively to facilitate the development of the tourism district, enhance the cleanliness and safety of the tourism district, and fund the marketing efforts of the authority or of the Convention Center Division, as the case may be, concerning tourism in the district.

**C.5:12-224 Transfer of Atlantic City International Airport; distribution of revenues, proceeds.**

10. a. Notwithstanding any law, rule, or regulation to the contrary, if the South Jersey Transportation Authority shall transfer for consideration, by sale or lease, all or any part, of its interest in the airport known as the Atlantic City International Airport and any other lands and improvements as the South Jersey Transportation Authority has acquired pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24) and all related facilities and activities, the South Jersey Transportation Authority shall assign and pay, or otherwise transfer, after payment of bonds or other obligations pursuant to law, contract, or other form of agreement, any revenues or proceeds from such sale or lease in equal amounts to the governing body of the following counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem.

b. The revenues or proceeds distributed to the governing body of the counties pursuant to subsection a. of this section shall be used solely 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 may be authorized by law to undertake and which has been approved by the governing body of that county. Nothing in this subsection shall be construed to mean that the revenues or proceeds distributed to the governing bodies of the counties shall be in lieu of any other State or federal monies for transportation purposes.

Within three months of receipt of any revenues or proceeds from the sale or lease of all, or any part of, Atlantic City International Airport, the governing body of each county shall submit to the Commissioner of Transportation a report detailing how the county intends to use the revenues or

proceeds, the projects the governing body of the county is planning to undertake, or currently undertaking with the revenues or proceeds, and any other relevant information concerning the use of the money for public highway, public transportation projects, and other transportation projects. Thereafter, the governing body of each county shall submit annually such information to the Commissioner of Transportation.

**C.5:12-225 Allocation of tax revenue.**

11. a. The authority, upon enactment of P.L.2011, c.18 (C.5:12-218 et al.), shall, for each State fiscal year for a period of not more than the first five State fiscal years commencing in the State fiscal year in which a tax is authorized by law to be collected from revenues generated by Internet wagering, annually allocate the first \$30,000,000 of the revenue from such tax to the New Jersey Racing Commission to be used for the benefit of the horse racing industry in this State through the augmentation of purses, provided, however, that the use of those funds for that purpose shall cease one State fiscal year after wagering on sports events is implemented in this State. Amounts collected pursuant to this subsection in excess of \$30,000,000 in any one State fiscal year shall be allocated to the authority for the support of the tourism district.

b. If the tax described in subsection a. of this section is authorized by law to be collected in the State fiscal year in which P.L.2011, c.18 (C.5:12-218 et al.) is enacted, and such tax is not sufficient to, in the State fiscal year in which P.L.2011, c.18 (C.5:12-218 et al.) is enacted, allocate \$15,000,000 for the support of the horse racing industry in this State through the augmentation of purses, for the State fiscal year commencing after the enactment of P.L.2011, c.18 (C.5:12-218 et al.), allocate \$10,000,000 for the support of the horse racing industry in this State through the augmentation of purses, and for the second State fiscal year commencing after the enactment of P.L.2011, c.18, allocate \$5,000,000 for the support of the horse racing industry in this State through the augmentation of purses, the authority shall allocate, from any appropriate revenue source or account, such amounts necessary to cover the difference between the amounts to be allocated to the horse racing industry in this State through the augmentation of purses to offset any deficiency in the first three State fiscal years as described in this subsection, in an amount to be determined by the New Jersey Racing Commission, and the amount collected pursuant to subsection a. of this section and the Division of Gaming Enforcement shall, every 30 days, beginning no more than 30 days following the last day of the State fiscal year in which the deficiency occurred, and

the authority made any allocation to cover such deficiency, determine the amount of cost savings effected by the reduction in fees paid by casino licensees pursuant to revisions to law concerning regulation of the casino industry, assess and collect a fee payable from such amount to offset such deficiency, in an amount not exceeding such payment made by the authority, and provide that such amount shall be allocated to the authority in the State fiscal year commencing after the State fiscal year within 30 days after collection. The Division of Gaming Enforcement shall continue assessment and collection as provided in this subsection for the number of State fiscal years necessary to reimburse the authority for allocations made by the authority under this subsection.

Amounts collected pursuant to this subsection in excess of the amount necessary to reimburse the authority shall be allocated to the authority for the support of the tourism district.

**C.5:12-226 Atlantic City Convention and Visitors Authority, transfer to CRDA.**

12. a. Until the Transfer Date, the authority shall not exercise any powers, rights, or duties conferred by P.L.2011, c.18 (C.5:12-218 et al.) or by any other law in any way which will interfere with the powers, rights, and duties of the convention center authority. The authority shall not before the Transfer Date exercise any powers of the convention center authority. The authority and the convention center authority are directed to cooperate with each other so that the Transfer Date shall occur as soon as practicable after the date of enactment of P.L.2011, c.18 (C.5:12-218 et al.), and the convention center authority shall make available information concerning its property and assets, outstanding bonds and other debts, obligations, liabilities and contracts, operations, and finances as the authority may require to provide for the retirement of any outstanding bonds, notes, or other obligations of the convention center authority, and the efficient exercise by the authority of all powers, rights, and duties conferred upon them by P.L.2011, c.18 (C.5:12-218 et al.).

b. On the Transfer Date: (1) The authority shall assume all of the powers, rights, assets, and duties of the convention center authority to the extent provided by P.L.2011, c.18 (C.5:12-218 et al.), and such powers shall then and thereafter be vested in and shall be exercised by the authority and the chair thereof provided, however, that the functions, organizational structure, and operations of the convention center authority shall be continued as a division existing within the authority, to be known as the Convention Center Division.

(2) The terms of office of the members of the convention center authority shall terminate, the officers having custody of the funds of the convention center authority shall deliver those funds into the custody of the

chair of the authority, the property and assets of the convention center authority shall, without further act or deed, become the property and assets of the authority, and the convention center authority shall cease to exist.

(3) The officers and employees of the convention center authority shall be transferred to the authority and shall become employees of the authority and the authority shall retain those employees transferred to the authority pursuant to this section as employees of the division; provided, however, that any employee transferred to the authority pursuant to this section may be dismissed for cause, and any such employee may be dismissed if the authority determines that the transfer of the convention center authority to the authority has resulted in the duplication of responsibility of the position held by such employee, but such an employee shall be given a right of first refusal offer of similar employment if such employment shall become available as determined by the authority.

Nothing in P.L.2011, c.18 (C.5:12-218 et al.) shall be construed to deprive any officers or employees of the convention center authority of their rights, privileges, obligations, or status with respect to any pension or retirement system. The employees shall retain all of their rights and benefits under existing collective negotiation agreements or contracts until such time as new or revised agreements or contracts are agreed to. All existing employee representatives shall be retained to act on behalf of those employees until such time as the employees shall, pursuant to law, elect to change those representatives. Nothing in P.L.2011, c.18 (C.5:12-218 et al.) shall affect the civil service status, if any, of those officers or employees.

(4) All debts, liabilities, obligations and contracts of the convention center authority, except to the extent specifically provided or established to the contrary in P.L.2011, c.18 (C.5:12-218 et al.), are imposed upon the authority, and all creditors of the convention center authority and persons having claims against or contracts with the convention center authority of any kind or character may enforce those debts, claims, and contracts against the authority as successor to the convention center authority in the same manner as they might have against the convention center authority, and the rights and remedies of those holders, creditors, and persons having claims against or contracts with the convention center authority shall not be limited or restricted in any manner by P.L.2011, c.18 (C.5:12-218 et al.).

(5) In continuing the functions, contracts, obligations and duties of the convention center authority, the authority is authorized to act in its own name, in the name of the Convention Center Division, or in the name of the convention center authority as may be convenient or advisable under the circumstances from time to time.

(6) Any references to the convention center authority in any other law or regulation shall be deemed to refer and apply to the authority.

(7) All rules and regulations of the convention center authority shall continue in effect as the rules and regulations of the authority until amended, supplemented or rescinded by the authority in accordance with law. Notwithstanding any requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the authority may adopt regulations, after notice and an opportunity for public comment, amending, supplementing, modifying, or repealing the regulations of the convention center authority. Such regulations shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months from the Transfer Date and they may, thereafter, be amended, adopted or readopted in accordance with the "Administrative Procedure Act." Regulations of the convention center authority inconsistent with the provisions of this act or of regulations of the authority shall be deemed void if so judged by the authority acting pursuant to the provisions of this paragraph.

(8) All operations of the convention center authority shall continue as operations of the authority until altered by the authority as may be permitted pursuant to P.L.2011, c.18 (C.5:12-218 et al.).

(9) The powers vested in the authority by P.L.2011, c.18 (C.5:12-218 et al.) shall be construed as being in addition to and not in diminution of the powers heretofore vested by law in the authority to the extent not otherwise altered or provided for in P.L.2011, c.18 (C.5:12-218 et al.).

c. As soon as practicable after the Transfer Date, the chairman shall notify the Governor and the presiding officers of each house of the Legislature that the transfer has occurred, the date of the transfer, and any other information concerning the transfer the chairman deems appropriate.

**C.5:12-227 Status of project after transfer.**

13. Upon the transfer of the convention center authority as provided in section 12 of P.L.2011, c.18 (C.5:12-226), all convention center authority projects, including the Atlantic City convention center project, shall be maintained by the authority.

**C.5:12-228 Actions permitted prior to Transfer Date.**

14. a. Prior to the Transfer Date, the authority is authorized to issue bonds, refunding bonds, notes, or other indebtedness to facilitate the timely occurrence of the Transfer Date, including but not limited to, the issuance of bonds, refunding bonds, notes, or other indebtedness to provide that all

bonds or notes issued by the convention center authority to finance any projects, and the interest thereon, have been paid, or a sufficient amount for the payment of all those bonds or notes, and the interest thereon, has been set aside in trust for the benefit of the bondholders.

b. On the Transfer Date, the power of the convention center authority to issue bonds, refunding bonds, notes, or other indebtedness is continued but transferred to the authority and shall thereafter be exercised and administered by the authority.

c. The convention center authority and the authority are authorized to enter into such agreements as are necessary to facilitate the transfers contemplated by this section.

**C.5:12-229 Provisions of existing laws unaffected.**

15. Upon the transfer of the convention center authority, the provisions of P.L.1981, c.459 (C.52:27H-29 et seq.) and P.L.2008, c.47 (C.52:27H-31.1 et al.) insofar as they are not inconsistent with the provisions of P.L.2011, c.18 (C.5:12-218 et al.), shall continue in effect, and any reference therein or in any other law to the convention center authority, to the chair of the convention center authority, or to any member thereof, shall be deemed to mean and refer to the chair of the authority.

**C.5:12-230 Powers assumed by authority upon establishment of tourism district.**

16. Upon the establishment of the tourism district by resolution of the authority pursuant to the provisions of section 5 of P.L.2011, c.18 (C.5:12-219), or upon the establishment of the tourism district under paragraph 2 of subsection a. of section 5, as appropriate, the authority shall assume all functions, powers, and duties of Atlantic City, and of any agency or instrumentality thereof, with respect to the Atlantic City Special Improvement District, and the City of Atlantic City shall repeal the ordinance or ordinances establishing that special improvement district; provided, however, that the functions, organizational structure, and operations of the Atlantic City Special Improvement District shall be continued as a division existing within the authority. The Atlantic City Special Improvement District, continued as a division within the authority, shall continue to assess and collect assessments payable to the special improvement district as of the effective date of the establishment of the tourism district by resolution of the authority pursuant to the provisions of section 5 of P.L.2011, c.18 (C.5:12-219). Officers and employees of the special improvement district shall be transferred to the authority and shall become employees of the authority and the authority shall retain those employees transferred to the authority pursuant

to this section as employees of the special improvement district division; provided, however, that any employee transferred to the authority pursuant to this section may be dismissed for cause, and any such employee may be dismissed if the authority determines that the transfer of the special improvement district to the authority has resulted in the duplication of responsibility of the position held by such employee, but such an employee shall be given a right of first refusal offer of similar employment if such employment shall become available as determined by the authority.

**C.5:12-231 Law subject to provisions of C.52:14D-1 et seq.; exceptions.**

17. P.L.2011, c.18 (C.5:12-218 et al.) shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.), except as may otherwise be provided under P.L.2011, c.18.

**C.5:12-232 Obligations to bondholders unaffected.**

18. The authority shall exercise due regard for the rights of the holders of bonds of the authority, at any time outstanding, and nothing in, or done pursuant to, the provisions of P.L.2011, c.18 (C.5:12-218 et al.), shall in any way limit, impair, restrict, or alter the obligation or powers 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.

**C.5:12-233 Entry into partnerships by authority.**

19. The authority, in implementing any of its functions involving the tourism district, including but not limited to, the regulation and encouragement of economic development and the promotion of cleanliness, safety, and commerce, is authorized and directed, notwithstanding any law, rule, or regulation to the contrary, to, in addition to any public-private partnership entered into pursuant to section 7 of P.L.2011, c.18 (C.5:12-221), enter into public-private partnerships or similar arrangements with private entities in implementing the provisions of P.L.2011, c.18 (C.5:12-218 et al.). Such partnerships shall include descriptions of those responsibilities to be carried out by the private entity, mechanisms for allocation of funds among such responsibilities, authority audit rights, and restrictions on the expenditure of funds for purposes other than as set forth in P.L.2011, c.18.

20. This act shall take effect immediately, but the provisions of P.L.2011, c.18 (C.5:12-218 et al.) shall not be construed as affecting terms

of any contract or agreement in effect as of the effective date of P.L.2011, c.18.

Approved February 1, 2011.

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CHAPTER 19

AN ACT concerning the licensing and regulation of casinos, and amending various parts of the statutory law, supplementing P.L.1977, c.110 (C.5:12-1 et seq.), and repealing various parts of the statutory law.

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

1. Section 1 of P.L.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 act 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 hospital-

ity 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, 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) (Deleted by amendment, P.L.1995, c.18.)

(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 eco-

conomic 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.

(18) As recognized in the July 2010 Report of the Governor's Advisory Commission on New Jersey Gaming, Sports, and Entertainment, and as confirmed in subsequent legislative hearings held throughout the State, legalized casino gaming in New Jersey presently stands at a crossroads, facing critical challenges that jeopardize its important role in the State economy, and it is in the public interest to modernize and streamline the current outdated casino regulatory structure in order to achieve efficiencies and cost savings that are more appropriately directed to marketing and infra-

structure improvement efforts while, at the same time, maintaining strict integrity in the regulation of casino operations.

(19) The ability of the legalized casino gaming industry in New Jersey to compete in an ever-expanding national gaming market requires a regulatory system that is sufficiently flexible to encourage persons and entities holding casino gaming licenses outside of New Jersey to participate in casino gaming in Atlantic City, to allow licensees to take full and timely advantage of advancements in technology, particularly in information technology, and business management, and to encourage the efficient utilization of resources between and among affiliated New Jersey licensees operating casinos located in Atlantic City and between and among a New Jersey affiliate and its licensed affiliates in other jurisdictions.

2. Section 2 of P.L.1977, c.110 (C.5:12-2) is amended to read as follows:

**C.5:12-2 Definitions.**

2. As used in this act, the words and terms have the meanings ascribed to them in P.L.1977, c.110 (C.5:12-1 et seq.), unless a different meaning clearly appears in the context.

3. Section 3 of P.L.1995, c.18 (C.5:12-2.2) is amended to read as follows:

**C.5:12-2.2 "Annuity jackpot guarantee."**

3. "Annuity jackpot guarantee" -- A financial arrangement established in accordance with the rules of the division to assure that all payments that are due to the winner of an annuity jackpot are actually paid when due regardless of the future financial stability of the slot system operator that is responsible for making such payments.

4. 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 "authorized 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 division suitable for use after an appropriate test or experimental period under such terms and conditions as the division may deem appropriate; and any other game which is determined by the division to be compatible with the public inter-

est and to be suitable for casino use after such appropriate test or experimental period as the division may deem appropriate. "Authorized game" or "authorized gambling game" includes gaming tournaments in which players compete against one another in one or more of the games authorized herein or by the division or in approved variations or composites thereof if the tournaments are authorized by the division.

5. Section 2 of P.L.2002, c.65 (C.5:12-5.2) is amended to read as follows:

**C.5:12-5.2 "Cash equivalent value."**

2. "Cash equivalent value" -- The monetary value that a casino licensee shall assign to a jackpot or payout that consists of merchandise or any thing of value other than cash, tokens, chips or plaques. The division shall promulgate rules defining "cash equivalent value" in order to assure fairness, uniformity and comparability of valuation of jackpots and payoffs that include merchandise or any thing of value.

6. Section 6 of P.L.1977, c.110 (C.5:12-6) is amended to read as follows:

**C.5:12-6 "Casino" or "casino room" or "licensed casino"**

6. "Casino" or "casino room" or "licensed casino" -- One or more locations or rooms in a casino hotel facility that have been approved by the division for the conduct of casino gaming in accordance with the provisions of this act. "Casino" or "casino room" or "licensed casino" shall not include any casino simulcasting facility authorized pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et seq.).

**C.5:12-6.1 "Casino bankroll."**

7. "Casino bankroll" -- Cash maintained in the casino, excluding any funds necessary for the normal operation of the casino, such as change banks, slot hopper fills, slot booths, cashier imprest funds and redemption area funds.

8. 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, not otherwise included in the definition of casino key employee, who is employed by a casino licensee, or a holding or intermediary company of a casino licensee, and is in-

volved in the operation of a licensed casino or a simulcasting facility or performs services or duties in a casino, simulcasting facility or a restricted casino area, 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; simulcasting facility personnel involved in wagering-related activities in a simulcasting facility; data processing personnel; and information technology employees; 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 that registration as a casino employee is appropriate.

9. Section 9 of P.L.1977, c.110 (C.5:12-9) is amended to read as follows:

**C.5:12-9 "Casino key employee."**

9. "Casino Key Employee"--Any natural person employed by a casino licensee or holding or intermediary company of a casino licensee, and involved in the operation of a licensed casino or a simulcasting facility in a supervisory capacity or empowered to make discretionary decisions which regulate casino or simulcasting facility operations, including, without limitation, pit bosses; shift bosses; credit executives; casino cashier supervisors; casino or simulcasting facility managers and managers and supervisors of information technology employees; junket supervisors; marketing directors; and managers or supervisors of casino security employees; or any other natural person empowered to make discretionary decisions which regulate the management of an approved hotel, including, without limitation, hotel managers; entertainment directors; and food and beverage directors; or any other employee so designated by the Casino Control Commission for reasons consistent with the policies of this act.

10. 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 enterprise"**

12. "Casino Service Industry Enterprise" -- Any vendor offering goods or services which directly relate to casino or gaming activity, including gaming equipment and simulcast wagering equipment manufacturers, sup-

pliers, repairers and independent testing laboratories, junket enterprises and junket representatives, that provides casino applicants or licensees with goods or services. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution, testing 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 enterprise for the purposes of this act regardless of the nature of its business relationship, if any, with casino applicants and licensees 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 division for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

**C.5:12-14.2a "Corporate officer."**

11. "Corporate Officer" – The chief executive officer, chief financial officer, chief operating officer, chief information officer and chief legal officer of a corporation, or their equivalents in any unincorporated entity.

12. Section 2 of P.L.1983, c.41 (C.5:12-14a) is amended to read as follows:

**C.5:12-14a "Complimentary service or item."**

2. "Complimentary service or item" - A service or item provided at no cost or at a reduced price. The furnishing of a complimentary service or item by a casino licensee shall be deemed to constitute the indirect payment for the service or item by the casino licensee, and shall be valued in an amount based upon the retail price normally charged by the casino licensee for the service or item. The value of a complimentary service or item not normally offered for sale by a casino licensee or provided by a third party on behalf of a casino licensee shall be the cost to the casino licensee of providing the service or item, as determined in accordance with the rules of the division.

13. Section 20 of P.L.1977, c.110 (C.5:12-20) is amended to read as follows:

**C.5:12-20 "Family."**

20. "Family" - Spouse, domestic partner, partner in a civil union, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, daughters-in-law, sons-in-law, brothers-in-law and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship.

14. Section 25 of P.L.1977, c.110 (C.5:12-25) is amended to read as follows:

**C.5:12-25 "Hearing examiner."**

25. "Hearing examiner" - The director, a commissioner or other person authorized by the director or the commission to conduct hearings.

15. Section 11 of P.L.1991, c.182 (C.5:12-27.1) is amended to read as follows:

**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. s.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. s.80b-1 et seq.); and such other persons as the division may determine for reasons consistent with the policies of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

**C.5:12-33a "Multi-casino employee."**

16. "Multi-casino employee" – Any registered casino employee or licensed casino key employee who, upon the petition of two or more affiliated casino licensees, is endorsed by the commission or division, as applicable, to perform any compatible functions for any of the petitioning casino licensees.

17. Section 35 of P.L.1977, c.110 (C.5:12-35) is amended to read as follows:

**C.5:12-35 "Operation certificate."**

35. "Operation certificate" - A certificate issued by the division which certifies that operation of a casino and, if applicable, a simulcasting facility conforms to the requirements of this act and applicable regulations and that its personnel and procedures are efficient and prepared to entertain the public.

18. Section 36 of P.L.1977, c.110 (C.5:12-36) is amended to read as follows:

**C.5:12-36 "Party."**

36. "Party" --The division, or any licensee, registrant, or applicant, or any person appearing of record for any licensee, registrant, or applicant in any proceeding before the division or the commission or in any proceeding for judicial review of any action, decision or order of the division or commission.

19. Section 1 of P.L.2008, c.12 (C.5:12-38a) is amended to read as follows:

**C.5:12-38a "Promotional gaming credit."**

1. "Promotional gaming credit" - A slot machine credit or other item approved by the division that is issued by a licensee to a patron for the purpose of enabling the placement of a wager at a slot machine in the licensee's casino. No such credit shall be reported as a promotional gaming credit unless the casino licensee can establish that the credit was issued by the casino licensee and received from a patron as a wager at a slot machine in the licensee's casino.

20. Section 39 of P.L.1977, c.110 (C.5:12-39) is amended to read as follows:

**C.5:12-39 "Publicly traded corporation."**

39. "Publicly traded corporation" --Any corporation or other legal entity, except a natural person, which:

- a. Has one or more classes of security registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. s. 78l), or
- b. Is an issuer subject to section 15(d) of the Securities Exchange Act of 1934, as amended (15 U.S.C. s. 78o), or
- c. Has one or more classes of securities traded in any open market in any foreign jurisdiction or regulated pursuant to a statute of any foreign jurisdiction which the division determines to be substantially similar to either or both of the aforementioned statutes.

21. Section 3 of P.L.1987, c.353 (C.5:12-43.1) is amended to read as follows:

**C.5:12-43.1 "Restricted casino areas."**

3. "Restricted Casino Areas"--The cashier's cage, the soft count room, the hard count room, the slot cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room and any other area specifically designated by the division as restricted in a licensee's operation certificate.

22. Section 4 of P.L.2004, c.184 (C.5:12-45.1) is amended to read as follows:

**C.5:12-45.1 "Slot system agreement."**

4. "Slot system agreement" - A written agreement governing the operation and administration of a multi-casino progressive slot machine system that is approved by the division and executed by the participating casino licensees and any slot system operator.

**C.5:12-45.3 "State of emergency."**

23. "State of emergency" – Any emergency situation, including the failure to enact a general appropriation law by the deadline prescribed by Article VIII, Section II, paragraph 2 of the New Jersey Constitution, a state of emergency declared by the President of the United States or the Governor of the State of New Jersey and a State ordered State employee furlough, during which division and commission employees are unable to perform the duties and responsibilities required of them under this act.

24. Section 46 of P.L.1977, c.110 (C.5:12-46) is amended to read as follows:

**C.5:12-46 "Statement of compliance."**

46. "Statement of compliance" --A statement by the commission, upon the input of the division, which may be issued to an applicant for a casino license or any person who must be qualified pursuant to this act in order to hold the securities of a casino licensee or any holding or intermediary company of a casino licensee, indicating satisfactory completion of a particular stage or stages of the license consideration process, and which states that unless there is a change of any material circumstance pertaining to such particular stage or stages of license consideration involved in the statement, such applicant has complied with requirements mandated by this act and is therefore approved for license qualification to the stage or stages for which the statement has been issued.

25. 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 division shall be authorized to adopt, amend, or repeal such regulations, consistent with the policy and objectives of this act, as amended and supplemented, as it may deem necessary to protect the public interest in carrying out the provisions of this act. The commission shall be authorized to adopt, amend or repeal such regulations as may be necessary for the conduct of hearings before the commission under subsections a. and b. of section 63 of P.L.1977, c.110 (C.5:12-63) and for the matters within all other responsibilities and duties of the commission imposed by P.L.1977, c.110 (C.5:12-1 et seq.).

b. Such regulations of the division and the commission authorized by this section 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.), unless otherwise specified by this act.

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 division or commission, as appropriate, requesting the adoption, amendment or repeal of a regulation.

d. The division or 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 division 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 simulcast wagering, or the use or design of gaming or simulcast wagering equipment, or the internal procedures and administrative and accounting controls required by section 99 of P.L.1977, c.110 (C.5:12-99) for a period not to exceed 270 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 temporary rulemaking authorized by this subsection shall be subject to such terms and conditions as the division may deem appropriate. Notice of any temporary rulemaking action taken by the division pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the division pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the

temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the division or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any temporary rule adopted by the division shall be available in each casino or simulcasting facility participating in the temporary rulemaking and shall be available upon request from the division.

f. Orders, rules and regulations concerning implementation of P.L.1977, c.110 (C.5:12-1 et seq.) issued or promulgated by the commission prior to the effective date of P.L.2011, c.19 (C.5:12-6.1 et al.), shall continue with full force and effect until amended or repealed by the division or commission pursuant to law; provided, however, that any references to the commission in such orders, rules and regulations shall be deemed to refer to the division unless the context indicates otherwise.

g. 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, during the 90-day period following the effective date of P.L.2011, c.19 (C.5:12-6.1 et al.) the division may, after notice provided in accordance with this subsection, summarily adopt, amend or repeal any order, rule or regulation issued or promulgated by the commission prior to the effective date of P.L.2011, c.19 (C.5:12-6.1 et al.), for a period not to exceed 270 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 summary rulemaking authorized by this subsection shall be subject to such terms and conditions as the division may deem appropriate. Notice of any temporary rulemaking action taken by the division pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the division pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the division or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any temporary rule adopted by the division shall be available in each casino or simulcasting facility participating in the temporary rulemaking and shall be available upon request from the division.

h. 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 and the division may, after notice provided in accordance with this subsection, summarily adopt, amend, or repeal any order, rule, or regulation issued or promulgated by the commission or division, for a period not to exceed 270 days for the purpose of initiating the implementation

of Internet wagering at casinos. The summary rulemaking authorized by this subsection shall be subject to such terms and conditions as the commission or division may deem appropriate. Notice of any temporary rulemaking action taken by the commission or division pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission or division pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or division or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any temporary rule adopted by the commission or division shall be available in each casino participating in the temporary rulemaking and shall be available upon request from the commission or division.

26. 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. a. The division shall, without limitation include the following specific provisions in its regulations in accordance with the provisions of this act:

(1) Prescribing the methods and forms of application and registration which any applicant or registrant shall follow and complete;

(2) 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;

(3) Prescribing such procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, and methods of identification which may be necessary to accomplish effective enforcement of restrictions on access to the casino floor, the simulcasting facility, and other restricted areas of the casino hotel complex;

(4) Prescribing the method of notice to an applicant, registrant or licensee concerning the release of any information or data provided to the commission or division by such applicant, registrant or licensee;

(5) Prescribing the manner and procedure of all hearings conducted by the division or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

(6) Prescribing the manner and method of collection of payments of taxes, fees, and penalties;

(7) 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;

(8) 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;

(9) Prescribing grounds and procedures for the revocation or suspension of operating certificates, licenses and registrations;

(10) Governing the manufacture, distribution, sale, deployment, and servicing of gaming devices and equipment;

(11) Prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security and surveillance standards, including security personnel structure, alarm and other electrical or visual security measures; provided, however, that the division shall grant an applicant for a casino license or a casino licensee broad discretion concerning the organization and responsibilities of management personnel who are not directly involved in the supervision of gaming or simulcast wagering operations;

(12) Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the division 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;

(13) 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 division;

(14) 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 subsection a. of section 99 of P.L.1977, c.110 (C.5:12-99), 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;

(15) Requiring quarterly financial reports and the form thereof, and 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;

(16) 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 require the words "Bet with your head, not over it," or some comparable language approved by the division, 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," or some comparable language approved by the division, which language shall include the words "gambling problem" and "call 1-800 GAMBLER," to appear legibly on all print, billboard, and sign advertising of a casino operation; and

(17) (Deleted by amendment, P.L.1991, c.182).

(18) 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;

(19) (Deleted by amendment, P.L.1991, c.182).

b. The commission shall, in its regulations, prescribe the manner and procedure of all hearings conducted by the commission, including special rules of evidence applicable thereto and notices thereof.

27. Section 52 of P.L.1977, c.110 (C.5:12-52) is amended to read as follows:

**C.5:12-52 Appointment and terms of commission members.**

52. a. (Deleted by amendment, P.L.2011, c.19)

b. (Deleted by amendment, P.L.2011, c.19)

c. The commission shall consist of five members who shall be appointed for terms of 5 years; provided, however, that no member shall serve more than two terms of 5 years each.

d. Appointments to the commission and designation of the chairman shall be made by the Governor with the advice and consent of the Senate. Prior to nomination, the Governor shall cause an inquiry to be conducted by the Attorney General into the nominee's background, with particular regard to the nominee's financial stability, integrity, and responsibility and his reputation for good character, honesty, and integrity.

e. Appointments to fill vacancies on the commission shall be for the unexpired term of the member to be replaced.

f. The member designated by the Governor to serve as chairman shall serve in such capacity throughout such member's entire term and until his successor shall have been duly appointed and qualified. No such member, however, shall serve in such capacity for more than 10 years. The chairman shall be the chief executive officer of the commission. All members shall devote full time to their duties of office and shall not pursue or engage in any other business, occupation or other gainful employment.

g. A commissioner may be removed from office for misconduct in office, willful neglect of duty, or other conduct evidencing unfitness for his office, or for incompetence. A proceeding for removal may be instituted by the Attorney General in the Superior Court. Notwithstanding any provision of this or any other act, any commissioner or employee of the commission shall automatically forfeit his office or position upon conviction of any crime. Any commissioner or employee of the commission shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.).

h. Each member of the commission shall serve for the duration of his term and until his successor shall be duly appointed and qualified, subject to the limitations in subsections c. and f. of this section; provided, however, that in the event that a successor is not duly appointed and qualified within 120 days after the expiration of the member's term, a vacancy shall be deemed to exist.

28. Section 54 of P.L.1977, c.110 (C.5:12-54) is amended to read as follows:

**C.5:12-54 Organization and employees.**

54. Organization and Employees. a. The commission may establish, and from time to time alter, such plan of organization as it may deem expedient, and may incur expenses within the limits of funds available to it.

b. The commission shall elect annually by a majority of the full commission one of its members, other than the chairman, to serve as vice-chairman for the ensuing year. The vice-chairman shall be empowered to carry out all of the responsibilities of the chairman as prescribed in this act during his absence, disqualification, or inability to serve.

c. The commission shall appoint an executive secretary who shall serve at its pleasure and shall be responsible for the conduct of its administrative affairs. No person shall be eligible for such appointment unless he shall have at least 5 years of responsible experience in public or business administration or possesses broad management skills. The position of executive secretary shall be in the unclassified service of the civil service.

d. The commission may employ such other personnel as it deems necessary. All employees of the commission, except for secretarial and clerical personnel, shall be in the unclassified service of the Civil Service. All employees of the commission shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act" (P.L.1941, c.100; C.34:13A-1 et seq.), as amended. Notwithstanding the provisions of any other law to the contrary, the commission may employ legal counsel who shall represent the commission in any proceeding to which it is a party, and who shall render legal advice to the commission upon its request. The commission may contract for the services of other professional, technical and operational personnel and consultants as may be necessary to the performance of its responsibilities under this act.

e. Members and employees of the commission shall be enrolled in the Public Employees' Retirement System of New Jersey (P.L.1954, c.84; C.43:15A-1 et seq.).

29. 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

enterprise pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) or has an application pending; 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 enterprise 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 enterprise which is publicly traded constituted a controlling interest in that casino licensee or casino service industry enterprise; 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 enterprise would not interfere with the objective discharge of such person's employment obligations.

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

d. Each member of the commission and the director of the division shall file with the State Ethics Commission a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member or director and said member's or director's spouse, domestic partner or partner in a civil union, as the case may be, and shall provide to the State Ethics Commission a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of said member or director. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.

e. Each employee of the commission, except for secretarial and clerical personnel, and each employee and agent of the division, except for secretarial and clerical personnel, shall file with the State Ethics Commission a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee or agent and said employee's or agent's spouse, domestic partner or partner in a civil union, as the case may be. Such statement shall be under oath and shall be filed at the time of employment and annually thereafter. Notwithstanding

the provisions of subsection (n) of section 10 of P.L.1971, c.182 (C.52:13D-21), only financial disclosure statements filed by a commission or division employee or agent who is in a policy-making management position shall be posted on the Internet site of the State Ethics Commission.

30. Section 59 of P.L.1977, c.110 (C.5:12-59) is amended to read as follows:

**C.5:12-59 Employment restrictions on commissioners, commission employees and division employees.**

59. Employment Restrictions on Commissioners, Commission Employees and Division Employees.

a. The "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) shall apply to members of the commission, to all employees of the commission, to the director and to all employees of the division, except as herein specifically provided.

b. The commission shall promulgate and maintain a Code of Ethics that is modeled upon the Code of Judicial Conduct of the American Bar Association, as amended and adopted by the Supreme Court of New Jersey.

c. The division shall promulgate and maintain a Code of Ethics governing its specific needs.

d. The Codes of Ethics promulgated and maintained by the commission and the division shall not be in conflict with the laws of this State, except, however, that said Codes of Ethics may be more restrictive than any law of this State.

e. The Codes of Ethics promulgated and maintained by the commission and the division, and any amendments or restatements thereof, shall be submitted to the State Ethics Commission for approval. The Codes of Ethics shall include, but not be limited to provisions that:

(1) No commission member or employee or division director, employee or agent shall be permitted to gamble in any establishment licensed by the commission except in the course of his duties.

(2) No commission member or employee or division director, employee or agent shall solicit or accept employment from any person licensed by or registered with the commission or from any applicant for a period of four years after termination of service with the commission or division, except as otherwise provided in section 60 of this act.

(3) No commission member or employee or division director, employee or agent shall act in his official capacity in any matter wherein he or his spouse, domestic partner or partner in a civil union, child, parent or sib-

ling has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(4) No commission member or employee or division director, employee or agent shall act in his official capacity in a matter concerning an applicant for licensure or a licensee who is the employer of a spouse, domestic partner or partner in a civil union, child, parent or sibling of said commission or division employee or agent when the fact of the employment of such spouse, domestic partner or partner in a civil union, child, parent or sibling might reasonably be expected to impair the objectivity and independence of judgment of said commission employee or division employee or agent.

(5) No spouse, domestic partner or partner in a civil union, child, parent or sibling of a commission member or the division director shall be employed in any capacity by an applicant for a casino license or a casino licensee nor by any holding, intermediary or subsidiary company thereof.

(6) No commission member shall meet with any person, except for any other member of the commission or employee of the commission, or discuss any issues involving any pending or proposed application or any matter whatsoever which may reasonably be expected to come before the commission, or any member thereof, for determination unless the meeting or discussion takes place on the business premises of the commission, provided, however, that commission members may meet to consider matters requiring the physical inspection of equipment or premises at the location of the equipment or premises. All meetings or discussions subject to this paragraph shall be noted in a log maintained for this purpose and available for inspection pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

f. No commission member or employee or division director, employee or agent shall have any interest, direct or indirect, in any applicant or in any person licensed by or registered with the commission during his term of office or employment.

g. Each commission member and employee of the commission, the division director and each employee and agent of the division shall devote his entire time and attention to his duties and shall not pursue any other business or occupation or other gainful employment; provided, however, that secretarial and clerical personnel may engage in such other gainful employment as shall not interfere with their duties to the commission or division, unless otherwise directed; and provided further, however, that other employees of the commission and division and agents of the division may engage in such other gainful employment as shall not interfere or be in con-

flict with their duties to the commission or division, upon approval by the commission or the director of the division, as the case may be.

h. No member of the commission, employee of the commission, or director, employee or agent of the division shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise any person to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Take any active part in political campaigns or the management thereof; provided, however, that nothing herein shall prohibit a person from voting as he chooses or from expressing his personal opinions on political subjects and candidates.

i. For the purpose of applying the provisions of the "New Jersey Conflicts of Interest Law," any consultant or other person under contract for services to the commission and the division shall be deemed to be a special State employee, except that the restrictions of section 4 of P.L.1981, c.142 (C.52:13D-17.2) shall not apply to such person. Such person and any corporation, firm or partnership in which he has an interest or by which he is employed shall not represent any person or party other than the commission or the division before the commission.

31. Section 60 of P.L.1977, c.110 (C.5:12-60) is amended to read as follows:

**C.5:12-60 Post-employment restrictions.**

**60. Post-employment restrictions.**

a. No member of the commission nor the division director shall hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered under this act for a period of 4 years commencing on the date his membership on the commission or directorship, as the case may be, terminates.

b. (1) No employee of the commission or employee or agent of the division may acquire any direct or indirect interest in, or accept employment with, any applicant or any person licensed by or registered with the commission, for a period of two years commencing at the termination of employment with the commission or division, except that a secretarial or clerical employee of the commission or the division may accept such employment at any time after the termination of employment with the commission or division. At the end of two years and for a period of two years thereafter,

a former employee or agent who held a policy-making management position at any time during the five years prior to termination of employment may acquire an interest in, or accept employment with, any applicant or person licensed by or registered with the commission or division upon application to and the approval of the commission or the director, as the case may be, upon a finding that the interest to be acquired or the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact.

(2) Notwithstanding the provisions of this subsection, if the employment of a commission employee or a division employee or agent, other than an employee or agent who held a policy-making management position at any time during the five years prior to termination of employment, is terminated as a result of a reduction in the workforce at the commission or division, the employee or agent may, at any time prior to the end of the two-year period, accept employment with any applicant or person licensed by or registered under this act upon application to and the approval of the division or the commission, as the case may be, upon a finding that the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact. The commission or the division shall take action on an application within 30 days of receipt and an application may be submitted to the commission or the division prior to or after the commencement of the employment.

c. No commission member, division director, or person employed by the commission or division shall represent any person or party other than the State before or against the commission or division for a period of two years from the termination of his office or employment with the commission or division.

d. No partnership, firm or corporation in which a former commission member or employee or former division director, employee or agent has an interest, nor any partner, officer or employee of any such partnership, firm or corporation shall make any appearance or representation which is prohibited to said former member, employee, or agent; provided, however, that nothing herein shall prohibit such partnership, firm or corporation from making such appearance or representation on behalf of a casino service industry enterprise licensed under subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

e. Notwithstanding any post-employment restriction imposed by this section, nothing herein shall prohibit a former commission member or employee or former division director, employee or agent, at any time after termination of such membership or employment, from acquiring an interest

in, or soliciting or obtaining employment with, any person registered as a casino service industry enterprise under subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

32. Section 61 of P.L.1977, c.110 (C.5:12-61) is amended to read as follows:

**C.5:12-61 Applicant and licensee liability for violations.**

61. a. No applicant or person or organization licensed by or registered under this act shall employ or offer to employ, or provide, transfer or sell, or offer to provide, transfer or sell any interest, direct or indirect, in any person licensed by or registered under this act to any person restricted from such transactions by the provisions of sections 58, 59, and 60 of P.L.1977, c.110 (C.5:12-58, 5:12-59 and 5:12-60).

b. The division shall impose such sanctions upon an applicant or a licensed or registered person for violations of this section as authorized by Article 9 of this act.

33. 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. (1) The Casino Control Commission shall have the following responsibilities under this act:

a. To hear and decide promptly and in reasonable order (1) all applications for a casino license, including applications filed by all persons required individually to qualify in connection therewith; (2) all applications for interim casino authorization, including but not limited to applications filed by persons required individually to qualify in connection therewith; (3) statements of compliance issued pursuant to section 81 of P.L.1977, c.110 (C.5:12-81); and (4) all applications for a casino key employee license;

b. To review and decide any appeal from: (1) a notice of violation and penalty assessment issued by the director upon any applicant, qualifier, licensee or registrant under this act; (2) any determination made by the director regarding: (i) any ruling on an application for a casino service industry enterprise license; (ii) any ruling on an application for any other license or qualification under this act; (iii) a revocation of a license or registration; (iv) any ruling on a request for statement of compliance; or (v) placement on an exclusion list;

c. To promulgate such regulations as may be necessary to conduct hearings under subsections a. and b. of this section;

- d. (Deleted by amendment, P.L.2011, c.19)
  - e. (Deleted by amendment, P.L.2011, c.19)
  - f. (Deleted by amendment, P.L.2011, c.19)
  - g. To refer to the division for investigation and prosecution any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;
  - h. To review and rule upon any complaint by a casino licensee regarding any investigative procedures of the division which are unnecessarily disruptive of casino or simulcasting facility 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, which evidence shall establish that: (1) the procedures had no reasonable law enforcement purpose, and (2) the procedures were so disruptive as to inhibit unreasonably casino or simulcasting facility operations; and
  - i. (Deleted by amendment, P.L.2011, c.19)
  - j. To refer to the division for investigative hearing matters concerning the conduct of gaming and gaming operations as well as the enforcement of the provisions of P.L.1977, c.110 (C.5:12-1 et seq.).
- (2) The Casino Control Commission shall proceed promptly, along with the division, to take all actions as may be deemed necessary and appropriate, including the promulgation of regulations, for the expeditious implementation of Internet wagering when such wagering is permitted by State and federal law.

34. Section 66 of P.L.1977, c.110 (C.5:12-66) is amended to read as follows:

**C.5:12-66 Investigative hearings.**

66. Investigative hearings. The division shall have the authority to conduct investigative hearings concerning the conduct of gaming and gaming operations as well as the enforcement of the provisions of P.L.1977, c.110 (C.5:12-1 et seq.), as amended and supplemented, in accordance with the procedures set forth in the act and any applicable implementing regulations.

35. 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 di-

vision 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 and the division 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.

36. 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. Regulation Requiring Exclusion of Certain Persons. a. The division 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 promulgated hereunder;

(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 hotel would, in the opinion of the director, be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both.

The division 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 division 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 division on the list of persons to be excluded or ejected.

d. Any list compiled by the division 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 paragraphs (1) and (2) of subsection a. of this section and the regulations promulgated thereunder, or known to them to be persons whose presence in a licensed casino hotel would be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both, as defined in standards established by the division.

e. Prior to placing the name of any person on a list pursuant to this section, the division 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 director or the director's designee, at which hearing the director or the director's designee 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 applicable 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 director'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 make a 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 applicable regulations. If a person has been placed on the list as a result of an application for preliminary placement, unless otherwise agreed by the director 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 director determines that the person named therein does not satisfy the criteria for exclusion established by this section and the applicable regulations, the director 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 director shall notify all casino licensees of the person's removal from the list.

i. If, upon completion of a hearing on the petition for exclusion or ejection, the director determines that placement of the name of the person on the exclusion list is appropriate, the director 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 commission in accordance with regulations promulgated thereunder, which final decision shall be subject to review by the Superior Court in accordance with the rules of court.

37. Section 1 of P.L.2001, c.39 (C.5:12-71.2) is amended to read as follows:

**C.5:12-71.2 List of persons self-excluded from gaming activities.**

1. a. The division shall provide by regulation for the establishment of a list of persons self-excluded from gaming activities at all licensed casinos and simulcasting facilities. Any person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the division that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at such casinos and facilities.

b. The regulations of the division shall establish procedures for placements on, and removals from, the list of self-excluded persons. Such regulations shall establish procedures for the transmittal to licensed casinos and simulcasting facilities of identifying information concerning self-excluded persons, and shall require licensed casinos and simulcasting facilities to establish procedures designed, at a minimum, to remove self-

excluded persons from targeted mailings or other forms of advertising or promotions and deny self-excluded persons access to credit, complimentary, check cashing privileges club programs, and other similar benefits.

c. A licensed casino or simulcasting facility or employee thereof shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of:

(1) the failure of a licensed casino or simulcasting facility to withhold gaming privileges from, or restore gaming privileges to, a self-excluded person; or

(2) otherwise permitting a self-excluded person to engage in gaming activity in such licensed casino or simulcasting facility while on the list of self-excluded persons.

d. Notwithstanding the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) or any other law to the contrary, the division's list of self-excluded persons shall not be open to public inspection. Nothing herein, however, shall be construed to prohibit a casino licensee from disclosing the identity of persons self-excluded pursuant to this section to affiliated gaming entities in this State or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by such gaming affiliated entities.

e. A licensed casino or simulcasting facility or employee thereof shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of the identity of any self-excluded person.

38. Section 2 of P.L.2001, c.39 (C.5:12-71.3) is amended to read as follows:

**C.5:12-71.3 Penalties for gaming by prohibited persons.**

2. a. A person who is prohibited from gaming in a licensed casino or simulcasting facility by any provision of P.L.1977, c.110 (C.5:12-1 et seq.) or any order of the director, commission, or court of competent jurisdiction, including any person on the self-exclusion list pursuant to section 1 of P.L.2001, c.39 (C.5:12-71.2), shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity.

b. For the purposes of P.L.1977, c.110 (C.5:12-1 et seq.), any gaming activity in a licensed casino or simulcasting facility which results in a pro-

hibited person obtaining any money or thing of value from, or being owed any money or thing of value by, the casino or simulcasting facility shall be considered, solely for purposes of this section, to be a fully executed gambling transaction.

c. In addition to any other penalty provided by law, any money or thing or value which has been obtained by, or is owed to, any prohibited person by a licensed casino or simulcasting facility as a result of wagers made by a prohibited person shall be subject to forfeiture following notice to the prohibited person and opportunity to be heard. A licensed casino or simulcasting facility shall inform a prohibited person of the availability of such notice on the division's Internet website when ejecting the prohibited person and seizing any chips, vouchers or other representative of money owed by a casino to the prohibited person as authorized by this subsection.

Of any forfeited amount under \$100,000, one-half shall be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment and prevention programs in the State and the remaining one-half shall be deposited into the Casino Revenue Fund. Of any forfeited amount of \$100,000 or more, \$50,000 shall be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment and prevention programs and the remainder shall be deposited into the Casino Revenue Fund.

d. In any proceeding brought by the division against a licensee or registrant pursuant to section 108 of P.L.1977, c.110 (C.5:12-108) for a willful violation of the commission's self-exclusion regulations, the division may order, in addition to any other sanction authorized by section 129 of P.L.1977, c.110 (C.5:12-129), the forfeiture of any money or thing of value obtained by the licensee or registrant from any self-excluded person. Any money or thing of value so forfeited shall be disposed of in the same manner as any money or thing of value forfeited pursuant to subsection c. of this section.

39. Section 72 of P.L.1977, c.110 (C.5:12-72) is amended to read as follows:

**C.5:12-72 Commission reports and recommendations.**

72. Commission reports and recommendations. The commission, in consultation with the division, shall carry on a continuous study of the operation and administration of casino control laws which may be in effect in

other jurisdictions, literature on this subject which may from time to time become available, federal laws which may affect the operation of casino gaming in this State, and the reaction of New Jersey citizens to existing and potential features of casino gaming under this act. It shall be responsible for ascertaining any defects in this act or in the rules and regulations issued thereunder, formulating recommendations for changes in this act to prevent abuses thereof, guarding against the use of this act as a cloak for the carrying on of illegal gambling or other criminal activities, and insuring that this act and the rules and regulations shall be in such form and be so administered as to serve the true purposes of this act. The commission, after consultation with the division, shall make to the Governor and the Legislature an annual report of all revenues, expenses and disbursements, and shall include therein such recommendations for changes in this act as the commission or division deems necessary or desirable. The commission, after consultation with the division, shall also report recommendations that promote more efficient operations of the division and the commission. The commission, after consultation with the division, shall report immediately to the Governor and the Legislature any matters which in its judgment require immediate changes in the laws of this State in order to prevent abuses and evasions of this act or of rules and regulations promulgated hereunder, or to rectify undesirable conditions in connection with the operation and regulation of casino gaming.

40. 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 Executive Secretary of the commission shall cause to be made and kept a record and verbatim transcripts of all proceedings held at public meetings of the commission. A copy of any such verbatim 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 division or the commission, as appropriate, 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 or revoked shall be removed from such list after five years from the date of such action.

c. The Executive Secretary of the commission shall maintain such other files and records as may be deemed desirable.

d. (Deleted by amendment, P.L.2011, c.19)

e. (Deleted by amendment, P.L.2011, c.19)

f. (Deleted by amendment, P.L.2011, c.19)

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. (Deleted by amendment, P.L.2011, c.19)

i. The division shall keep and maintain records in accordance with the division's regulations promulgated hereunder.

41. Section 75 of P.L.1977, c.110 (C.5:12-75) is amended to read as follows:

**C.5:12-75 Powers not enumerated.**

75. The commission and the division may exercise any proper power or authority necessary to perform the duties assigned to each entity by law, and no specific enumeration of powers in this act shall be read to limit the authority of the division to administer this act.

42. 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.**

The Division of Gaming Enforcement shall have the general responsibility for the implementation of P.L.1977, c.110 (C.5:12-1 et seq.), and to issue any approvals necessary as hereinafter provided, including without limitation, the responsibility to:

a. Enforce the provisions of this act and any regulations promulgated hereunder;

b. Promptly and in reasonable order investigate all applications for licensure and all registrations under this act;

c. Issue reports and recommendations to the commission with respect to all entities and natural persons required to qualify for a casino license, an

application for interim casino authorization or a petition for a statement of compliance;

d. Promptly and in reasonable order review and approve or deny all casino service industry enterprise license applications;

e. Accept and maintain registrations for all casino employee and vendor registrants;

f. Revoke any registration or casino service industry enterprise license upon findings pursuant to the disqualification criteria in section 86 of P.L.1977, c.110 (C.5:12-86);

g. Promulgate such regulations as may be necessary to fulfill the policies of this act;

h. Initiate and decide any actions against licensees or registrants for violation of this act or regulations promulgated hereunder, and impose sanctions and levy and collect penalties upon finding violations;

i. Provide the commission with all information that the director deems necessary for any action to be taken by the commission under Article 6 of P.L.1977, c.110 (C.5:12-80 through 95);

j. Initiate, prosecute and defend appeals, as the director may deem appropriate;

k. 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 h. of section 63 of P.L.1977, c.110 (C.5:12-63);

l. Receive and take appropriate action on any referral from the commission relating to any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;

m. Exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for use in considering applicants for any license or registration issued pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.);

n. 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;

o. Request and receive information, materials and any other data from any licensee or registrant, or applicant for a license or registration under this act;

p. Report to the Attorney General recommendations that promote more efficient operations of the division;

- q. Receive complaints from the public relating to the conduct of gaming and simulcasting operations, examine records and procedures, and conduct periodic reviews of operations and facilities for the purpose of evaluating current or suggested provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, as the director deems appropriate;
- r. Certify the revenue of any casino or simulcasting facility in such manner as the director deems appropriate;
- s. Create and maintain a list of all excluded patrons;
- t. Initiate and decide all actions for involuntary exclusion of patrons pursuant to section 71 of P.L.1977, c.110 (C.5:12-71);
- u. Issue an operation certificate upon the commission's grant of an application for a casino license;
- v. Recommend that the commission issue or revoke statements of compliance pursuant to section 81 of P.L.1977, c.110 (C.5:12-81) and the regulations promulgated thereunder;
- w. Accept impact statements submitted by an applicant for a casino license pursuant to section 84 of P.L.1977, c.110 (C.5:12-84); and
- x. Utilize, in its discretion, the services of a private entity for the purpose of expediting criminal history record background checks required to be performed by the division pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.), provided that the private entity has been awarded a contract in accordance with the public contracting laws of this State.

**C.5:12-74.1 Information, data deemed confidential; exceptions.**

43. a. Except as otherwise provided in this act, all information and data required by the division or commission to be furnished pursuant to this act or the regulations promulgated hereunder, or which may otherwise be obtained, relative to the internal controls specified in subsection a. of section 99 of P.L.1977, c.110 (C.5:12-99) 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.

b. All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the division or 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.

c. Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection a. or b. of this section, shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the division.

d. The following information to be reported periodically to the division 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 defined herein, and the licensee's gross revenue from simulcast wagering;

(2) (i) The dollar amount of patron checks initially accepted by a licensee, (ii) the dollar amount of patron checks deposited to the licensee's bank account, (iii) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as uncollected, and (iv) 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 of P.L.1977, c.110 (C.5:12-146), and the amount of profits, if any, recaptured pursuant to section 147 of P.L.1977, c.110 (C.5:12-147);

(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 of P.L.1977, c.110 (C.5:12-147); and

(7) All quarterly and annual financial statements presenting historical data which are submitted to the division, 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.

44. 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 information required by this act and satisfy all requests for information pertaining to qualification and in the form specified by regulation. 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 division, and to cooperate in any inquiry, investigation or hearing conducted by the division and any 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.

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 or simulcast wagering activities, except as authorized by this act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in gaming or simulcast wagering 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 set forth by regulation.

g. All licensees, all registrants, and all other persons required to be qualified under this act shall have a duty to inform the division of any action which they believe would constitute a violation of this act. No person

who so informs the division shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

h. (Deleted by amendment, P.L.1995, c.18.)

45. 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. Statement of compliance.

a. (1) Upon consideration of a report and recommendation of the division, the commission may, in its discretion, issue a statement of compliance to an applicant for a casino license or to any person required to qualify in conjunction with a casino license or casino license applicant if the applicant or person, as the case may be, has established by clear and convincing evidence that one or more particular eligibility criteria have been satisfied. A request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the applicant filing a petition with the division. Before the division initiates any investigation on such a petition, the director may require the applicant to establish to the satisfaction of the director that the applicant actually intends, if found qualified, to engage in the business or activity that would require the issuance of the license or the determination of qualification status.

(2) 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, prior to the acquisition of any such securities, request the issuance of a statement of compliance by the commission that the person is qualified to hold such securities. Any request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the person filing a petition with the division in which the person shall be required to establish that there is a reasonable likelihood that, if qualified, the person will obtain and hold the securities of a casino licensee or any holding or intermediary company thereof to such extent as to require the qualification of the person. If, after an investigation by the division, the director finds that this reasonable likelihood exists and that the qualifications of the person have been established by clear and convincing evidence, the director may, in the director's discretion, recommend to the commission that it issue a statement of compliance that the person is qualified to hold such securities. Any person who requests a statement of compliance pursuant to this paragraph shall be subject to the provisions of section 80 of P.L.1977, c.110 (C.5:12-80) and shall

pay for the costs of all investigations and proceedings in relation to the request unless the person provides an agreement with one or more casino licensees which states that the licensee or licensees will pay those costs.

(3) A statement of compliance shall not be issued indicating that an applicant or any other person required to qualify in conjunction with a casino license or casino license applicant that is a corporation or other form of business organization has established by clear and convincing evidence its good character, honesty and integrity unless the corporate officers; each director; each person who directly or indirectly holds any beneficial or ownership interest in the applicant of 5% or greater, to the extent such person would be required to qualify under section 85 of P.L.1977, c.110 (C.5:12-85); and any 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 section 89 of P.L.1977, c.110 (C.5:12-89).

b. Any statement of compliance issued under P.L.1977, c.110 (C.5:12-1 et seq.) shall specify:

(1) the particular eligibility criterion satisfied by the applicant or person;

(2) the date as of which such satisfaction was determined by the commission;

(3) the continuing obligation of the applicant or person to file any information required by the division as part of any application for a license or qualification status, including information related to the eligibility criterion for which the statement of compliance was issued; and

(4) the obligation of the applicant or person to reestablish its satisfaction of the eligibility criterion should there be a change in any material fact or circumstance that is relevant to the eligibility criterion for which the statement of compliance was issued.

c. (Deleted by amendment, P.L.2011, c.19)

d. Any statement of compliance issued pursuant to this section shall be withdrawn by the commission if:

(1) the applicant or person otherwise fails to satisfy the standards for licensure or qualification;

(2) the applicant or person fails to comply with any condition imposed; or

(3) the commission finds, on recommendation of the division, cause to revoke the statement of compliance for any other reason.

e. Notwithstanding any other provision of this section, unless otherwise extended by the commission upon application by the recipient and for good cause shown, any statement of compliance issued by the commission pursuant to this section shall expire 48 months after its date of issuance.

f. (Deleted by amendment, P.L.2011, c.19)

46. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

**C.5:12-82 Casino license – applicant eligibility.**

82. 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 casino hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved casino hotel or owns or has a contract to purchase or construct a casino hotel which in the judgment of the commission can become an approved casino hotel 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 casino hotel or leases or has an agreement to lease a casino hotel which in the judgment of the commission can become an approved casino hotel 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, if applicable, any authorized games in a casino simulcasting facility; and

(4) Any other person who has control over either an approved casino hotel or the land thereunder or the operation of a casino.

c. Prior to the operation of a casino and, if applicable, a casino simulcasting facility, every agreement to lease an approved casino hotel or the land thereunder and every agreement for the management of the casino and, if applicable, any authorized games in a casino simulcasting facility, shall be in writing and filed with the commission and the division. 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 casino hotel 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 casino hotel or the land thereunder who does not own or lease a significant portion of an approved casino hotel 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 casino hotel 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 enterprise license and that such an agreement shall include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved casino 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 casino hotel or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission or director, as the case may be, to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved casino hotel 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 enterprise license, 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 and, if applicable, the authorized games in a casino simulcasting facility, the commission shall require that each party thereto hold a casino license or a casino service

industry enterprise license pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), that the party thereto who is to manage the casino gaming operations 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 all casino space in the casino hotel and, if applicable, all authorized games in a casino simulcasting facility, provide for the sole and unrestricted power to direct the casino gaming operations of the casino hotel 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 gaming operations, provided that the provisions of this paragraph shall not apply to a slot system agreement between a group of casino licensees and a casino service industry enterprise licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, and that, with regard to such agreements, the casino service industry enterprise licensee or applicant may operate and administer the multi-casino progressive slot machine system, including, but not limited to, the operation of a monitor room or the payment of progressive, including annuity, jackpots, or both, and further provided that the obligation to pay a progressive jackpot or establish an annuity jackpot guarantee shall be the sole responsibility of the casino licensee or casino service industry enterprise licensee or applicant designated in the slot system agreement and that no other party shall be jointly or severally liable for the payment or funding of such jackpots or guarantees unless such liability is specifically established in the slot system agreement;

(8) The commission may permit an agreement for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility to provide for the payment to the managing party of an interest, percentage or share of money gambled at all authorized games or derived from casino gaming activity or of revenues or profits of casino gaming operations;

(9) Notwithstanding any other provision of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, the commission may permit an agreement between a casino licensee and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting facility or for the operation of a multi-casino progressive slot machine system, to provide for the payment to the casino service industry enterprise of an interest, percentage or share of the money derived from the casino licensee's share of pro-

ceeds from simulcast wagering activity or the operation of a multi-casino progressive slot machine system; and

(10) As to agreements to lease an approved casino hotel or the land thereunder, agreements to jointly own an approved casino hotel or the land thereunder and agreements for the management of casino gaming operations or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, 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. Notwithstanding the foregoing, nothing in this paragraph shall require a casino licensee to be jointly and severally liable for any acts, omissions or violations of this act, P.L.1977, c.110 (C.5:12-1 et seq.), committed by any casino service industry enterprise licensee or applicant performing as a slot system operator pursuant to a slot system agreement.

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 casino hotel 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, except that a casino licensee may establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(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 division 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 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 division 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.

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 a casino license if the issuance or the holding results in undue economic concentration in Atlantic City casino operations by that person. For the purpose of this subsection, "undue economic concentration" means that a person would have such ac-

tual or potential domination of the casino gaming market in Atlantic City as to substantially impede or suppress competition among casino licensees or adversely impact the economic stability of the casino industry in Atlantic City. In determining whether the issuance or holding of a casino license by a person will result in undue economic concentration, the commission shall consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

The total number of licensed casinos in this State;  
Total casino and casino simulcasting facility square footage;  
Number of guest rooms;  
Number of slot machines;  
Number of table games;  
Net revenue;  
Table game win;  
Slot machine win;  
Table game drop;  
Slot machine drop; and  
Number of persons employed by the casino hotel;

(2) The estimated increase in the market shares in the categories in (1) above if the person is issued or permitted to hold the casino license;

(3) The relative position of other persons who hold casino licenses, as evidenced by the market shares of each such person in the categories in (1) above;

(4) The current and projected financial condition of the casino industry;

(5) Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and any other relevant characteristics of the market;

(6) Whether the licensed casinos held or to be held by the person have separate organizational structures or other independent obligations;

(7) The potential impact of licensure on the projected future growth and development of the casino industry and Atlantic City;

(8) The barriers to entry into the casino industry, including the licensure requirements of this act, P.L.1977, c.110 (C.5:12-1 et seq.), and whether the issuance or holding of a casino license by the person will operate as a barrier to new companies and individuals desiring to enter the market;

(9) Whether the issuance or holding of the license by the person will adversely impact on consumer interests, or whether such issuance or holding is likely to result in enhancing the quality and customer appeal of prod-

ucts and services offered by casino licensees in order to maintain or increase their respective market shares;

(10) Whether a restriction on the issuance or holding of an additional license by the person is necessary in order to encourage and preserve competition and to prevent undue economic concentration in casino operations; and

(11) Any other evidence deemed relevant by the commission.

The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining any additional criteria the commission will use in determining what constitutes undue economic concentration.

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 person required to be qualified in conjunction with such casino license.

47. 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. 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.

Nothing in this section shall be construed as authorizing the commission, based on the provisions of this section, to determine the suitability of facilities, or to deny a license, for a small-scale casino facility or a staged casino facility that is permitted by law supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

b. (Deleted by amendment, P.L.2002, c.65).

c. A casino hotel shall include an approved hotel containing 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 casino, the total square footage of which shall not exceed 60,000 square feet, except that for each additional 100 qualifying sleeping units above 500, the maximum amount of the casino space may be increased by 10,000 square feet, up to a maximum of 200,000 square feet of casino space. For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleep-

ing units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those sleeping units, 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.

d. Once a hotel is initially approved, the commission and the division shall thereafter rely on the certification of the casino licensee with regard to the number of qualifying sleeping units and shall permit replacement, rehabilitation, renovation and alteration of any part of the approved hotel even if the replacement, 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 replacement, rehabilitation, renovation, or alteration shall be completed within one year or such other reasonable period of time as the commission may approve.

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 division shall not impose any criteria or requirements regarding the contents of the approved hotel 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.) and the regulations promulgated thereunder; provided, however, that the division shall 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.

48. Section 84 of P.L.1977, c.110 (C.5:12-84) is amended to read as follows:

**C.5:12-84 Casino license – applicant requirements.**

84. Casino License--Applicant Requirements. Any applicant for a casino license must produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business

and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division. The commission or the division may consider any relevant evidence of financial stability; provided, however, it is presumed that a casino licensee or applicant is financially stable if it establishes by clear and convincing evidence that it meets each of the following standards:

(1) The ability to assure the financial integrity of casino operations by the maintenance of a casino bankroll or equivalent provisions adequate to pay winning wagers to casino patrons when due. A casino licensee or applicant shall be presumed to have met this standard if it maintains, on a daily basis, a casino bankroll, or a casino bankroll and equivalent provisions, in an amount which is at least equal to the average daily minimum casino bankroll or equivalent provisions, calculated on a monthly basis, for the corresponding month in the previous year. For any casino licensee or applicant which has been in operation for less than a year, such amount shall be determined by the division based upon levels maintained by a comparable casino licensee;

(2) The ability to meet ongoing operating expenses which are essential to the maintenance of continuous and stable casino operations. A casino licensee or applicant shall be presumed to have met this standard if it demonstrates the ability to achieve positive gross operating profit, measured on an annual basis;

(3) The ability to pay, as and when due, all local, state and federal taxes, including the tax on gross revenues imposed by subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), the investment alternative tax obligations imposed by subsection b. of section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1), and any fees imposed by the act or the regulations promulgated pursuant thereto;

(4) The ability to make necessary capital and maintenance expenditures in a timely manner which are adequate to ensure maintenance of a superior, first-class facility of exceptional quality pursuant to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83). A casino licensee or applicant shall be presumed to have met this standard if it demonstrates that its capital and maintenance expenditures, over the five-year period which includes the three most recent calendar years and the upcoming two calendar years, average at least five percent of net revenue per annum, except that any casino licensee or applicant which has been in operation for less than three years shall be required to otherwise establish compliance with this standard; and

(5) The ability to pay, exchange, refinance or extend debts, including long-term and short-term principal and interest and capital lease obligations, which will mature or otherwise come due and payable during the license term, or to otherwise manage such debts and any default with respect to such debts. The division also may require that a casino licensee or applicant advise as to its plans to meet this standard with respect to any material debts coming due and payable within 12 months after the end of the license term.

b. (Deleted by amendment, P.L.2011, c.19)

c. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission and division of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

d. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the likelihood of creation and maintenance of a successful, efficient casino operation. The applicant shall produce the names of all proposed casino key employees as they become known and a description of their respective or proposed responsibilities.

e. Each applicant shall produce such information, documentation and assurances to establish the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83) and that its proposed location will not adversely affect casino operations. Each applicant shall submit to the division an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act and the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof; a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall economic and competitive conditions of Atlantic City and the State of New Jersey.

f. For the purposes of this section, each applicant shall be responsible for the submission to the division of the name, address, fingerprints and written consent for a criminal history record background check to be performed for each person who must individually qualify in conjunction with the casino license application. The division is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the division in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

49. Section 85 of P.L.1997, 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 or other form of business organization applying for a casino license shall provide the following information, in such form as may be established by regulation:

(1) The organization, financial structure and nature of all businesses operated by the applicant; the names and personal employment and criminal histories of all officers, directors and such other employees of the applicant as the division may require; the names of all holding, intermediary and subsidiary companies of the applicant; and the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the division may require, including the names and personal employment and criminal histories of such corporate officers, directors and other employees of such holding, intermediary and subsidiary companies as the division may require;

(2) The rights and privileges acquired by the holders of different classes of authorized securities of the applicant and such companies as the division 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 applicant;

(5) The extent of the equity security holding in the applicant 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 division or whose compensation exceeds an amount determined by the division, and the amount of their compensation;

(7) A description of all bonus and profit-sharing arrangements;

(8) Copies of all management and service contracts;

(9) A listing of stock options existing or to be created; and

(10) Documentation establishing that it is qualified to do business in the State of New Jersey.

b. Each holding, intermediary and subsidiary company of an applicant for or holder of a casino license shall be required to qualify to do business in the State of New Jersey; and

(1) If it is a corporation, register with the division and furnish the division 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 division may require; or

(2) If it is not a corporation, register with the division and furnish the division with such information as the division may prescribe.

c. (Deleted by amendment, P.L.2011, c.19)

d. (Deleted by amendment, P.L.2011, c.19)

- e. (Deleted by amendment, P.L.2011, c.19)
- f. (Deleted by amendment, P.L.2011, c.19)
- g. (Deleted by amendment, P.L.2011, c.19)

**C.5:12-85.1 Qualifications for issuance of casino license.**

50. a. No casino license shall be issued to any applicant or retained by any holder unless the commission determines that all persons designated by the division as persons who must qualify in conjunction with such license meet all applicable qualification criteria and are not unqualified by reason of any disqualification criteria set forth in section 86 of P.L.1977, c.110 (C.5:12-86).

b. Corporate applicants for and holders of casino licenses shall be required to establish and maintain the qualifications of the following: (1) each officer of the corporation; (2) each director of the corporation; (3) each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by such applicant or holder; (4) any holder who in the opinion of the director has the ability to control the applicant for or holder of a casino license or to elect a majority of the board of directors of such applicant or holder; and (5) each holding, intermediary or subsidiary company of an applicant for or holder of a casino license.

c. As to each holding, intermediary and subsidiary company of an applicant for or holder of a casino license, such applicants and holders shall be required to establish and maintain the qualifications of the following: (1) each Corporate Officer; (2) each director of the corporation; (3) each person who directly or indirectly holds a beneficial interest or ownership interest of 5% or more in such holding, intermediary or subsidiary company; (4) any person who in the opinion of the director has the ability to control or elect a majority of the board of directors of such holding, intermediary or subsidiary company; and (5) any other person who the director may consider appropriate for qualification.

d. The director shall have the authority to waive any or all of the qualification requirements for any person listed in paragraph (1), (2) or (3) of subsection c. of this section.

e. Applicants for and holders of casino licenses shall be required to establish and maintain the qualifications of any financial backer, investor, mortgagee, bondholder, or holders of indentures, notes or other evidences of indebtedness, either in effect or proposed which bears relation to the casino operation or casino hotel premises who holds 25% or more of such financial instruments or evidences of indebtedness; provided however in circumstances of default, any person holding 10% of such financial instru-

ments or evidences of indebtedness shall be required to establish and maintain his qualifications as required pursuant to subsection c. of this section. The director may, in his discretion, require that any other financial backer, investor, mortgagee, bondholder, or holder of indentures, notes or other evidences of indebtedness who does not meet the threshold set forth herein to establish and maintain his qualifications as required pursuant to subsection c. of this section.

f. Banks and licensed lending institutions shall be exempt from any qualification requirements under this act if such bank or licensed lending institution is acting in the ordinary course of business.

g. An institutional investor holding either (1) under 25% 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 25%, or a percentage of any issue of the outstanding debt of the company not exceeding 50% unless the full issue is in the amount of \$150 million or less, shall be granted a waiver of qualification if such securities are those of a corporation, whether publicly traded or privately held, and its holdings of such securities were purchased for investment purposes only and it files 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 director 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 division 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 director 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 division of any information about, or actions of, an institutional investor holding its equity or debt securities where such information or action may impact upon the eligibility of such institutional investor for a waiver pursuant to this subsection.

h. If at any time the director 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 director 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 director 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.).

i. Any company required to qualify pursuant to subsection b. of this section shall establish by clear and convincing evidence that it meets the standards set forth in section 84 of P.L.1977, c.110 (C.5:12-84).

j. As to each company required to qualify pursuant to subsection c. of this section, the applicant for or holder of the casino license shall establish by clear and convincing evidence that each such company meets the standards set forth in subsections a., c., and d. of section 84 of P.L.1977, c.110 (C.5:12-84).

k. Any natural person required to qualify pursuant to subsections b. and c. of this section shall be required to establish his qualifications in accordance with the standards applicable to casino key employees in section 89 of this act, P.L.1977, c.110 (C.5:12-89); provided, however that persons required to qualify pursuant to subsection c. of this section shall not be required to establish residency.

**C.5:12-85.2 Applicability of act.**

51. The provisions of this act shall apply to the extent appropriate with the same force and effect with regard to casino license applicants and casino licensees that have a legal existence that is other than corporate.

52. 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 the division, 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);

N.J.S.2C:11-5 (vehicular homicide which constitutes a crime of the second degree);

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 or third 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:24-4 (endangering the welfare of a child);

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);

P.L.1997, c.327 (C.2C:35-7.1) (distributing, dispensing or possessing a controlled dangerous substance or a controlled substance analog in proximity to public housing facilities, parks or buildings);

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);

Any second degree racketeering crime under Chapter 41 of Title 2C of the New Jersey Statutes; or

(2) Any of the following offenses under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.):

P.L.1977, c.110, s.113 (C.5:12-113) (swindling and cheating);

P.L.1991, c.182, s.46 (C.5:12-113.1) (use of device to gain advantage at casino game);

P.L.1977, c.110, s.114 (C.5:12-114) (unlawful use of bogus chips or gaming billets, marked cards, dice, cheating devices, unlawful coins);

P.L.1977, c.110, s.115 (C.5:12-115) (cheating games and devices in a licensed casino); or

P.L.1977, c.110, s.116 (C.5:12-116) (unlawful possession of device, equipment or other material illegally manufactured, distributed, sold or delivered); or

(3) 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;

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; and

i. Failure by the applicant or any person required to be qualified under this act as a condition of a casino license to (i) make required payments in accordance with a child support order; (ii) repay an overpayment for food stamp benefits or low income home energy assistance benefits incurred as a former recipient of Capital Aid to Families with Dependent Children or Work First New Jersey; or (iii) repay any other debt owed to the State; unless such applicant provides proof to the director's satisfaction of payment of or arrangement to pay any such debts prior to licensure.

53. Section 87 of P.L.1977, c.110 (C.5:12-87) is amended to read as follows:

**C.5:12-87 Investigation of applicants for casino licenses; report, recommendation.**

87. a. Upon the filing of an application for a casino license and such supplemental information as the commission or division may require, and upon the filing of such information as may be required by section 88 of P.L.1977, c.110 (C.5:12-88), the division shall conduct an investigation into the qualification of the applicant, and submit a report and recommendation to the commission.

b. Upon the submission of a report and recommendation by the division, the commission shall conduct a hearing thereon concerning the qualification of the applicant. After such hearing, the commission may either deny the application or grant a casino license to an applicant whom it determines to be qualified to hold such license, which final action shall be taken within 90 days after completion of the hearing.

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 an order stating 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 facts.

d. (Deleted by amendment, P.L.2011, c.19)

e. When an application is granted, and upon tender of all required license fees and taxes, and such bonds as the commission may require for

the faithful performance of all requirements imposed by law or regulations, the commission shall issue a casino license.

f. The commission shall fix the amount of the bond or bonds to be required under this section in such amounts as it may deem appropriate, by rules of uniform application. The bonds so furnished may be applied by the commission to the payment of any unpaid liability of the licensee under this act. The bond shall be furnished in cash or negotiable securities, by a surety bond guaranteed by a satisfactory guarantor, or by an irrevocable letter of credit issued by a banking institution of this State acceptable to the commission. If furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but any income shall inure to the benefit of the licensee.

**C.5:12-87.1 Submission of documentation, information by licensee.**

54. No later than five years after the date of the issuance of a license pursuant to section 87 of P.L.1977, c.110 (C.5:12-87) and every five years thereafter or within such lesser periods as the division may direct, a casino licensee and the qualifying entities and individuals thereof shall submit to the division such documentation or information as the division may by regulation require, to demonstrate to the satisfaction of the director that they continue to meet the requirements of sections 84 and 85 of P.L.1977, c.110 (C.5:12-84 and C.5:12-85), and section 50 of P.L.2011, c.19 (C.5:12-85.1). If, upon review, the director determines that no information sufficient to warrant revocation, suspension, limitation, or conditioning of such license exists, the director shall issue a summary report so advising the commission, and the license shall remain in full force and effect. If the director determines that a hearing on any issue is required, the division shall issue a report and recommendation to the commission in accordance with section 87 of P.L.1977, c.110 (C.5:12-87), which shall initiate a hearing pursuant to subsection b. of that section. In addition, the director may reopen licensing hearings at any time.

55. Section 89 of P.L.1977, c.110 (C.5:12-89) is amended to read as follows:

**C.5:12-89 Licensing of casino key employees.**

89. Licensing of Casino Key Employees. a. No casino licensee or a holding or intermediary company of a casino licensee may employ any person as a casino key employee unless the person is the holder of a valid casino key employee license issued by the commission.

b. Each applicant for a casino key employee license must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

(1) Each applicant for a casino key employee license shall produce such information, documentation and assurances 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 disbursements 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.

(2) Each applicant for a casino key employee license 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, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission and the division of any civil judgments obtained against 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, upon request of the commission or the division, 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 that information is. If the applicant has been associated with gaming or casino operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission or division, produce letters of reference from the gaming or casino enforcement or control agency, which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such ac-

tivities were conducted in good standing with such gaming or casino enforcement or control agency.

(3) (Deleted by amendment, P.L.1995, c.18.)

(4) Each applicant employed by a casino licensee shall be a resident of the State of New Jersey prior to the issuance of a casino key employee license; provided, however, that upon petition by the holder of a casino license, the commission may waive this residency requirement for any applicant whose particular position will require him to be employed outside the State; and provided further that no applicant employed by a holding or intermediary company of a casino licensee shall be required to establish residency in this State.

(5) For the purposes of this section, each applicant shall submit to the division the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The division is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the division in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

c. (Deleted by amendment, P.L.1995, c.18.)

d. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

e. Upon petition by the holder of a casino license, the commission may issue a temporary license to an applicant for a casino key employee license, provided that:

(1) The applicant for the casino key employee license has filed a completed application as required by the commission;

(2) The division either certifies to the commission that the completed casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 15 days or agrees to allow the commission to consider the application in some lesser time;

(3) (Deleted by amendment, P.L.1995, c.18.)

(4) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key employee position of the petitioner is vacant or will become vacant within 60 days of the date of the petition and that the issuance of a temporary key employee license is necessary to fill the said vacancy on an emergency basis to continue the efficient operation of the casino, and that such circumstances are extraordinary and not designed to circumvent the normal licensing procedures of this act;

(5) The division does not object to the issuance of the temporary casino key employee license.

Unless otherwise terminated pursuant to this act, any temporary casino key employee license issued pursuant to this subsection shall expire nine months from the date of its issuance.

56. 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 employees.**

91. Registration of Casino Employees. a. No person may commence employment as a casino employee unless such person has a valid registration on file with the division, which registration shall be prepared and filed in accordance with the regulations promulgated hereunder.

b. A casino employee registrant shall produce such information as the division by regulation may require. Subsequent to the registration of a casino employee, the director 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). If a casino employee registrant has not been employed in any position within a casino hotel facility for a period of three years, the registration of that casino employee shall lapse.

c. (Deleted by amendment, P.L.2011, c.19)

d. Notwithstanding the provisions of subsection b. of this section, no casino 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 the registrant's rehabilitation. In determining whether the registrant has affirmatively demonstrated the registrant's rehabilitation the director 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. (Deleted by amendment, P.L.2011, c.19)
  - f. (Deleted by amendment, P.L.2011, c.19)
  - g. For the purposes of this section, each registrant shall submit to the division the registrant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The division is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The registrant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the division in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

**C.5:12-91.1 Endorsement as multi-casino employee.**

57. Upon the joint petition of two or more affiliated casino licensees, a registered casino employee or licensed casino key employee who is employed by any affiliated casino licensee may be endorsed by the commission or division, as applicable, as a multi-casino employee of each of the petitioners; provided, however, that no such multi-casino employee shall be permitted to engage in any incompatible functions, as determined by the division.

58. Section 92 of P.L.1977, c.110 (C.5:12-92) is amended to read as follows:

**C.5:12-92 Licensing of casino service industry enterprises.**

92. Licensing of casino service industry enterprises. a. (1) Any business to be conducted with a casino applicant or licensee by a vendor offering goods or services which directly relate to casino or gaming activity, including gaming equipment and simulcast wagering equipment manufacturers, suppliers, repairers, independent testing laboratories, junket enterprises and junket representatives, and any person employed by a junket enterprise or junket representative in a managerial or supervisory position, shall require licensure as a casino service industry enterprise in accordance with the provisions of this act prior to conducting any business whatsoever with a casino applicant or licensee, its employees or agents; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the director may permit an applicant for a casino service industry enterprise license to conduct business transactions with such casino applicant or licensee prior to the licensure of that casino service industry enterprise applicant under this subsection.

(2) In addition to the requirements of paragraph (1) of this subsection, any casino service industry enterprise intending to manufacture, sell, distribute, test or repair slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be licensed in accordance with the provisions of this act prior to engaging in any such activities; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the director may permit an applicant for a casino service industry enterprise license to conduct business transactions with the casino applicant or licensee prior to the licensure of that casino service industry enterprise applicant under this subsection; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino service industry enterprise pursuant to this paragraph, the director may permit the casino service industry enterprise applicant to initiate the manufacture of slot machines or engage in the sale, distribution, testing or repair of slot machines with any person other than a casino applicant or licensee, its employees or agents, prior to the licensure of that casino service industry enterprise applicant under this subsection.

b. Each casino service industry enterprise, as well as its owners; management and supervisory personnel; and employees if such employees have responsibility for services to a casino applicant or licensee, must qualify under the standards, except residency, established for qualification of a casino key employee under this act.

c. (1) Any vendor that offers goods or services to a casino applicant or licensee that is not included in subsection a. of this section including, but

not limited to casino site contractors and subcontractors, shopkeepers located within the approved hotels, and gaming schools that possess slot machines for the purpose of instruction, and any non-supervisory employee of a junket enterprise licensed under subsection a. of this section, shall be required to register with the division in accordance with the regulations promulgated under this act, P.L.1977, c.110 (C.5:12-1 et seq.).

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the director may, consistent with the public interest and the policies of this act, direct that vendors engaging in certain types of business with a casino applicant or licensee not included in subsection a. of this section be required to apply for a casino service industry enterprise license pursuant to this subsection, including, without limitation, non-casino applicants or licensees required to hold a Casino Hotel Alcoholic Beverage license pursuant to section 103 of P.L.1977, c.110 (C.5:12-103); in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192); shopkeepers located within the approved hotels; and gaming schools that possess slot machines for the purpose of instruction.

(3) (Deleted by amendment, P.L.2011, c.19)

d. Any applicant, licensee or qualifier of a casino service industry enterprise license under subsection a. or b. of this section, and any vendor registrant under subsection c. of this section shall be disqualified in accordance with the criteria contained in section 86 of this act, except that no such vendor registration under subsection c. of this section shall be denied or revoked if such vendor registrant can affirmatively demonstrate rehabilitation as provided in subsection d. of section 91 of P.L.1977, c.110 (C.5:12-91).

e. No casino service industry enterprise license shall be issued pursuant to subsection a. of this section to any person unless that person shall provide proof of valid business registration with the Division of Revenue in the Department of the Treasury.

f. (Deleted by amendment, P.L.2011, c.19)

g. For the purposes of this section, each applicant shall submit to the division the name, address, fingerprints and a written consent for a criminal history record background check to be performed, for each person required to qualify as part of the application. The division is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly

notify the division in the event a current or prospective qualifier, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

59. Section 93 of P.L.1977, c.110 (C.5:12-93) is amended to read as follows:

**C.5:12-93 Registration of labor organizations.**

93. Registration of Labor Organizations. a. Each labor organization, union or affiliate seeking to represent employees who are employed in a casino hotel, casino or casino simulcasting facility by a casino licensee shall register with the division biennially, and shall disclose such information to the division as the division may require, including the names of all affiliated organizations, pension and welfare systems and all officers and agents of such organizations and systems; provided, however, that no labor organization, union, or affiliate shall be required to furnish such information to the extent such information is included in a report filed by any labor organization, union, or affiliate with the Secretary of Labor pursuant to 29 U.S.C.s.431 et seq. or s. 1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the division pursuant to the aforesaid federal provisions. The division may in its discretion exempt any labor organization, union, or affiliate from the registration requirements of this subsection where the division finds that such organization, union or affiliate is not the certified bargaining representative of any employee who is employed in a casino hotel, casino or casino simulcasting facility by a casino licensee, is not involved actively, directly or substantially in the control or direction of the representation of any such employee, and is not seeking to do so.

b. No person may act as an officer, agent or principal employee of a labor organization, union or affiliate registered or required to be registered pursuant to this section if the person has been found disqualified by the division in accordance with the criteria contained in section 86 of that act. The division may, for purposes of this subsection, waive any disqualification criterion consistent with the public policy of this act and upon a finding that the interests of justice so require.

c. Neither a labor organization, union or affiliate nor its officers and agents not otherwise individually licensed or registered under this act and employed by a casino licensee may hold any financial interest whatsoever

in the casino hotel, casino, casino simulcasting facility or casino licensee whose employees they represent.

d. Any person, including any labor organization, union or affiliate, who shall violate, aid and abet the violation, or conspire or attempt to violate this section is guilty of a crime of the fourth degree.

e. The division may maintain a civil action and proceed in a summary manner, without posting bond, against any person, including any labor organization, union or affiliate, to compel compliance with this section, or to prevent any violations, the aiding and abetting thereof, or any attempt or conspiracy to violate this section.

f. In addition to any other remedies provided in this section, a labor organization, union or affiliate registered or required to be registered pursuant to this section may be prohibited by the division from receiving any dues from any employee licensed or registered under that act and employed by a casino licensee or its agent, if any officer, agent or principal employee of the labor organization, union or affiliate has been found disqualified and if such disqualification has not been waived by the division in accordance with subsection b. of this section. The division may proceed in the manner provided by subsection e. of this section to enforce an order of the director prohibiting the receipt of dues.

g. Nothing contained in this section shall limit the power of the division to proceed in accordance with subsection c. of section 107 of P.L.1977, c.110 (C.5:12-107).

60. 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. a. Upon the filing of an application for a casino key employee license 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.

b. After such investigation, the commission may either deny the application or grant a license to an applicant whom it determines to be qualified to hold such license.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application for a casino key

employee license 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.

e. Casino employee registration and vendor registration shall be effective upon issuance, and shall remain in effect unless revoked, suspended, limited, or otherwise restricted by the division. Notwithstanding the foregoing, if a casino employee registrant has not been employed in any position within a casino hotel facility or a vendor registrant has not conducted business with a casino hotel facility for a period of three years, the registration of that casino employee or vendor registrant shall lapse.

f. Notwithstanding the foregoing, the commission shall reconsider the granting of any casino key employee license at any time at the request of the division. Notwithstanding the foregoing, the division may reconsider the granting of any license or may revoke any registration at any time.

g. After an application for a casino key employee license 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.

h. (1) Not later than five years after obtaining a casino key employee license pursuant to section 89 of P.L.1977, c.110 (C.5:12-89) or a casino service industry enterprise license issued pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), and every five years thereafter, the licensee shall submit such information and documentation as the commission or division, as applicable, may by regulation require, to demonstrate to the satisfaction of the commission or director, as applicable, that it continues to meet the requirements, respectively, of section 89 or subsection a. of section 92 of P.L.1977, c.110 (C.5:12-89 and C.5:12-92). Upon receipt of such information, the commission or division, as applicable, may take such action on the license, including suspension or revocation, as it deems appropriate.

(2) Registrations for casino employees issued pursuant to section 91 of P.L.1977, c.110 (C.5:12-91), and vendor registrations issued pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92), shall remain valid unless suspended or revoked or unless such registration expires or is voided pursuant to law.

i. (1) The division shall establish by regulation appropriate fees to be paid upon the filing of the informational filings required by paragraph (1) of subsection h. of this section. Such fees shall be deposited into the Casino Control Fund established by section 143 of P.L.1977, c.110 (C.5:12-143).

(2) The division shall establish by regulation appropriate fees to be imposed on each casino licensee and the method for the collection of such fees for each casino registrant employed by an operating casino and for each vendor registrant which provides goods or services to a casino, regardless of the nature of any contractual relationship between the vendor registrant and casino, if any. Such fees shall be deposited into the Casino Control Fund established by section 143 of P.L.1977, c.110 (C.5:12-143).

61. 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 or simulcasting facility may be opened or remain open to the public, and no gaming or simulcast wagering 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 division. Such certificate shall be issued by the director upon a determination that a casino and, if applicable, a simulcasting facility each complies in all respects with the requirements of this act and regulations promulgated hereunder, and that the casino and any applicable simulcasting facility are prepared in all respects to receive and entertain the public.

b. (Deleted by amendment, P.L.2011, c.19)

c. (Deleted by amendment, P.L.2011, c.19)

d. An operation certificate shall remain in force and effect unless revoked, suspended, limited, or otherwise altered by the division in accordance with this act.

e. It shall be an express condition of continued operation under this act that a casino licensee shall maintain either electronically or in hard copy at the discretion of the casino licensee, copies of all books, records, and documents pertaining to the licensee's operations, including casino simulcasting, and approved hotel in a manner and location approved by the division, provided, however, that the originals of such books, records and documents, whether in electronic or hard copy form, may be maintained at the offices or electronic system of an affiliate of the casino licensee, at the discretion of the casino licensee. All such books, records and documents

shall be immediately available for inspection during all hours of operation in accordance with the rules of the division and shall be maintained for such period of time as the division shall require.

62. 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. Each casino licensed pursuant to this act shall be permitted to operate 24 hours a day unless otherwise directed by the division in accordance with its authority under P.L.1977, c.110 (C.5:12-1 et seq.).

b. A casino licensee shall file with the division 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 division. 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 division pertaining to such alterations.

63. 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 and, if appropriate, its simulcasting facility in such a manner as to promote optimum security for the casino and simulcasting facility operations, and shall comply in all respects with regulations of the division pertaining thereto.

b. Each casino hotel shall include:

(1) A closed circuit television system according to specifications approved by the division, with access on the licensed premises to the system or its signal provided to the division, in accordance with regulations pertaining thereto;

(2) One or more rooms or locations approved by the division as casino space; and

(3) Design specifications that insure that visibility in a casino or in the simulcasting facility is not obstructed in any way that might interfere with the ability of the division to supervise casino or simulcasting facility operations.

64. 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 applicant for a casino license shall create, maintain, and file with the division a description of its internal procedures and administrative and accounting controls for gaming and simulcast wagering operations that conform to the requirements of P.L.1977, c.110 (C.5:12-1 et seq.), and the regulations promulgated thereunder, and provide adequate and effective controls, establish a consistent overall system of internal procedures and administrative and accounting controls and conform to generally accepted accounting principles, and ensure that casino procedures are carried out and supervised by personnel who do not have incompatible functions. A casino licensee's internal controls shall contain a narrative description 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 and simulcast wagering operations;

(2) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services, except as provided in paragraph (3) of subsection m. of section 102 of P.L.1977, c.110 (C.5:12-102); junkets; and cash equivalent transactions;

(3) (Deleted by amendment, P.L.2011, c.19)

(4) Procedures within the cashier's cage and simulcast facility for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in gaming and simulcast wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming and simulcast wagering; the pay-off of jackpots and simulcast wagers; and the recording of transactions pertaining to gaming and simulcast wagering operations;

(5) Procedures for the collection and security of moneys at the gaming tables and in the simulcasting facility;

(6) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the simulcasting facility;

(7) Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the simulcasting facility for the counting process;

(8) Procedures and security for the counting and recordation of revenue;

(9) Procedures for the security, storage and recordation of cash, chips and other cash equivalents utilized in the gaming and simulcast wagering operations;

(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 and simulcasting facility patrons;

(14) Procedures governing the utilization of the private security force within the casino and simulcasting facility;

(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 simulcast wagering and the responsibility of casino personnel in respect thereto;

(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, any officer of a municipality or county in which casino gaming is authorized, or any gaming related casino employee, and for the quarterly filing with the Attorney General of a list reporting all such transactions; and

(18) Procedures for the orderly shutdown of casino operations in the event that a state of emergency is declared and the casino licensee is unable or ineligible to continue to conduct casino operations during such a state of emergency in accordance with section 5 of P.L.2008, c.23 (C.5:12-212), which procedures shall include, without limitation, the securing of all keys and gaming assets.

b. (Deleted by amendment, P.L.2011, c.19)

c. No minimum staffing requirements shall be included in the internal controls created in accordance with subsection a. of this section.

d. (Deleted by amendment, P.L.2011, c.19)

65. 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. a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder and in a simulcasting facility to the extent provided by the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.). Notwithstanding the foregoing, if the division approves the game of keno as an authorized game pursuant to section 5 of P.L.1977, c.110 (C.5:12-5), as amended, keno tickets may be sold or redeemed in accordance with division regulations.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel except in a casino room, in the simulcasting facility, or in restricted casino areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the casino licensee with the approval of the division. Gaming equipment which supports the conduct of gaming in a casino or simulcasting facility but does not permit or require patron access, such as computers, may be possessed and maintained by a casino licensee or a qualified holding or intermediary company of a casino licensee in restricted areas specifically approved by the division. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room or simulcasting facility by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the division, is under the exclusive control of a casino licensee or casino licensee's employees, or of any individually qualified employee of a holding company or casino licensee and is brought into or removed from the casino room or simulcasting facility following 24-hour prior notice given to an authorized agent of the division.

Notwithstanding any other provision of this section, computer equipment used by the slot system operator of a multi-casino progressive slot system to link and communicate with the slot machines of two or more casino licensees for the purpose of calculating and displaying the amount of a progressive jackpot, monitoring the operation of the system, and any other purpose that the division deems necessary and appropriate to the operation or maintenance of the multi-casino progressive slot machine system may,

with the prior approval of the division, be possessed, maintained and operated by the slot system operator either in a restricted area on the premises of a casino hotel or in a secure facility inaccessible to the public and specifically designed for that purpose off the premises of a casino hotel but within the territorial limits of Atlantic County, New Jersey.

Notwithstanding the foregoing, a person may, with the prior approval of the division and under such terms and conditions as may be required by the division, possess, maintain or exhibit gaming equipment in any other area of the casino hotel, provided that 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 division for the counting and storage of cash, coins, tokens, checks, plaques, gaming vouchers, coupons, and other devices or items of value used in wagering and approved by the division that are received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. The division shall promulgate regulations for the security of drop boxes and other devices in which the foregoing items are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, which regulations may include certain locking devices. Said drop boxes and other devices shall not be brought into or removed from a casino room or simulcasting facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the division may require.

d. All chips used in gaming shall be of such size and uniform color by denomination as the division shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the division. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the division, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any patron upon request the complete text of the rules of the division 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 division shall require. Each casino licensee shall prominently post within a casino room and simulcasting facility, as appropriate, according to regulations of the division 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 division shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. (1) Except as herein provided, 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 and licensed for use by the division. The division shall also test any other gaming device, gaming equipment, gaming-related device or gross-revenue related device, such as a slot management system, electronic transfer credit system or gaming voucher system as it deems appropriate. In its discretion and for the purpose of expediting the approval process, the division may utilize the services of a private testing laboratory that has obtained a plenary license as a casino service industry enterprise pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to perform the testing, and may also utilize applicable data from any such private testing laboratory or from a governmental agency of a state other than New Jersey authorized to regulate slot machines and other gaming devices, gaming equipment, gaming-related devices and gross-revenue related devices used in casino gaming, if the private testing laboratory or governmental agency uses a testing methodology substantially similar to the methodology utilized by the division. The division, in its discretion, may rely upon the data provided by the private testing laboratory or governmental agency and adopt the conclusions of such private testing laboratory or governmental agency regarding any submitted device.

(2) Except as otherwise provided in paragraph (5) of subsection h. of this section, the division shall, within 60 days of its receipt of a complete application for the testing of a slot machine or other gaming equipment model, approve or reject the slot machine or other gaming equipment model. In so doing, the division shall specify whether and to what extent any data from a private testing laboratory or governmental agency of a state other than New Jersey was used in reaching its conclusions and recommendation. If the division is unable to complete the testing of a slot machine or other gaming equipment model within this 60-day period, the division may conditionally approve the slot machine or other gaming equipment model for test use by a casino licensee provided that the division represents that the use of the slot machine or other gaming equipment model will not have a direct and materially adverse impact on the integrity of gaming or the

control of gross revenue. The division shall give priority to the testing of slot machines or other gaming equipment which a casino licensee has certified it will use in its casino in this State.

(3) The division shall, by regulation, establish such technical standards for licensure of slot machines, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. The denominations of such machines shall be set by the licensee; the licensee shall simultaneously notify the division of the settings.

(4) The division shall, by regulation, determine the permissible number and density of slot machines in a licensed casino so as to:

- (a) promote optimum security for casino operations;
- (b) avoid deception or frequent distraction to players at gaming tables;
- (c) promote the comfort of patrons;
- (d) create and maintain a gracious playing environment in the casino; and
- (e) encourage and preserve competition in casino operations by assuring that a variety of gaming opportunities is offered to the public.

Any such regulation promulgated by the division which determines the permissible number and density of slot machines in a licensed casino shall provide that all casino floor space and all space within a casino licensee's casino simulcasting facility shall be included in any calculation of the permissible number and density of slot machines in a licensed casino.

(5) Any new gaming equipment or simulcast wagering equipment that is submitted for testing to the division or to an independent testing laboratory licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) prior to or simultaneously with submission of such new equipment for testing in a jurisdiction other than New Jersey, may, consistent with regulations promulgated by the division, be deployed by a casino licensee on the casino floor 14 days after submission of such equipment for testing. If the casino or casino service industry enterprise licensee has not received approval for the equipment 14 days after submission for testing, any interested casino licensee may, consistent with division regulations, deploy the equipment on a field test basis, unless otherwise directed by the director.

- i. (Deleted by amendment, P.L.1991, c.182).
- j. (Deleted by amendment, P.L.1991, c.182).
- k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable personal checks, negotiable counter checks, other chips, coupons, slot vouchers or complimen-

tary vouchers distributed by the casino licensee, or, if authorized by regulation of the division, a valid charge to a credit or debit card account. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over \$100 with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

l. It shall be unlawful for any casino licensee or its agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or simulcasting facility or play at any game or for any purpose whatsoever.

m. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose, unless otherwise permitted by the rules of the division.

n. (1) It shall be unlawful for any casino key employee, licensee or any person who is required to hold a casino key employee license as a condition of employment or qualification to wager in any casino or simulcasting facility in this State, or any casino.

(2) It shall be unlawful for any other employee of a casino licensee who, in the judgment of the division, is directly involved with the conduct of gaming operations, including but not limited to dealers, floor persons, box persons, security and surveillance employees, to wager in any casino or simulcasting facility in the casino hotel in which the employee is employed or in any other casino or simulcasting facility in this State which is owned or operated by an affiliated licensee.

(3) The prohibition against wagering set forth in paragraphs (1) and (2) of this subsection shall continue for a period of 30 days commencing upon the date that the employee either leaves employment with a casino licensee or is terminated from employment with a casino licensee.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino hotel or simulcasting facility where he is employed.

(2) A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be immediately deposited in a lock-box reserved for that purpose, unless the tip or gratuity is authorized by a patron utilizing an automated wagering system approved by the division. All tips or gratuities shall be accounted for, and placed in a pool for distri-

bution pro rata among the dealers, with the distribution based upon the number of hours each dealer has worked, except that the division may, by regulation, permit a separate pool to be established for dealers in the game of poker, or may permit tips or gratuities to be retained by individual dealers in the game of poker.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, a casino licensee may require that a percentage of the prize pool offered to participants pursuant to an authorized poker tournament be withheld for distribution to the tournament dealers as tips or gratuities as the division by regulation may approve.

p. Any slot system operator that offers an annuity jackpot shall secure the payment of such jackpot by establishing an annuity jackpot guarantee in accordance with the requirements of P.L.1977, c.110 (C.5:12-1 et seq.), and the rules of the division.

66. Section 4 of P.L.2005, c.46 (C.5:12-100.1) is amended to read as follows:

**C.5:12-100.1 Right to receive annuity jackpot payments.**

4. a. The right of any annuity jackpot winner to receive annuity jackpot payments from a slot system operator shall not be assignable, except as permitted by this section. The provisions of this section shall prevail over the provisions of the "Uniform Commercial Code Secured Transactions," N.J.S.12A:9-101 et seq., including N.J.S.12A:9-406, or any other law to the contrary.

b. Notwithstanding any other provision of this section, annuity jackpot payments may be paid to the estate of a deceased jackpot winner, in the same manner as they were paid to the winner, upon receipt by the slot system operator of a certified copy of an order appointing an executor or an administrator.

c. A person may be assigned and paid the annuity jackpot payments to which an annuity jackpot winner is entitled pursuant to a judicial order of the New Jersey Superior Court or any other court having jurisdiction over property located in this State provided that the order pertains to claims of ownership in the annuity jackpot payments, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator, or distribution of an estate.

d. A person may be assigned and paid the annuity jackpot payments to which an annuity jackpot winner is entitled pursuant to a judicial order of the New Jersey Superior Court or any other court having jurisdiction over

property located in this State. The annuity jackpot winner and the proposed assignee shall prepare a proposed form of order and submit such proposed order to the court for its consideration. The proposed form of order shall contain the following information:

(1) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the winner;

(2) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the assignee;

(3) the date on which and the casino where the annuity jackpot was won;

(4) the slot machine game on which the annuity jackpot was won;

(5) the slot system operator primarily responsible for making the annuity jackpot payments;

(6) the gross amount of the annuity jackpot won before application of withholding taxes;

(7) the gross amount of each payment to be made to the winner by the slot system operator before application of withholding taxes;

(8) the dates of the payments to be assigned and the amount of the specific payments to be assigned on each date;

(9) the identity of the winner's spouse, domestic partner or partner in a civil union, if any, and the interest of that person, if any, in the annuity jackpot payments;

(10) the identity of any other co-owner, claimant or lienholder and the amount of the interests, liens, security interests, prior assignments or offsets asserted by each such party;

(11) that the interest rate or discount rate, as applicable, and all fees and costs and other material terms relating to the assignment are expressly and clearly included in all material documents and in all documents that include any obligations of the annuity jackpot winner;

(12) that the interest rate or discount rate, as applicable, and any other fees or charges associated with the assignment do not indicate overreaching or exploitation, do not exceed current usury rates, and does not violate any laws of usury of this State;

(13) that the winner has reviewed and understands the terms of the assignment;

(14) that the winner understands that the winner will not receive the annuity jackpot payments, or portions thereof, for the years assigned;

(15) that the winner has agreed to the assignment of the winner's own free will without undue influence or duress;

(16) that the winner has retained and consulted with independent legal counsel who has advised the winner of the winner's legal rights and obligations;

(17) that the winner has retained and consulted with an independent tax advisor concerning the tax consequences of the assignment;

(18) that the winner has disclosed all existing debts, liens and child support obligations and does not seek assignment for purposes of evading creditors, judgments or obligations for child support; and

(19) that the winner has certified that: the winner is not obligated to repay any public assistance benefits; and the winner does not have a child support obligation, or if the winner does have a child support obligation, that no arrearage is due.

The annuity jackpot winner and the proposed assignee shall provide a copy of the proposed form of order to the slot system operator at least 10 days before the court is scheduled to act on the proposed order to allow the slot system operator the opportunity to ensure that the proposed order is complete and correct in all respects prior to the court's approval.

e. Before a winner is legally bound, by agreement, contract or otherwise, and prior to the issuance of an order pursuant to subsection d. of this section, the assignee shall provide the winner with all material documents which shall be binding on the assignor, including documents evidencing obligations of the winner, and a written notice recommending that the winner obtain independent counsel before signing any document which shall be binding on the assignor. All documents shall include a notice of the assignor's right to cancel the agreement which shall be located in immediate proximity to all spaces reserved for the signature of the winner in bold-faced type of at least 10 points and which shall provide as follows:

"You have the right to cancel this assignment without any cost to you until midnight three business days after the day on which you have signed an agreement to assign all or a portion of your annuity jackpot.

Cancellation occurs when you give notice by regular first class mail, postage prepaid, to the assignee at the address listed at the top of the first page of this document that you wish to cancel the assignment. Notice is deemed given when deposited in a mailbox."

f. The slot system operator shall, not later than 10 days after receiving a true and correct copy of the filed judicial order, send the winner and the assignee written confirmation of receipt of the court-ordered assignment and of the slot system operator's intent to rely thereon in making future

payments to the assignee named in the order. The slot system operator shall, thereafter, make all payments in accordance with the judicial order. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent judicial order pursuant to this section.

g. The slot system operator may impose a reasonable fee on an assignor to defray any direct or indirect administrative expenses associated with an assignment.

h. The division, the commission and the State are not parties to assignment proceedings, except that the State may intervene as necessary to protect the State's interest in monies owed to the State.

i. The slot system operator and the State shall comply with, and rely upon, a judicial order in distributing payments subject to that order.

j. A winner may pledge or grant a security interest in all or part of an annuity jackpot as collateral for repayment of a loan pursuant to a judicial order containing the information required by subsection d. of this section which the court deems relevant to the pledge or grant.

k. Except where inconsistent with the provisions of this section, the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), shall apply to all transactions under this section.

l. The provisions of subsections d., e. and j. of this section shall be invalid if:

(1) the United States Internal Revenue Service issues a technical rule letter, revenue ruling, or other public ruling in which it is determined that because of the right of assignment provided by subsection d. of this section, annuity jackpot winners who do not exercise the right to assign annuity jackpot payments would be subject to an immediate income tax liability for the value of the entire annuity jackpot rather than annual income tax liability for each installment when received; or

(2) a court of competent jurisdiction issues a published decision holding that because of the right of assignment provided by subsection d. of this section, annuity jackpot winners who do not exercise the right to assign annuity jackpot payments would be subject to an immediate income tax liability for the value of the entire annuity jackpot rather than annual income tax liability for each installment when received.

m. Upon receipt, the division shall immediately file a copy of a letter or ruling of the United States Internal Revenue Service or a published decision of a court of competent jurisdiction, described in subsection l. of this section, with the Secretary of State. No assignment shall be approved pursuant to subsection d. of this section after the date of such filing.

n. A voluntary assignment shall not include or cover payments, or portions of payments, that are subject to the offset pursuant to section 5 of this amendatory and supplementary act, P.L.2005, c.46 (C.5:12-100.2), or any other law, unless appropriate provisions are made to satisfy the obligations giving rise to the offset.

o. No assignee shall directly or indirectly recommend or facilitate the hiring of any lawyer or accountant to assist the assignor in determining the appropriateness of the proposed assignment. Further, the assignee shall not offer, prior to the closing, tax or investment advice.

67. Section 5 of P.L.2005, c.46 (C.5:12-100.2) is amended to read as follows:

**C.5:12-100.2 Prompt notice of award of annuity jackpot; offset, lien for child support arrearages.**

5. a. Each slot system operator that awards an annuity jackpot shall provide prompt notice to the division of the name, address and social security number of each annuity jackpot winner and the amount of the pending payments. The division shall forward such information to the Office of Information Technology in but not of the Department of the Treasury.

b. The Office of Information Technology shall cross check the annuity jackpot winner list with the data supplied by the Commissioner of Human Services pursuant to section 2 of P.L.1991, c.384 (C.5:9-13.2) for a social security number match. If a match is made, the Office of Information Technology shall notify the Commissioner of Human Services.

c. If an annuity jackpot winner is in arrears of a child support order, or is a former recipient of Aid to Families with Dependent Children or Work First New Jersey, food stamp benefits or low-income home energy assistance benefits who has incurred an overpayment which has not been repaid, the Probation Division of the Superior Court or the Department of Human Services, as appropriate, shall promptly notify the slot system operator of the name, address, social security number and amount due on an arrears child support order or the amount due on an overpayment. The slot system operator shall withhold this amount from the pending annuity jackpot payment and transmit same to the Probation Division of the Superior Court or the Department of Human Services, as appropriate, in accordance with regulations promulgated by the State Treasurer.

d. The Probation Division of the Superior Court, acting as agent for the child support payee or the county welfare agency that provided the public assistance benefits, as appropriate, shall have a lien on the proceeds of

the annuity jackpot payment in an amount equal to the amount of child support arrearage or the amount of overpayment incurred, as appropriate. The lien imposed by this section shall be enforceable in the Superior Court. Any of the annuity jackpot winner's funds remaining after withholding pursuant to the lien established pursuant to this section shall be paid to the winner in accordance with the rules of the division.

e. The Commissioner of Human Services shall promulgate such regulations as may be necessary to effectuate the purposes of this section including, but not limited to, regulations providing for prompt notice to any annuity jackpot winner, from whose payments the Probation Division of the Superior Court or the Department of Human Services seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the annuity jackpot winner with the opportunity for a hearing upon request prior to the disposition of any funds.

f. The State Treasurer shall also provide, by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this section.

g. For the purposes of this section, "prompt notice" shall mean notice within 14 days or less.

68. Section 101 of P.L.1977, c.110 (C.5:12-101) is amended to read as follows:

**C.5:12-101 Credit.**

101. 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 or simulcast wagering 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 or simulcast wagering activity, without maintaining a written record thereof in accordance with the rules of the division.

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 or simulcast wagering 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 the cashier's representative at a location in the casino approved by the division and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; 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, or shall require an attorney or casino key employee with no incompatible functions to present such check to the drawer's bank for 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 or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No casino licensee or any person licensed or registered 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 or the presentment of the check to the drawer's bank 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 or registered under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed or registered 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;
- (3) A purchaser of the casino license as approved by the commission; or
- (4) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

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 a casino key employee licensed under this act or a casino employee registered under this act 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 or simulcast wagering 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 issued by a casino licensee, is made payable to the person presenting the check, and is issued for a purpose other than employment compensation or as payment for goods or services rendered;

(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;

(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;

(d) The check is issued by a slot system operator or pursuant to an annuity jackpot guarantee as payment for winnings from a multi-casino progressive slot machine system jackpot; or

(e) The check is issued by an affiliate of a casino licensee that holds a gaming license in any jurisdiction, is made payable to the person presenting the check, and is issued for a purpose other than employment compensation or as payment for goods or services rendered;

(2) The check is identifiable in a manner approved by the division as a check authorized for acceptance pursuant to 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 under this act in the case of a check issued pursuant to subparagraph (b), (c), (d) or (e) 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 en-

able the person to take part in gaming or simulcast wagering 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 \$5,000 in exchange for cash or cash equivalents, and may, at such locations within the casino or casino simulcasting facility as may be permitted by the division, accept a personal check or checks for up to \$5,000 in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming or simulcast wagering activity as a player, provided that:

(a) The check is drawn on the patron's bank or brokerage cash management account;

(b) The check is for a specific amount;

(c) The check is made payable to the casino licensee;

(d) The check is dated but not post-dated;

(e) 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;

(f) 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;

(g) 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 \$5,000;

(h) The casino licensee has a system of internal controls in place that will enable it to determine the amount of outstanding personal checks received from any patron pursuant to this subsection at any given point in time; and

(i) The casino licensee maintains a record of each such transaction in accordance with regulations established by the division.

i. (Deleted by amendment, P.L.2004, c.128).

j. A person may request the division 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 division the person's name, address, and date of birth. The person does not need to provide a reason for this request. The division shall provide this list to the credit department of each casino; neither the division 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 division, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. (Deleted by amendment, P.L.2004, c.128).

69. Section 2 of P.L.1987, c.419 (C.5:12-101.2) is amended to read as follows:

**C.5:12-101.2 Cash redemption, limited.**

2. No casino licensee or any person licensed or registered under P.L.1977, c.110 (C.5:12-1 et seq.), and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed or registered under P.L.1977, c.110, shall, in a single transaction during a gaming day, redeem for cash or credit any chips or markers in an amount of \$10,000.00 or more or exchange chips for cash in an amount of \$10,000.00 or more, from any one person, unless the person seeking to redeem the chips or markers presents proof of his identity and passport identification number if he is not a United States citizen.

Multiple currency transactions shall be treated as a single transaction if the casino licensee, person licensed or registered under P.L.1977, c.110 or person acting on behalf of or under any arrangement with a casino licensee or other person licensed or registered under P.L.1977, c.110 has knowledge that the transactions are by or on behalf of one person and result in either cash in or cash out totaling more than \$10,000.00 during a gaming day.

70. Section 3 of P.L.1987, c.419 (C.5:12-101.3) is amended to read as follows:

**C.5:12-101.3 Report of cash transactions.**

3. Casino licensees, persons licensed or registered under P.L.1977, c.110 (C.5:12-1 et seq.) and persons acting on behalf of or under any arrangement with casino licensees or other persons licensed or registered under P.L.1977, c.110, who accept cash or redeem chips or markers totaling \$10,000.00 or more in a gaming day for which identification is required pursuant to sections 1 and 2 of this 1987 supplementary act, shall at least once every 30 days report the identities and passport numbers of the persons offering the cash, chips or markers, to the Division of Gaming Enforcement.

71. 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.

b. A junket enterprise or a junket representative employed by a casino licensee, an applicant for a casino license or an affiliate of a casino licensee 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. No casino licensee or applicant for a casino license may employ or otherwise engage a junket representative who is not so licensed.

c. Junket enterprises that, and junket representatives not employed by a casino licensee or an applicant for a casino license or by a junket enterprise who, engage in activities governed by this section shall be licensed as a casino service industry enterprise in accordance with subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), unless otherwise directed by the division. Any non-supervisory employee of a junket enterprise or junket representative licensed under this subsection shall be registered in accordance with subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

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 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. Upon petition by the holder of a casino license, an applicant for junket representative or junket enterprise applying for licensure may be issued a temporary license by the division in accordance with regulations promulgated by the division, provided that:

- (1) the applicant for licensure is employed by a casino licensee;
- (2) the applicant for licensure has filed a completed application as required by the commission;
- (3) the division either certifies to the commission that the completed application for licensure as specified in paragraph (2) of this subsection has been in the possession of the division for at least 60 days or agrees to allow the commission to consider the application in some lesser time; and
- (4) the division does not object to the temporary licensure of the applicant; provided, however, that failure of the division to object prior to the

temporary licensure of the applicant shall not be construed to reflect in any manner upon the qualifications of the applicant for licensure.

In addition to any other authority granted by P.L.1977, c.110 (C.5:12-1 et seq.), the commission shall have the authority, upon receipt of a representation by the division that it possesses information which raises a reasonable possibility that a junket representative does not qualify for licensure, to immediately suspend, limit or condition any temporary license issued pursuant to this subsection, pending a hearing on the qualifications of the junket representative, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.).

Unless otherwise terminated pursuant to P.L.1977, c.110 (C.5:12-1 et seq.), any temporary license issued pursuant to this subsection shall expire 12 months from the date of its issuance, and shall be renewable by the commission, in the absence of an objection by the division, as specified in paragraph (4) of this subsection, for one additional six-month period.

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 division 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 division may 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 division 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 division, shall:

(1) Maintain on file a report describing the operation of any junket engaged in on its premises;

(2) (Deleted by amendment, P.L.1995, c.18.).

(3) Submit to the division a list of all its employees who are acting as junket representatives.

j. Each casino licensee, junket representative or junket enterprise shall, in accordance with the rules of the division, 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 division 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. In granting exemptions, the division 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 division 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, transportation, 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) (Deleted by amendment, P.L.2009, c.36); 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 which, notwithstanding the requirements of section 99 of P.L.1977, c.110 (C.5:12-99), shall be maintained pursuant to regulation and made available for inspection by the division.

Notwithstanding the foregoing, a casino licensee may offer and provide complimentary cash or noncash gifts which are not otherwise included in paragraphs (1) and (3) of this subsection to any person, provided that any such gifts in excess of \$2,000.00, or such greater amount as the division 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.

Each casino licensee shall maintain a regulated complimentary service account, for those complimentaries which are permitted pursuant to this section, and shall submit a quarterly report to the division 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 division 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. (Deleted by amendment, P.L.2011, c.19)

72. 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. Alcoholic Beverages in Casino Hotel Facilities. 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 division.

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 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 division 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 division finds that the uniqueness of casino operations and the public interest require that such regulations, rulings, and findings are appropriate. Regulations of the division 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. Nothing herein or in any other law to the contrary, however, shall prohibit a casino beverage server in the course of his or her employment from inquiring of a casino patron whether such patron desires a beverage, whether or not such inquiry is phrased in terms of any word which may connote that the beverage is an alcoholic beverage.

(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.

(3) Notwithstanding any other law to the contrary, a manufacturer, wholesaler, or other person licensed to sell alcoholic beverages to retailers, or third parties at their discretion, may, in addition to the activities permitted by section 10 of P.L.2005, c.243 (C.33:1-43.2), jointly sponsor with the Casino Hotel Alcoholic Beverage Licensee musical or theatrical performances or concerts, sporting events and such similar events and festivals, with an anticipated overall audience attendance of at least one thousand patrons, as may be approved by the division.

g. In issuing a Casino Hotel Alcoholic Beverage License the division shall describe the scope of the particular license and the restrictions and

limitations thereon as it deems necessary and reasonable. The division 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 including, but not limited to, an original container, for on-premise consumption within a casino or simulcasting facility; provided, however, that no alcoholic beverage shall be sold or given for consumption; 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 simulcasting facility, 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 or simulcasting facility.

(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 or simulcasting facility; 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 division, other than any room authorized by the division 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 or simulcasting facility; 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. (Deleted by amendment, P.L.2011, c.19)

i. The division 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 promul-

gated by the Director of the Division of Alcoholic Beverage Control, and the regulations promulgated by the division.

j. Jurisdiction over all alcoholic beverage licenses previously issued with respect to the casino hotel facility is hereby vested in the division, which in its discretion may by regulation provide for the conversion thereof into a Casino Hotel Alcoholic Beverage License as provided in this section.

73. Section 104 of P.L.1977, c.110 (C.5:12-104) is amended to read as follows:

**C.5:12-104 Casino licensee leases and contracts.**

104. a. Unless otherwise provided in this subsection, no agreement shall be lawful which provides for the payment, however defined, of any direct or indirect interest, percentage or share of: any money or property gambled at a casino or simulcasting facility; any money or property derived from casino gaming activity or wagering at a simulcasting facility; or any revenues, profits or earnings of a casino or simulcasting facility. Notwithstanding the foregoing:

(1) Agreements which provide only for the payment of a fixed sum which is in no way affected by the amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subsection; and receipts, rentals or charges for real property, personal property or services shall not lose their character as payments of a fixed sum because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(2) (Deleted by amendment, P.L.2011, c.19)

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing shall be lawful if the agreement is in writing and filed with the division prior to its effective date. Such agreements may be reviewed by the division under any relevant provision of P.L.1977, c.110 (C.5:12-1 et seq.).

(4) Agreements to lease an approved casino hotel or the land thereunder and agreements for the complete management of all casino gaming operations in a casino hotel shall not be subject to the provisions of this subsection but shall rather be subject to the provisions of subsections b. and c. of section 82 of this act.

(5) Agreements which provide for percentage charges between the casino licensee and a holding company or intermediary company of the ca-

sino licensee shall be in writing and filed with the division but shall not be subject to the provisions of this subsection.

(6) Agreements relating to simulcast racing and wagering between a casino licensee and an in-State or out-of-State sending track licensed or exempt from licensure in accordance with section 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the division, and be lawful and effective only if expressly approved as to their terms by the division and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the parimutuel pool wagered at a simulcasting facility to be paid to the sending track shall not be subject to the provisions of this subsection.

(7) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) as a hub facility, as defined in joint regulations of the Division of Gaming Enforcement and the New Jersey Racing Commission, shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the hub facility shall not be subject to the provisions of this subsection.

(8) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to conduct casino simulcasting in a simulcasting facility shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the casino service industry enterprise shall not be subject to the provisions of this subsection.

(9) Written agreements relating to the operation of multi-casino progressive slot machine systems between one or more casino licensees and a casino service industry enterprise licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, which provide for an interest, percentage or share of the casino licensee's revenues, profits or earnings from the operation of such multi-casino progressive slot machines to be paid to the casino service industry enterprise licensee or applicant shall not be subject to the

provisions of this subsection if the agreements are filed with and approved by the division.

(10) A written agreement between a casino licensee and a casino service industry enterprise licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, relating to the construction, renovation or operation of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), or of non-gaming amenities, as defined by the division, within the limits of the city of Atlantic City, regardless of whether such qualifying sleeping units or non-gaming amenities are connected to a casino hotel facility, which provides for an interest, percentage or share of the casino licensee's revenues, profits or earnings, not to exceed 5% of the casino licensee's revenues, to be paid to the casino service industry enterprise licensee or applicant in return for the construction, renovation or operation of such qualifying sleeping units or non-gaming amenities shall not be subject to the provisions of this subsection provided that: (i) the agreement requires a capital investment, at least 10% of which shall be made by the casino service industry enterprise licensee or applicant over the term of the agreement, of not less than \$30 million, which minimum amount shall be adjusted periodically by the division for inflation; (ii) the division finds that the total amount of casino revenues, profits or earnings that can be paid to the casino service industry enterprise licensee or applicant pursuant to this agreement is commercially reasonable under the circumstances; and (iii) the agreement is filed with and approved by the division.

b. Each casino applicant or licensee shall maintain, in accordance with the rules of the division, a record of each written or unwritten agreement regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility. The foregoing obligation shall apply regardless of whether the casino applicant or licensee is a party to the agreement. Any such agreement may be reviewed by the division on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the owners, officers, employees, and directors of any enterprise involved in the agreement, which qualifications shall be reviewed according to the standards enumerated in section 86 of P.L.1977, c.110 (C.5:12-86). If the division disapproves such an agreement or the owners, officers, employees, or directors of any enterprise involved therein, the division may require its termination.

Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if

the commission shall require termination of an agreement pursuant to its authority under P.L.1977, c.110 (C.5:12-1 et seq.), such termination shall occur without liability on the part of the casino applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with division regulations, or the disapproved agreement is not terminated, the division may pursue any remedy or combination of remedies provided in this act.

For the purposes of this subsection, "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 division for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

c. Nothing in this act shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

74. 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 shall be effective five business days after the commission receives notice from the licensee of such sale, assignment, transfer, pledge or other disposition, in the form required by regulation, unless within the five business day period, the commission disapproves of such sale, assignment, transfer, pledge or other disposition.

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 division reports to the commission 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, and upon the report and input of the division, 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 or the division 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 the division, 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 and the division, 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 and the division. 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.

75. 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 in a position requiring a casino key employee license or a casino employee registration any person not possessing a current and valid license or registration permitting such appointment or employment.

b. A casino licensee shall, within 24 hours of receipt of written or electronically transferred notice thereof, terminate the appointment or employment of any person whose license or registration has been revoked or has expired. A casino licensee may, in its discretion, suspend rather than terminate the appointment or employment of any person whose license or registration has expired until such time as the person is again licensed or registered. A casino licensee shall comply in all respects with any order of the division imposing limitations or restrictions upon the terms of employment or appointment in the course of any investigation or hearing.

c. An applicant for or a holder of a casino key employee license or a holder of a casino employee registration whose application is denied or whose licensure or registration is revoked, as the case may be, shall not, in addition to any restrictions imposed by the regulations of the commission or division, as applicable, on a reapplication for licensure, be employed by a casino licensee in a position that does not require a license or registration until five years have elapsed from the date of the denial or revocation, except that the commission or division may permit such employment upon good cause shown.

d. (Deleted by amendment, P.L.2011, c.19)

76. Section 107 of P.L.1977, c.110 (C.5:12-107) is amended to read as follows:

**C.5:12-107 Conduct of hearings; rules of evidence; punishment of contempts.**

107. Conduct of Hearings; Rules of Evidence; Punishment of Contempts. a. The commission shall promulgate regulations for the conduct of hearings it is authorized to conduct under subsection a. of section 63 of P.L.1977, c.110 (C.5:12-63), which regulations shall include the following:

(1) Unless the commission hears the matter directly, the chairman shall refer the matter to the Office of Administrative Law in accordance with P.L.1978, c.67 (C.52:14F-1 et al.); provided, however, that the chairman may, in his discretion, designate a member of the commission, or other qualified person other than an employee of the commission, to serve as hearing examiner in a particular matter;

(2) The proceedings at the hearing shall be recorded or transcribed;

(3) Oral evidence shall be taken only upon oath or affirmation;

(4) Each party to a hearing shall have the right to call and examine witnesses; to introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the commission; to cross-examine opposing witnesses in any matters relevant to the issue of the case; to impeach any witness, regardless of which party called him to testify; and to offer rebuttal evidence;

(5) If an applicant, licensee, registrant or person who shall be qualified pursuant to this act is a party and if such party shall not testify in his own behalf, he may be called and examined as if under cross-examination;

(6) The hearing shall not be conducted according to rules relating to the admissibility of evidence in courts of law. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action; and

(7) The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, although such evidence may be otherwise subject to objection.

b. The commission may take official notice of any generally accepted information or technical or scientific matter in the field of gaming and of any other fact which may be judicially noticed by the courts of this State. The parties shall be informed of any information, matters or facts so noticed and shall be given a reasonable opportunity, on request, to refute such

information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the commission. The commission may, in its discretion, before rendering its decision, permit the filing of amended or supplemental pleadings and shall notify all parties thereof and provide a reasonable opportunity for objections thereto.

c. If any person in proceedings before the commission or the division disobeys or resists any lawful order, refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct at the hearing or so near the place thereof as to obstruct the proceeding, the person may be punished for contempt in accordance with the Rules of Court if the commission or division certifies the facts underlying the contumacious behavior to the Superior Court. Thereafter, the courts shall have jurisdiction in the matter, and the same proceeding shall be had, the same penalties may be imposed, and the person charged may purge himself of the contempt in the same way as in the case of a person who has committed contempt in the trial of a civil action before the Superior Court.

d. (Deleted by amendment, P.L.2011, c.19)

e. The division shall promulgate rules governing the conduct of hearings and other procedures as are necessary for it to fulfill its duties and exercise its powers consistent with section 76 of P.L.1977, c.110 (C.5:12-76).

f. The commission and division shall have the power and authority to issue subpoenas and to compel the attendance of witnesses at any place within this State, to administer oaths and to require testimony under oath before the commission or division in the course of any investigation or hearing conducted under this act. The commission and division may appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, and require testimony under oath.

g. The commission and division shall have the authority to order any person to answer a question or questions or produce evidence of any kind and confer immunity as provided in this section. If, in the course of any investigation or hearing conducted under this act, a person refuses to answer a question or produce evidence on the ground that he will be exposed to criminal prosecution thereby, then in addition to any other remedies or sanctions provided for by this act, the division or the commission with the written approval of the Attorney General, may issue an order to answer or to produce evidence with immunity.

If, upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such

responsive evidence produced by him, or evidence derived therefrom, used to expose him to criminal prosecution, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce evidence in accordance with the order of the commission or the division; provided, however, that no period of incarceration for contempt shall exceed 18 months in duration pursuant to this section. Any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury; upon any investigation, proceeding or trial against him for such contempt; or in any manner consonant with State and constitutional provisions.

h. Any licensee, applicant for a license or a registrant who is aggrieved by a final decision by the division shall have the right of appeal to the commission. Notwithstanding the foregoing, no decision by the division shall constitute a final agency action for purposes of establishing jurisdiction on appeal in the New Jersey Superior Court.

i. All appeals from final decisions of the division shall be heard by the commission in accordance with subsection b. of section 63 of P.L.1977, c.110 (C.5:12-63), which procedure may include the opportunity for the matter to be heard as a contested case in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Final orders of the commission shall constitute final agency action for purposes of establishing jurisdiction on appeal in the New Jersey Superior Court.

77. Section 109 of P.L.1977, c.110 (C.5:12-109) is amended to read as follows:

**C.5:12-109 Emergency orders.**

109. Notwithstanding any provisions of this article, the director may issue an emergency order for the suspension, limitation or conditioning of any operation certificate or any license, other than a casino license, or any registration, or may issue an emergency order requiring the licensed casino to keep an individual from the premises of such licensed casino or not to pay such individual any remuneration for services or any profits, income or accruals on his investment in such casino, in the following manner:

- a. An emergency order shall be issued only when the director finds that:
  - (1) There has been charged a violation of any of the criminal laws of this State by a licensee or registrant, or
  - (2) Such action is necessary to prevent a violation of any such provision, or

(3) Such action is necessary immediately for the preservation of the public peace, health, safety, morals, good order and general welfare or to preserve the public policies declared by this act.

b. An emergency order shall set forth the grounds upon which it is issued, including the statement of facts constituting the alleged emergency necessitating such action.

c. The emergency order shall be effective immediately upon issuance and service upon the licensee, registrant, or resident agent of the licensee. The emergency order may suspend, limit, condition or take other action in relation to the approval of one or more individuals who were required to be approved in any operation, without necessarily affecting any other individuals or the licensed casino establishment. The emergency order shall remain effective until further order of the director.

d. Within 5 days after issuance of an emergency order, the division shall cause a complaint to be filed and served upon the person or entity involved in accordance with the provisions of this act.

e. Thereafter, the person or entity against whom the emergency order has been issued and served shall show cause before the director why the emergency order should not remain in effect in accordance with the provisions of this act and the regulations promulgated hereunder.

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

**C.5:12-110 Judicial review.**

110. a. The division or any person aggrieved by a final decision or order of the commission made after hearing or rehearing by the commission, whether or not a petition for hearing was filed, may obtain judicial review thereof by appeal to the Superior Court in accordance with the Rules of Court.

b. Filing of an appeal shall not stay enforcement of the decision or order of the commission unless the stay is obtained from the court upon application in accordance with the Rules of Court or from the commission upon such terms and conditions as it deems proper.

c. The reviewing court may affirm the decision and order of the commission, may remand the case for further proceedings, or may reverse the decision if the substantive rights of the petitioner have been prejudiced because the decision is:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority and jurisdiction of the commission; or

(3) Arbitrary or capricious or otherwise not in accordance with law.

d. In order to protect the public interest and the regulatory authority of the commission, any action by the commission taken pursuant to the provisions of section 64, 69 d. or 71 of this act shall not be subject to the injunctive authority of the Superior Court prior to the exhaustion of the administrative procedures herein specified, unless it shall appear evident to the court, by clear and convincing evidence, that a manifest denial of justice would be effectuated by the refusal to enjoin the contemplated action.

79. 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 \$50,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$200,000, 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 division and collected in accordance with the provisions of this act.

80. 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 or simulcasting facility 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 \$50,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$200,000.

b. Any licensee who places games or slot machines into play or displays such games or slot machines in a casino or simulcasting facility with-

out authority of the division 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 \$50,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$200,000.

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 \$50,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$200,000.

81. Section 46 of P.L.1991, c.182 (C.5:12-113.1) is amended to read as follows:

**C.5:12-113.1 Use of certain devices in playing games, grading of offense; forfeiture of devices.**

46. a. A person commits a third degree offense if, in playing a game in a licensed casino or simulcasting facility, the person uses, or assists another in the use of, a computerized, 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 or simulcasting facility, unless the advantage obtained can be assessed a monetary value or loss of \$75,000 or greater in which case the offense is a crime of the second degree.

b. Any computerized, electronic, electrical or mechanical device used in violation of subsection a. of this section shall be considered prima facie contraband and shall be subject to the provisions of N.J.S.2C:64-2. 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.

c. Each casino licensee shall post notice of this prohibition and the penalties of this section in a manner determined by the division.

82. Section 114 of P.L.1977, c.110 (C.5:12-114) is amended to read as follows:

**C.5:12-114 Unlawful use of bogus chips or gaming billets, marked cards, dice, cheating devices, unlawful coins; penalty.**

114. Unlawful Use of Bogus Chips or Gaming Billets, Marked Cards, Dice, Cheating Devices, Unlawful Coins; Penalty. a. It shall be unlawful for any person playing any licensed gambling game:

(1) Knowingly to use bogus or counterfeit chips or gaming billets, or knowingly to substitute and use in any such game cards or dice that have been marked, loaded or tampered with; or

(2) Knowingly to use or possess any cheating device with intent to cheat or defraud.

b. It shall be unlawful for any person, playing or using any slot machine in a licensed casino:

(1) Knowingly to use other than a lawful coin or legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in such slot machine, except that in the playing of any slot machine or similar gaming device, it shall be lawful for any person to use gaming billets, tokens or similar objects therein which are approved by the division; or

(2) To use any cheating or thieving device, including but not limited to tools, drills, wires, coins or tokens attached to strings or wires, or electronic or magnetic devices, to facilitate the alignment of any winning combination or removing from any slot machine any money or other contents thereof.

c. It shall be unlawful for any person knowingly to possess or use while on the premises of a licensed casino, any cheating or thieving device, including but not limited to tools, wires, drills, coins attached to strings or wires or electronic or magnetic devices to facilitate removing from any slot machine any money or contents thereof, except that a duly authorized employee of a licensed casino may possess and use any of the foregoing only in furtherance of his employment in the casino.

d. It shall be unlawful for any person knowingly to possess or use while on the premises of any licensed casino or simulcasting facility any key or device designed for the purpose of or suitable for opening or entering any slot machine or similar gaming device or drop box, except that a duly authorized employee of a licensed casino, of a company authorized to conduct casino simulcasting, or of the division may possess and use any of the foregoing only in furtherance of his employment.

e. Any person who violates this section is guilty of a crime of the fourth degree and notwithstanding the provisions of N.J.S.2C:43-3 shall be subject to a fine of not more than \$50,000, and in the case of a person other than a natural person, to a fine of not more than \$200,000 and any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

83. Section 5 of P.L.1980, c.69 (C.5:12-117.1) is amended to read as follows:

**C.5:12-117.1 Persons prohibited from accepting employment; violation; crime of fourth degree.**

5. a. No applicant or person or organization licensed by or registered with the commission or division shall employ or offer to employ any person who is prohibited from accepting employment from a licensee or applicant or any holding or intermediary company under section 4 of P.L.1981, c.142 (C.52:13D-17.2).

b. An applicant or person or organization who violates the provisions of this section is guilty of a crime of the fourth degree.

84. 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 division pursuant to the provisions of section 71 of this act, P.L.1977, c.110 (C.5:12-71), who knowingly enters the premises of a licensed casino is guilty of a crime of the fourth degree.

85. 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; immunity from liability; posted notice required.**

121. Authority of Gaming Licensee and Agents to Detain or Question Persons; Immunity from Liability; Posted Notice Required.

a. Any licensee or its officers, employees or agents may question any individual in the casino or simulcasting facility or elsewhere in the establishment who is 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), section 46 of P.L.1991, c.182 (C.5:12-113.1), section 118 of P.L.1977, c.110 (C.5:12-118), section 119 of P.L.1977, c.110 (C.5:12-119) or R.S.33:1-81 pursuant to subsection d. of section 103 of P.L.1977, c.110 (C.5:12-103). 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), section 46 of P.L.1991, c.182 (C.5:12-113.1), section 118 of P.L.1977, c.110 (C.5:12-118),

section 119 of P.L.1977, c.110 (C.5:12-119) or R.S.33:1-81 pursuant to subsection d. of section 103 of P.L.1977, c.110 (C.5:12-103) in the casino or simulcasting facility by any person may refuse to permit such person to continue gaming or wagering or 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 authorities. Such refusal or 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 refusal or such taking into custody or detention is unreasonable under all of the circumstances.

c. No licensee or its 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 and, if applicable, the simulcasting facility 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 or simulcast wagering, underage gambling, underage drinking, the unauthorized presence on the casino floor or simulcasting facility by an underage person, or the presence in the casino establishment of a person excluded pursuant to the provisions of section 71 of P.L.1977, c.110 (C.5:12-71), may detain such person in the establishment for the purpose of notifying law enforcement authorities."

86. Section 129 of P.L.1977, c.110 (C.5:12-129) is amended to read as follows:

**C.5:12-129 Supplemental sanctions.**

**129. Supplemental Sanctions.**

a. In addition to any penalty, fine or term of imprisonment authorized by law, the division shall, after appropriate hearings and factual determinations, have the authority to impose the following sanctions upon any person licensed or registered pursuant to this act:

(1) Revoke the license or registration of any person for the conviction of any criminal offense under this act or for the commission of any other offense or violation of this act which would disqualify such person from holding his license or registration;

(2) Revoke the license or registration of any person for willfully and knowingly violating an order of the division directed to such person;

(3) Suspend the license or registration of any person pending hearing and determination, in any case in which license or registration revocation could result;

(4) Suspend the operation certificate of any casino licensee for violation of any provisions of this act or regulations promulgated hereunder relating to the operation of its casino or, if applicable, its simulcasting facility, or both, including games, internal and accountancy controls and security;

(5) Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$20,000 in the case of any individual licensee or registrant, except that in the case of a casino licensee the penalty may not exceed \$100,000;

(6) Order restitution of any moneys or property unlawfully obtained or retained by a licensee or registrant;

(7) Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee or registrant;

(8) Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee or registrant so sanctioned; or

(9) Impose any or all of the foregoing sanctions in combination with each other.

b. The division's imposition of any fine, penalty, or sanction pursuant to this section shall be appealable to the commission, except that in no case shall the division's decision to enter into a settlement agreement which results in the imposition of a fine, penalty, sanction or any combination thereof be subject to review by the commission.

87. Section 130 of P.L.1977, c.110 (C.5:12-130) is amended to read as follows:

**C.5:12-130 Impositions of sanctions – standards.**

130. In considering appropriate sanctions in a particular case, the division shall consider:

a. The risk to the public and to the integrity of gaming operations created by the conduct of the licensee or registrant;

b. The seriousness of the conduct of the licensee or registrant, and whether the conduct was purposeful and with knowledge that it was in contravention of the provisions of this act or regulations promulgated hereunder;

c. Any justification or excuse for such conduct by the licensee or registrant;

d. The prior history of the particular licensee or registrant involved with respect to gaming activity;

e. The corrective action taken by the licensee or registrant to prevent future misconduct of a like nature from occurring; and

f. In the case of a monetary penalty, the amount of the penalty in relation to the severity of the misconduct and the financial means of the licensee or registrant. The division may impose any schedule or terms of payment of such penalty as it may deem appropriate.

g. It shall be no defense to disciplinary action before the division that an applicant, licensee, registrant, intermediary company, or holding company inadvertently, unintentionally, or unknowingly violated a provision of this act. Such factors shall only go to the degree of the penalty to be imposed by the division, and not to a finding of a violation itself.

88. 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 or denial of a casino license, or (2) upon, in the discretion of the commission, the suspension of a casino license or the suspension of an operation certificate for a period of in excess of 120 days, 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 commis-

sion 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.

89. Section 133 of P.L.1977, c.110 (C.5:12-133) is amended to read as follows:

**C.5:12-133 Severability and preemption.**

133. a. If any clause, sentence, subparagraph, paragraph, subsection, section, article or other portion of this act or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, subparagraph, subsection, section, article or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

b. If any provision of this act is inconsistent with, in conflict with, or contrary to any other provision of law, such provision of this act shall prevail over such other provision and such other provision shall be deemed to be amended, superseded or repealed to the extent of such inconsistency or conflict. Notwithstanding the provisions of any other law to the contrary, no local government unit of this State may enact or enforce any ordinance or resolution conflicting with any provision of this act or with any policy of this State expressed or implied herein, whether by exclusion or inclusion. The commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of this act, and

the division shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of this act.

90. Section 134 of P.L.1977, c.110 (C.5:12-134) is amended to read as follows:

**C.5:12-134 Equal employment opportunity; requirements for license.**

134. a. Each applicant at the time of submitting architectural plans or site plans to the division for approval of proposed construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino shall accompany same with a written guaranty that all contracts and subcontracts to be awarded in connection therewith shall contain appropriate provisions by which contractors and subcontractors or their assignees agree to afford an equal employment opportunity to all prospective employees and to all actual employees to be employed by the contractor or subcontractor in accordance with an affirmative action program approved by the division and consonant with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). On and after the effective date of this amendatory act an applicant shall also be required to demonstrate that equal employment opportunities in accordance with the aforesaid affirmative-action program in compliance with P.L.1945, c.169 have been afforded to all prospective employees and to all actual employees employed by a contractor or subcontractor in connection with the actual construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino prior to submission of architectural plans or site plans to the commission.

b. No license shall be issued by the commission to any applicant, including a casino service industry enterprise as defined in section 12 of this act, who has not agreed to afford an equal employment opportunity to all prospective employees in accordance with an affirmative-action program approved by the commission and consonant with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

c. Each applicant shall formulate for division approval and abide by an affirmative-action program of equal opportunity whereby the applicant guarantees to provide equal employment opportunity to rehabilitated offenders eligible under sections 90 and 91 of this act and members of minority groups qualified for licensure in all employment categories, including a person with a disability, in accordance with the provisions of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), except in the

case of the mentally handicapped, if it can be clearly shown that such disability would prevent such person from performing a particular job.

d. Any license issued by the commission in violation of this section shall be null and void.

91. Section 135 of P.L.1977, c.110 (C.5:12-135) is amended to read as follows:

**C.5:12-135 Equal employment opportunity; enforcement by the division.**

135. The division, in addition to and without limitation of other powers which it may have by law, shall have the following powers:

a. To investigate and determine the percentage of population of minority groups in the State or in areas thereof from which the work force for the licensee is or may be drawn;

b. To establish and promulgate such percentages as guidelines in determining the adequacy of affirmative-action programs submitted for approval pursuant to the provisions of section 134 of this act;

c. To impose such sanctions as may be necessary to accomplish the objectives of section 134;

d. To refer to the Attorney General or his designee circumstances which may constitute violation of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

e. To enforce in a court of law the provisions of section 134 or to join in or assist any enforcement proceeding initiated by any aggrieved person; and

f. To require the designation by a licensee of an equal employment officer to enforce the provisions of section 134 and this section and the regulations promulgated hereunder.

92. Section 136 of P.L.1977, c.110 (C.5:12-136) is amended to read as follows:

**C.5:12-136 Facilities for the handicapped.**

136. All hotels and other facilities of a casino licensee, which are public accommodations and are subject to the regulatory powers of the division under this act, shall be constructed or renovated to conform with the provisions of P.L.1971, c.269, as amended and supplemented (C.52:32-4 et seq.) relating to barrier-free design for providing facilities for the physically handicapped in public buildings, and the rules, regulations and codes thereunder promulgated.

93. Section 139 of P.L.1977, c.110 (C.5:12-139) is amended to read as follows:

**C.5:12-139 Casino license fees.**

139. Casino License Fees.

a. The division shall, by regulation, establish fees for the issuance of casino licenses. The issuance fee shall be based upon the cost of investigation and consideration of the license application and shall be not less than \$200,000.00.

b. The Attorney General shall certify actual and prospective costs of the investigative and enforcement functions of the division, which costs shall be the basis, together with the operating expenses of the commission, for the establishment of annual license issuance and renewal fees.

c. A nonrefundable deposit of at least \$100,000.00 shall be required to be posted with each application for a casino license and shall be applied to the initial license fee if the application is approved.

94. Section 141 of P.L.1977, c.110 (C.5:12-141) is amended to read as follows:

**C.5:12-141 Fees for other than casino licenses.**

141. Fees for Other Than Casino Licenses. The division shall, by regulation, establish fees for the investigation and consideration of applications for the issuance and renewal of registrations and licenses other than casino licenses, which fees shall be payable by the applicant, licensee or registrant.

95. Section 31 of P.L.2002, c.65 (C.5:12-141.1) is amended to read as follows:

**C.5:12-141.1 Fees to recoup costs of the division or commission.**

31. Fees to Recoup Costs of the Division or Commission. The division may, by regulation, establish fees to recoup the costs of services, equipment or other expenses that are rendered, utilized or incurred by the division or commission, including any unusual or out of pocket expenses directly related thereto, in response to requests arising under P.L.1977, c.110 (C.5:12-1 et seq.) that are unrelated to the investigation or consideration of the issuance or renewal of a registration or license.

96. Section 24 of P.L.2009, c.36 (C.5:12-141.2) is amended to read as follows:

**C.5:12-141.2 Expiration of gaming-related obligations owed to patrons; date of expiration; payment to casino revenue fund.**

24. Expiration of gaming-related obligations owed to patrons; date of expiration; payment to Casino Revenue Fund.

a. Whenever a casino licensee owes a patron a specific amount of money as the result of a gaming transaction which remains unpaid due to the failure of the patron to claim the money or redeem a representation of the debt issued in a form approved by the commission, regardless of whether the identity of the patron is known, the casino licensee shall maintain a record of the obligation in accordance with the rules of the division.

b. If the patron does not claim the money or redeem the representation of debt within one year of the date of the transaction, which date shall be established in accordance with the rules of the division, the obligation of the casino licensee to pay the patron shall expire, and 25% of the money or the value of the debt shall be paid to the Casino Revenue Fund by the casino licensee, and the remaining 75% shall be retained by the casino licensee, provided the licensee uses the full amount for marketing purposes. Notwithstanding the foregoing, if the obligation was incurred or the representation of debt was issued prior to the effective date of this act, P.L.2009, c.36, the obligation of the casino licensee to pay the patron shall expire one year after such effective date, at which time 50% of the money or the value of the debt shall be paid to the Casino Revenue Fund, subject to a credit for the payment required to be made to that fund on or before June 30, 2009 by the casino licensee pursuant to subsection c. of this section, and 50% shall be retained by the casino licensee.

c. Each casino licensee shall, on or before June 30, 2009, make a payment to the Casino Revenue Fund in an amount equal to 25% of the value of the money or debt owed to its patrons as a result of gaming transactions that occurred more than one year prior to the effective date of this act, P.L.2009, c.36. This payment shall be credited towards the total obligation of the casino licensee to make payments to the Casino Revenue Fund in an amount equal to 50% of the value of expired gaming related obligations pursuant to subsection b. of this section.

97. Section 143 of P.L.1977, c.110 (C.5:12-143) is amended to read as follows:

**C.5:12-143 "Casino control fund."**

143. a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Control

Fund," into which shall be deposited all license fee revenues imposed by sections 94, 139, 140, 141, and 142 of this act.

b. Moneys in the Casino Control Fund shall be appropriated, notwithstanding the provisions of P.L.1976, c.67 (C.52:9H-5 et seq.), exclusively for the operating expenses of the commission and the division.

98. Section 144 of P.L.1977, c.110 (C.5:12-144) is amended to read as follows:

**C.5:12-144 Tax on gross revenues.**

144. a. There is hereby imposed an annual tax on gross revenues as defined in section 24 of this act in the amount of 8% of such gross revenues.

b. Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1978, and ending before January 1, 1984 and based upon a determination that in said return or any annual return for a calendar year during that period the gross revenue of a licensee in the calendar year upon which the tax is based exceeds the cumulative investments in this State of said licensee as of that year, such licensee shall make investments in an amount not less than 2% of the gross revenue for said calendar year within a period of five years from the end of said calendar year. Fifty percent of the investments required by this subsection as a result of any of the three annual tax returns commencing with the first annual tax return for any calendar year beginning after December 31, 1978 shall be made in the municipality in which the licensed premises are located, and 50% of such investments shall be made in any other municipality of this State. Twenty-five percent of the investments required by this subsection as a result of any annual tax return subsequent to the third such return in a series of returns the first of which is for a calendar year beginning after December 31, 1978 shall be made in the municipality in which the licensed premises are located, and 75% shall be made in any other municipality of this State.

All investments and cumulative investments made pursuant to this subsection shall be subject to a determination by the division as to the eligibility of such investments. In determining eligibility, the division shall consider the public interest, including the social and economic benefits to be derived from such investments for the people of this State.

c. For the purposes of this section, "investments" means equity investments in land and real property on which improvements are made and in real property improvements. For the purposes of this section, "cumulative investments" means investments in and debt financing of the licensed premises, plus other investments in and debt financing of land and real

property on which improvements are made and real property improvements; provided, however, that the investments and debt financing not associated with the licensed premises have been subsequent to July 6, 1976. Real property and real property improvements sold or otherwise disposed of by the licensee shall not be included for the purposes of determining cumulative investments.

d. For the purposes of satisfying the amount of investments in any given year and of determining cumulative investments as of any given year, pursuant to subsection b., contributions of money or realty shall be included if the division determines that such contributions best serve the public interest and either (1) directly relate to the improvement, furtherance, and promotion of the tourist industry in this State through the planning, acquisition, construction, improvement, maintenance and operation of recreational, entertainment, and other facilities for the public, including, without limitation, a performing arts center, the beaches and shorefront of this State, and transportation facilities providing or enhancing service in resort areas of this State, or (2) directly relate to the improvement, furtherance, and promotion of the health and wellbeing of the people of this State through the planning, acquisition, construction, improvement, maintenance, and operation of a facility, project or program approved by the division.

e. In the event that the investments required in subsection b. of this section are not made within the time set forth herein, there shall be imposed an investment alternative tax in an amount equivalent to 2% of gross revenue, which tax shall be added to the tax determined under subsection a. of this section and shall be due and payable in accordance with section 148 of P.L.1977, c.110 (C.5:12-148). For the purposes of determining whether the investment alternative tax shall be paid, the State Treasurer shall certify, under such rules and regulations as he shall promulgate consistent with the provisions of this article, the amount of cumulative investments made by each licensee. In the event of the sale or other disposition of the licensed premises, any investment obligation imposed by subsection b. which is not satisfied shall be immediately deemed due and payable as investment alternative tax, and said amount shall constitute a lien upon the licensed premises until paid, together with interest at the rate specified in the "State Uniform Tax Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes; provided, however, that the appointment of a conservator under section 31 of P.L.1978, c.7, shall not constitute a sale or other disposition of the licensed premises within the meaning of this subsection, and provided further, that if, in the judgment of the division, a sale or other disposition does not significantly affect the operations of a casino licensee with respect to

such premises, the division may permit the investment obligation imposed on such licensee to continue under such conditions as the division may deem appropriate.

f. The division shall promulgate rules and regulations consistent with the provisions of this article as to the eligibility of the investments and cumulative investments required by this section.

g. The Casino Reinvestment Development Authority shall, simultaneous with the initial exercise of its general powers and responsibilities pursuant to section 39 of P.L.1984, c.218, assume and exercise all powers and responsibilities and make all determinations necessary to the administration of subsections b. through f. of section 144 of P.L.1977, c.110 (C.5:12-144) theretofore exercised or made by the division, including the resolution of all matters then pending before the division. Subsequent to the initial exercise of its general powers and responsibilities by the Casino Reinvestment Development Authority, the division shall make no further determinations of eligibility under this section except as may be necessary to enable a licensee to satisfy an investment obligation which is due in calendar year 1984, and shall have no further responsibility for planning or redevelopment activity with regard to the use of reinvestment funds generated by either subsections b. through f. of section 144 of P.L.1977, c.110 (C.5:12-144) or subsection b. of section 3 of P.L.1984, c.218 (C.5:12-144.1). All determinations made in accordance with this section shall be final and subject only to alteration by a decision of a court.

h. Notwithstanding any other provision of this section to the contrary, any investment required by this section which has not been commenced by a licensee as of the effective date of this 1984 amendatory and supplementary act, other than an investment which is necessary to enable a licensee to satisfy an investment obligation which is due in calendar year 1984, may only be satisfied through the purchase of bonds of the Casino Reinvestment Development Authority issued pursuant to sections 14 and 15 of P.L.1984, c.218 (C.5:12-162, 5:12-163), except that the date by which the investment shall be made, and the amount of the investment or investment alternative tax obligation, shall be that set forth in subsections b. and e. of this section.

Notwithstanding the provisions of subsections b. and c. of this section, any investment obligation which is due in calendar year 1984 which has not been commenced or satisfied by December 31, 1984 may, at the option of the licensee and with the approval of the division, and in lieu of or in addition to making any other investment or contribution authorized by this section, be satisfied subsequent thereto by the purchase, or the agreement to make a purchase, of bonds of the Casino Reinvestment Development Au-

thority. Any licensee desiring to exercise this option, with the approval of the division, shall transfer and entrust the necessary amount to the State Treasurer, who shall maintain the funds until the initial exercise by the Casino Reinvestment Development Authority of its general powers and responsibilities pursuant to section 39 of P.L.1984, c.218. Immediately subsequent to the initial exercise of its general powers and responsibilities by the Casino Reinvestment Development Authority, the State Treasurer shall transfer any such entrusted funds to the Casino Reinvestment Development Authority for the purchase of bonds by the licensee in amounts equivalent to the amount of the funds deposited by the licensee with the State Treasurer. Until he transfers the funds to the Casino Reinvestment Development Authority, the State Treasurer shall be authorized to invest and reinvest such funds through the Director of the Division of Investment, who shall make such investments in accordance with written directions of the State Treasurer, without regard to any other law relating to investments by the Director of the Division of Investment. Any interest earned on the funds while they are entrusted to the State Treasurer shall accrue to the licensee and the Casino Reinvestment Development Authority in the same proportion as if the funds were held and invested by the Casino Reinvestment Development Authority pursuant to subsection m. of section 13 of P.L.1984, c.218 (C.5:12-161).

The proceeds of all bond purchases made pursuant to this subsection shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income in accordance with the provisions of subsection f. of section 3 of P.L.1984, c.218 (C.5:12-144.1).

i. If a licensee has incurred an investment obligation which requires bonds to be purchased pursuant to the provisions of subsection h. of this section and the licensee purchases bonds of the Casino Reinvestment Development Authority issued pursuant to sections 14 and 15 of P.L.1984, c.218 (C.5:12-162, 5:12-163) in satisfaction of that obligation no later than six months after the adoption by the Casino Reinvestment Development Authority of rules and regulations pursuant to subsection j. of section 3 of P.L.1984, c.218 (C.5:12-144.1), the licensee shall be entitled to a reduction of its investment obligation in an amount determined by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase to the date the purchase would have been required to be made. Any purchase of bonds made pursuant to this subsection shall first be used to satisfy the licensee's most recently incurred investment obligation. That purchase of bonds shall not constitute a

credit against the tax provided for in subsection a. of section 3 of this 1984 amendatory and supplementary act.

99. Section 3 of P.L.1984, c.218 (C.5:12-144.1) is amended to read as follows:

**C.5:12-144.1 Imposition of investment alternative tax.**

3. a. (1) Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1983, there is imposed an investment alternative tax on the gross revenues as defined in section 24 of P.L.1977, c.110 (C.5:12-24) of the licensee in the amount of 2.5% of those gross revenues. The tax imposed with respect to each calendar year shall be due and payable on the last day of April next following the end of the calendar year. The State Treasurer shall have a lien against the property constituting the casino of a licensee for the amount of any tax not paid when due. No tax shall be imposed, however, on the gross revenues received by a licensee during the first 12 months of the operation of any casino that commences operation after January 1, 1984, but prior to the effective date of this act, P.L.1996, c.118 (C.5:12-173.3a et al.).

(2) A licensee shall pay to the State Treasurer on or before the 15th day of the first, fourth, seventh, and 10th months of each year as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection an amount equal to 1.25% of the estimated gross revenues for the three-month period immediately preceding the first day of those months. The moneys received shall be placed in an escrow account and shall be held until the licensee directs that the moneys be transferred to the Casino Reinvestment Development Authority for the purchase of bonds issued by or offered through the Casino Reinvestment Development Authority or pursuant to a contract for such a purchase, be made available to the licensee for a direct investment approved by the authority, or be transferred to the Casino Revenue Fund as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection. Any interest derived from the moneys in the escrow account shall be paid or made available to the Casino Revenue Fund. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the division shall impose a fine of 5% of the amount due or of the underpayment, as the case may be, for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default. Any fine imposed shall be paid to the Casino Reinvestment Development Authority and shall be used for the purposes of this 1984 amendatory and supplementary act.

b. Each licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of this section, provided the licensee shall pay over the moneys required pursuant to section 5 of P.L.1993, c.159 (C.5:12-173.5): (1) for the first 10 years of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and (2) for the remainder of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and twice the amount of investments made by a licensee in other approved eligible investments made pursuant to section 25 of this act. The Casino Reinvestment Development Authority shall have the power to enter into a contract or contracts with a licensee pursuant to which the Casino Reinvestment Development Authority agrees to issue and sell bonds to the licensee, and the licensee agrees to purchase the bonds issued by or offered through the Casino Reinvestment Development Authority, in annual purchase price amounts as will constitute a credit against at least 50% of the tax to become due in any future year or years. The contract may contain those terms and conditions relating to the terms of the bonds and to the issuance and sale of the bonds to the licensee as the Casino Reinvestment Development Authority shall deem necessary or desirable. The contract shall not be deemed to be in violation of section 104 of P.L.1977, c.110 (C.5:12-104). After the first 10 years of a licensee's investment alternative tax obligation, a licensee will have the option of entering into a contract with the Casino Reinvestment Development Authority to have its tax credit comprised of direct investments in approved eligible projects. These direct investments shall not comprise more than 50% of a licensee's eligible tax credit in any one year.

The entering of a contract pursuant to this section shall be sufficient to entitle a licensee to an investment tax credit for the appropriate tax year.

c. A contract entered into between a licensee and the Casino Reinvestment Development Authority may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year, but no deferral shall occur more than two years consecutively. A deferral of payment for any bonds required to be purchased by a licensee and a deferral from making approved eligible investments may be granted by the Casino Reinvestment Develop-

ment Authority only upon a determination by the Division of Gaming Enforcement that purchase of these bonds or making approved eligible investments would cause extreme financial hardship to the licensee and a determination by the Casino Reinvestment Development Authority that the deferral of the payment would not violate any covenant or agreement or impair any financial obligation of the Casino Reinvestment Development Authority. The contract may establish a late payment charge to be paid in the event of deferral or other late payment at a rate as shall be agreed to by the Casino Reinvestment Development Authority. If a deferral of purchase or investment is granted, the licensee shall be deemed to have made the purchase or investment at the time required by the contract, except that if the purchase is not made at the time to which the purchase or investment was deferred, then the licensee shall be deemed not to have made the purchase or investment. The Division of Gaming Enforcement shall adopt regulations establishing a uniform definition of extreme financial hardship applicable to all these contracts. If a licensee petitions the Casino Reinvestment Development Authority for a deferral, the Casino Reinvestment Development Authority shall give notice of that petition to the Division of Gaming Enforcement within three days of the filing of the petition. The Division of Gaming Enforcement shall render a decision within 60 days of notice as to whether the licensee has established extreme financial hardship. The Casino Reinvestment Development Authority shall render a decision as to the availability of the deferral within 10 days of the receipt by it of the decision of the Division of Gaming Enforcement and shall notify the Division of Gaming Enforcement of that decision. If a deferral is granted, the Casino Reinvestment Development Authority may determine whether the purchases or investments shall be made in a lump sum, made over a period of years, or whether the period of obligation shall be extended an additional period of time equivalent to the period of time deferred.

d. The license of any licensee which has defaulted in its obligation to make any purchase of bonds or investment in any approved eligible project under a contract entered into pursuant to subsection b. of this section for a period of 90 days may be suspended by the Casino Control Commission upon report and recommendation of the division until that purchase is made or deferred in accordance with subsection b. of this section, or a fine or other penalty may be imposed upon the licensee by the commission. If the Casino Control Commission elects not to suspend the license of a licensee after the licensee has first defaulted in its obligation the division may instead impose some lesser penalty. In such event, if the licensee continues to be in default of its obligation after a period of 30 additional days and after

any additional 30-day period, the division may impose another fine or penalty upon the licensee, and may again recommend that the commission suspend that licensee's license. The fine shall be 5% of the amount of the obligation owed for each month or portion thereof a licensee is in default, up to 25% of that obligation; shall be paid to the Casino Reinvestment Development Authority; and shall be used for the purposes of this 1984 amendatory and supplementary act.

e. A contract entered into by a licensee and the Casino Reinvestment Development Authority pursuant to subsection b. of this section may provide that after the first 10 years of a licensee's investment alternative tax obligation imposed by subsection a. of this section, the Casino Reinvestment Development Authority may repurchase bonds previously sold to the licensee, which were issued after the 10th year of a licensee's investment alternative tax obligation, by the Casino Reinvestment Development Authority, if the Casino Reinvestment Development Authority determines that the repurchase will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority and that the licensee will reinvest the proceeds of the resale in an eligible project approved by the Casino Reinvestment Development Authority.

f. (1) During the 50 years a licensee is obligated to pay an investment alternative tax pursuant to subsection k. of this section, the total of (a) the proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts:

| Areas                                                 | Yrs.<br>1-3 | Yrs.<br>4-5 | Yrs.<br>6-10 | Yrs.<br>11-15 | Yrs.<br>16-20 | Yrs.<br>21-25 | Yrs.<br>26-30 | Yrs.<br>31-35 | Yrs.<br>36-50 |
|-------------------------------------------------------|-------------|-------------|--------------|---------------|---------------|---------------|---------------|---------------|---------------|
| a) Atlantic City                                      | 100%        | 90%         | 80%          | 50%           | 30%           | 20%           |               |               |               |
| b) South Jersey                                       |             | 8%          | 12%          | 28%           | 43%           | 45%           | 25%           | 50%           |               |
| c) North Jersey                                       |             | 2%          | 8%           | 22%           | 27%           | 35%           | 35%           | 50%           | 50%           |
| d) Atlantic City<br>through the Atlantic<br>City Fund |             |             |              |               |               |               | 65%           | 25%           |               |

except that, with respect to the obligations for calendar years 1994 through 1998, the amount allocated for the financing of projects in North Jersey from each casino licensee's obligation shall be the amount allocated for calendar year 1993, and the difference between that amount and the amount to be allocated to North Jersey, on the basis of the above schedule, from each

casino licensee's obligations for calendar years 1994 through 1998 shall be paid into or credited to the Atlantic City Fund established by section 44 of P.L.1995, c.18 (C.5:12-161.1) and be devoted to the financing of projects in Atlantic City through that fund. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem, except that "South Jersey" shall not include the City of Atlantic City; and "North Jersey" means the remaining 12 counties of the State. For the purposes of this 1984 amendatory and supplementary act, bond "proceeds" means all funds received from the sale of bonds and any funds generated or derived therefrom.

In the financing of projects outside Atlantic City, the Casino Reinvestment Development Authority shall give priority to the revitalization of the urban areas of this State in the ways specified in section 12 of this 1984 amendatory and supplementary act. Those areas shall include, but not be limited to, all municipalities qualifying for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

Within nine months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in South Jersey for the first seven years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first seven years of the receipt of funds by South Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the seventh year of the receipt of funds by South Jersey municipalities. If the comprehensive plan or project is deter-

mined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

Within 36 months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in North Jersey for the first five years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first five years of the receipt of funds by North Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the fifth year of the receipt of funds by North Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan

or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

(2) Commencing with the first year in which a licensee incurs a tax obligation pursuant to this section, and for the period of two years thereafter, 100% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City pursuant to paragraph (1) of this subsection shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, as defined in this subsection. For the purposes of this subsection, the "rehabilitation, development, or construction of housing facilities" shall include expenses attributable to site preparation, infrastructure needs and housing-related community facilities and services, including supporting commercial development. Commencing with the fourth year in which a licensee incurs a tax obligation pursuant to this subsection, 50% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income. Commencing with the 11th year in which a licensee incurs a tax obligation pursuant to this section, 50% of the annual aggregate of the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City and investments in approved eligible projects commenced by a licensee in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income.

(3) The Legislature finds that it is necessary to provide for a balanced community and develop a comprehensive housing program. The Casino Reinvestment Development Authority shall determine the need for housing in the city of Atlantic City, in consultation with the city of Atlantic City and

specifically its zoning and planning boards. This shall include determining the types and classes of housing to be constructed and the number of units of each type and class of housing to be built. The Casino Reinvestment Development Authority shall give priority to the housing needs of the persons and their families residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act. The actual percentage of the proceeds of bonds and investments in approved eligible projects commenced by a licensee in the city of Atlantic City, which shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, shall be based upon the authority's determination of the need for housing in the city of Atlantic City conducted pursuant to this subsection. Once the housing needs of the persons residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act have been met, as determined by the Casino Reinvestment Development Authority pursuant to this subsection, any required percentages for such housing in the city of Atlantic City may, in its sole discretion, be waived by the Casino Reinvestment Development Authority. To aid the Casino Reinvestment Development Authority in making these determinations, the Casino Reinvestment Development Authority shall review the proposal for a housing redevelopment program and strategy for the city of Atlantic City approved and adopted by the Casino Control Commission and shall give priority to same and any other plan or project which is consistent with the standards of this subsection and is acceptable to the Casino Reinvestment Development Authority, pursuant to section 25 of this 1984 amendatory and supplementary act. The Casino Reinvestment Development Authority may determine whether the funds used to finance housing facilities in the city of Atlantic City for persons or families of low, moderate, median range, and middle income are derived from the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority to be devoted to the financing of projects in the city of Atlantic City, investments in approved eligible projects commenced by a licensee in the city of Atlantic City, or a combination of both. Any investment made by a licensee in excess of 100% of its eligible investment tax credit during the first three years and in excess of 50% thereafter in either the purchase of bonds or direct investments in approved eligible projects for low, moderate, median range, and middle income family housing facilities in the city of Atlantic City may be carried forward and credited against the licensee's obligation to make a 100% in-

vestment during the first three years and 50% thereafter in low, moderate, median range, and middle income family housing in any future year, with the approval of the Casino Reinvestment Development Authority. For the purposes of this act, "low income families" means families whose income does not exceed 50% of the median income of the area, with adjustments for smaller and larger families. "Moderate income families" means families whose income does not exceed 80% and is not less than 50% of the median income for the area, with adjustments for smaller and larger families. "Median range income families" means families whose income does not exceed 120% and is not less than 80% of the median income for the area, with adjustments for smaller and larger families. "Middle income families" means families whose income does not exceed 150% and not less than 120% of the median income for the area, with adjustments for smaller and larger families. "Median income" means an income defined as median within the Standard Metropolitan Statistical Area for Atlantic City by the United States Department of Housing and Urban Development.

In order to achieve a balanced community, the authority shall ensure that the development of housing for families of low and moderate income shall proceed at the same time as housing for families of median range and middle income, until such time as there is no longer a need for such facilities in the city of Atlantic City, as determined by the Casino Reinvestment Development Authority.

(4) Notwithstanding any other law or section to the contrary, particularly this subsection regarding the waiver of the required percentages for housing in the city of Atlantic City, subsection i. of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amendatory and supplementary act, nothing shall be implemented or waived by the Casino Reinvestment Development Authority which would reduce, impair, or prevent the fulfillment of the priorities established and contained in this subsection of this 1984 amendatory and supplementary act.

g. If a person is a licensee with regard to more than one approved hotel pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), the person shall separately account for the gross revenues, the investment alternative tax obligations, and the investments for a tax credit against the investment alternative tax for each approved hotel, and the tax obligations of the licensee under this section shall be determined separately for each approved hotel. The licensee may apportion investments between its approved hotels; provided that no amount of investment shall be credited more than once. If a licensee receives the prior approval of the Casino Reinvestment Development Authority, the licensee may make eligible investments in excess of the

investments necessary to receive a tax credit against the investment alternative tax for a given calendar year, and the licensee may carry forward this excess investment and have it credited to its next investment alternative tax obligation. If the Casino Reinvestment Development Authority approves of such excess investment and approves the carry forward of this excess investment, and a licensee elects to purchase bonds of the Casino Reinvestment Development Authority or makes direct investments in approved eligible projects in excess of the investments necessary to receive a tax credit against the investment alternative tax for its current obligation, the licensee shall be entitled to a reduction of the amount of investments necessary in future years, which amount shall be determined annually by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase or investment to the date the purchase or investment would have been required to be made.

h. Each casino licensee shall prepare and file, in a form prescribed by the Casino Reinvestment Development Authority, an annual return reporting that financial information as shall be deemed necessary by the Casino Reinvestment Development Authority to carry out the provisions of this act. This return shall be filed with the Casino Reinvestment Development Authority and the Division of Gaming Enforcement on or before April 30 following the calendar year on which the return is based. The Division of Gaming Enforcement shall verify to the Casino Reinvestment Development Authority the information contained in the report, to the fullest extent possible. Nothing in this subsection shall be deemed to affect the due dates for making any investment or paying any tax under this section.

i. Any purchase by a licensee of bonds issued by or offered through the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this act and subsection b. of this section and all approved eligible investments made by a licensee pursuant to section 25 of this act and subsection b. of this section are to be considered investments and not taxes owed or grants to the State or any political subdivision thereof. As such, a licensee shall have the possibility of the return of principal and a return on the capital invested as with other investments. Investors in the bonds issued by or offered through the Casino Reinvestment Development Authority shall be provided with an opinion from a recognized financial rating agency or a financial advisory firm with national standing that each loan of bond proceeds by the Casino Reinvestment Development Authority has the minimum characteristics of an investment, in that a degree of assurance exists that interest and principal payments can be made and other terms of the proposed investment be maintained over the period of the investment,

and that the loan of the bond proceeds would qualify for a bond rating of "C" or better. If an opinion cannot be obtained from a recognized financial rating agency or a financial advisory firm with national standing, an opinion shall be obtained from an expert financial analyst with national standing, selected and hired by the Casino Reinvestment Development Authority. In order to achieve a balanced portfolio, assure the viability of the authority and the projects, facilities and programs undertaken pursuant to this 1984 amendatory and supplementary act, no more than 25% of the total investments made by or through the Casino Reinvestment Development Authority with the proceeds of bonds generated in each year shall be investments which would qualify for a bond rating of "C," unless all holders of obligations in each year agree to waive the 25% limit for that year. Nothing herein shall be interpreted as limiting the Casino Reinvestment Development Authority from taking any steps it deems appropriate to protect the characteristics of its investment in projects or any other investments from not being real investments with a prospect for the return of principal and a return on the capital invested. Anything contained in this section shall not be considered a guarantee by the State or any political subdivision thereof of any return of principal or interest, but any purchase by a licensee of bonds or approved eligible investments made by a licensee pursuant to this act shall be at the risk of the licensee. A licensee or the licensees purchasing an issue of bonds issued by the Casino Reinvestment Development Authority in any given year may arrange, at their option, for those bonds or the investments, made by or through the Casino Reinvestment Development Authority with the proceeds of those bonds, to be insured. The cost of any such insurance purchased by a licensee or licensees shall be paid by the licensee or licensees desiring such insurance.

j. The Casino Reinvestment Development Authority shall promulgate rules and regulations deemed necessary to carry out the purposes of this section.

k. The obligation of a licensee to pay an investment alternative tax pursuant to subsection a. of this section, including a casino licensee subject to the provisions of section 13 of P.L.2001, c.221 (C.5:12-173.21), shall end for each licensed facility operated by the licensee 50 years after any investment alternative tax obligation is first incurred in connection with each licensed facility operated by the licensee, unless extended in connection with a deferral granted by the Casino Reinvestment Development Authority pursuant to subsection c. of this section.

l. Within 90 days of the effective date of this act, P.L.2004, c.129, the State Treasurer shall certify the amounts that were invested pursuant to this

section in South Jersey, as defined in subsection f. of this section, for projects located in the City of Atlantic City. Notwithstanding subsection f. of this section, beginning in State fiscal year 2005, the amount of (a) proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee devoted pursuant to subsection f., shall not exceed the amount devoted for those purposes in State fiscal year 2004. Any amounts in excess of the amounts devoted in State fiscal year 2004, after fulfilling all fund reservations, bonding and contractual obligations, shall be devoted to the financing of projects in South Jersey. For the purpose of this section, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem, except that the term shall not include the City of Atlantic City. The provisions of this subsection shall terminate when excess amounts devoted to the financing of projects in South Jersey equal the amount certified by the State Treasurer.

100. Section 2 of P.L.2008, c.12 (C.5:12-144.2) is amended to read as follows:

**C.5:12-144.2 Annual deduction from gross revenue relative to promotional gaming credits.**

2. a. A casino licensee shall receive an annual deduction from the gross revenue taxed pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144) in an amount equal to either (1) the promotional gaming credits reported by that licensee in its annual tax return or (2) such other portion of the promotional gaming credits reported by all casino licensees as the division may allocate to a particular licensee to reflect that licensee's pro rata share of the costs of the 2008 agreement executed between the New Jersey Sports and Exposition Authority and the Casino Association of New Jersey for the benefit of the horse racing industry.

b. Casino licensees shall be allowed a deduction from gross revenues for a tax year pursuant to subsection a. of this section for the total value of promotional gaming credits redeemed by patrons at all licensed casinos for that tax year in excess of \$90,000,000. For the first tax year in which this act becomes operative pursuant to section 3 of this act, P.L.2008, c.12, the division shall reduce the \$90,000,000 deduction threshold for that tax year in proportion to the part of the tax year that has elapsed prior to that operative date.

c. The division shall establish, by regulation, procedures and standards for allocating the deduction established pursuant to this section to reflect each licensee's pro rata share of the costs of the 2008 agreement

executed between the New Jersey Sports and Exposition Authority and the Casino Association of New Jersey for the benefit of the horse racing industry and procedures and standards for each licensee to take the deduction established pursuant to this section to reflect those deductions that exceed the costs of the 2008 agreement. Such regulations shall include standards for the allocation of the \$90,000,000 deduction threshold established in subsection b. of this section, the timing of the application of deductions, and all other matters related to the provisions of this section.

d. (1) The division shall establish, by regulation, procedures to ensure that the promotional gaming credit deduction established pursuant to this section does not result in a negative fiscal impact to the Casino Revenue Fund. If necessary, the division may reduce the value of the available deduction to eliminate any negative fiscal impact to the Casino Revenue Fund attributable solely to the deduction and not to other economic or other factors that cause a negative fiscal impact to the Casino Revenue Fund.

(2) For the purposes of this subsection, "negative fiscal impact to the Casino Revenue Fund" shall mean that the amount generated from taxation of promotional gaming credits falls below the level generated in calendar year 2007.

101. 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. 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); the taxes and fees imposed by sections 3, 4 and 6 of P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and any interest and penalties imposed by the division relating to those taxes; the percentage of the value of expired gaming related obligations pursuant to section 24 of P.L.2009, c.36 (C.5:12-141.2); and all penalties levied and collected by the division pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first \$600,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health and Senior Services, \$500,000 of which is to provide funds to the Council on Compulsive Gambling of New Jersey and \$100,000 of which is to provide funds for compulsive gambling treatment programs in the State.

In the event that less than \$600,000 in penalties are collected, the Department of Health and Senior Services shall determine the allocation of funds between the Council and the treatment programs eligible under the criteria developed pursuant to section 2 of P.L.1993, c.229 (C.26:2-169).

b. The division 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 division 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.

102. Section 6 of P.L.2003, c.116 (C.5:12-145.8) is amended to read as follows:

**C.5:12-145.8 Fee of \$3.00 imposed daily on occupied hotel rooms in casino hotel facility.**

6. Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. This section shall be administered by the Department of the Treasury and the amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, \$1.00 of the fee shall be deposited by the State Treasurer into a special fund established and held by the State Treasurer and made available for the exclusive use of the Casino Reinvest-

ment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) for its purposes pursuant to law, as approved by the membership of the authority, subject to the provisions of subsection e. of section 5 of P.L.2004, c.129 (C.5:12-173.22a). Beginning in State fiscal year 2007 and thereafter, the portion of the proceeds of \$2.00 of the fee necessary to carry out the purpose of subsections a. through c. of section 5 of P.L.2004, c.129 (C.5:12-173.22a) shall be deposited by the State Treasurer into a special fund established and held by the State Treasurer and made available for the exclusive use of the authority to carry out that purpose, and the remaining proceeds of the \$2.00 fee shall be deposited by the State Treasurer into the Casino Revenue Fund.

103. Section 146 of P.L.1977, c.110 (C.5:12-146) is amended to read as follows:

**C.5:12-146 In lieu tax.**

146. a. Any casino licensee whose licensed premises are located in an area which has been declared, by the Department of Community Affairs and the division, to be a blighted area, or an area endangered by blight, may, for a period of not more than 25 years, enter into a written agreement with the Department of the Treasury, which agreement shall, with respect to real property held for use as a licensed casino hotel, provide for the payment of taxes to the tax collector of the municipality, in lieu of full local real property tax payments, in an amount to be computed by the sum of the following amounts, payable at the time specified by law for the payment of local property taxes:

(1) An annual amount equal to 2% of the cost of the real property investment. For the purposes of this section, "cost of the real property investment" means only the actual cost or fair market value of direct labor and all materials used in the construction, expansion, or rehabilitation of all buildings, structures, and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities, and parking facilities, together with architectural, engineering, legal, surveying, testing, and contractors' fees associated with the project; provided, however, that the applicant shall cause such costs to be certified and verified to the Department of the Treasury by an independent certified public accountant, following the completion of the investment in the project; and provided further, however, that upon execution of an agreement pursuant to this section, only real property improvements made after July 6, 1976 shall be subject to the provisions herein; plus

(2) An amount equivalent to the difference between an amount that would have been payable as property taxes under the full local property tax rate and the amount calculated pursuant to subsection a.(1) of this section, which shall be payable from such profits, if any, as hereinafter defined in section 147, as shall remain after deducting therefrom interest and principal paid on mortgage loans applicable to the real property held for use as a licensed casino hotel. The total payments provided by this section shall not exceed the full local property taxes normally payable for the year.

b. At the time an applicant applies for a license under this act, he shall determine whether to exercise the option to pay in lieu taxes under this section or whether the property of the applicant shall be subject to the normal real property taxes of the municipality. This determination having been made and approved, the method selected may not be changed or altered during the term of the agreement.

c. Upon the filing of a certification by the State Treasurer in any year that an agreement has been entered into pursuant to this section, the in lieu tax provisions of this section shall be applicable with respect to the ensuing tax years.

104. Section 147 of P.L.1977, c.110 (C.5:12-147) is amended to read as follows:

**C.5:12-147 Profits.**

147. a. For the purposes of the application of the provisions of section 146 of this act, "profits" referred to in section 146 a.(2) for any year means total profits from cumulative investments in Atlantic City. In computing profits under this section, a licensee shall deduct from the gross income of cumulative investments in Atlantic City all operating expenses in accordance with generally accepted accounting principles. There shall be included in said operating expenses (1) all annual payments pursuant to section 146 a.(1) of this act; (2) property taxes in said municipality not subject to section 146; and (3) an annual amount sufficient to amortize in equal annual installments the total cost of the investment over the life of the improvements, which in no case shall be less than 25 years in the case of real property. There shall not be included in said operating expenses or in any other account (1) depreciation or obsolescence; (2) interest on debt; (3) taxes on income; (4) losses on bad debt instruments from gaming operations in excess of the lesser of such instruments actually uncollected or 4% of gross revenues; or (5) salaries, bonuses and other compensation paid,

directly or indirectly, to directors, partners, officers, stockholders or other persons having any proprietary or ownership interest in the licensee.

b. In any year during which gross income exceeds cumulative investments as defined in section 144 d. hereof, 50% of the profits, as herein defined, which exceed the amount equivalent to 20% of the cumulative investments in the municipality of a licensee who shall have entered into an agreement pursuant to the provisions of section 146 hereof for such year shall be retained in a separate interest-bearing account maintained by the Treasurer, which account shall be designated "Special Casino Retention Account." All amounts retained in such account with respect to a licensee for any year may be recaptured by the licensee, provided that (1) the average annual gross income for the tax year and the two immediately preceding years is less than the cumulative investments of the licensee in casino, hotel, or other facilities in the municipality or State; or (2) the licensee, within 5 years of the date its annual tax return under this act is due, shall make cumulative investments in such municipality which shall cause the total of such investments to exceed the average annual gross income for the tax year and the 2 immediately preceding years, and which are equal to or greater than the amount of profits, as herein defined, retained in such account for the tax year.

c. In the event such licensee fails to make cumulative investments within the time specified as required for recapture of profits under this section, the profits retained in the Special Casino Retention Account shall be remitted to the Treasurer for deposit to the credit of the Casino Revenue Fund.

d. For the purposes of this section, each annual return of such licensee shall reflect the profits, if appropriate, determined on the basis of the immediately preceding calendar year. The division shall make rules and regulations for the determination of profits under the provisions of this section.

105. Section 148 of P.L.1977, c.110 (C.5:12-148) is amended to read as follows:

**C.5:12-148 Payment of taxes.**

148. a. The tax imposed under section 144 hereof shall be due and payable annually on or before the 15th day of March and shall be based upon gross revenues derived during the previous calendar year. A licensee shall file its first return and shall report gross revenues from the time it commenced operations and ending on the last day of said calendar year. Such report shall be filed with the Director of the Division of Taxation in the Department of the Treasury on or before the following March 15.

b. Any other law to the contrary notwithstanding, any business conducted by an individual, partnership, or corporation or any other entity, or any combination thereof, holding a license pursuant to this act shall, in addition to all other taxes imposed by this act, file a consolidated corporation business tax return pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.) and pay the taxes indicated thereon. The director of the Division of Taxation shall issue such rules and regulations and design such tax forms as shall be necessary to carry into effect the provisions of this act.

106. Section 4 of P.L.2003, c.116 (C.5:12-148.2) is amended to read as follows:

**C.5:12-148.2 Tax of 8% imposed on multi-casino progressive slot machine revenue.**

4. a. A tax at the rate of 8% is imposed on casino service industry multi-casino progressive slot machine revenue. The tax shall not be considered a tax collectable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section, "casino service industry multi-casino progressive slot machine revenue" means sums received by a casino service industry enterprise, licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, net of any money accrued for return to patrons in the form of jackpots, that are directly or indirectly related to: (1) the conduct of multi-casino progressive slot machine system operations in a casino; or (2) the sale, lease, servicing or management of a multi-casino progressive slot machine system. Notwithstanding the foregoing, "casino service industry multi-casino progressive slot machine revenue" shall not be construed to apply to revenue derived from transactions between a casino licensee and its holding company or intermediary companies or their affiliates.

c. The Director of the Division of Taxation in the Department of the Treasury, in consultation with the Division of Gaming Enforcement, shall administer the tax imposed pursuant to this section. The tax imposed by this section, and any interest or penalties imposed by the Director of the Division of Taxation relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. A casino service industry enterprise licensee or applicant required to pay the tax imposed pursuant to this section shall, on or before the 28th day of the month, forward to the State Treasurer the tax owed on casino service industry multi-casino progressive slot machine revenue received by the ca-

sino service industry enterprise licensee or applicant in the preceding month and make and file a return for the preceding month with the commission on any form and containing any information as the commission shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to pay the tax.

e. The Director of the Division of Taxation may permit or require returns to be made covering other periods and upon any dates as the Director of the Division of Taxation may specify. In addition, the Director of the Division of Taxation may require payments of tax liability to the State Treasurer at any intervals and based upon any classifications as the Director of the Division of Taxation may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the Director of the Division of Taxation may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

f. The Director of the Division of Taxation may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

g. (Deleted by amendment, P.L.2004, c.128).

107. Section 5 of P.L.2003, c.116 (C.5:12-148.3) is amended to read as follows:

**C.5:12-148.3 Tax of 7.5% imposed on certain adjusted net income of casino licensees.**

5. a. In State fiscal years 2004 through 2006, a tax at the rate of 7.5% is imposed on the adjusted net income of a casino licensee in calendar year 2002, determined pursuant to information provided by casino licensees to the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70) and published on April 2, 2003 in the commission's statement of casino licensee income for the twelve-month period ending on December 31, 2002, without regard to subsequent adjustment to such filing. For a casino licensee that was not in operation in calendar year 2002, the amount of the tax shall be 7.5% of its adjusted net income in State fiscal year 2004, as filed by the licensee with the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70). As used in this section, "adjusted net income" means annual net income plus management fees.

The aggregate amount of tax imposed by this section shall not exceed \$10 million annually for a holder of more than one casino license, and for

each casino licensee the tax imposed by this section shall not be less than \$350,000 annually.

b. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all of the powers granted in P.L.1945, c.162 (C.54:10A-1 et seq.). For a casino licensee that was in operation in calendar year 2002, the tax shall be due and payable to the State Treasurer in four equal payments on September 15, December 15, March 15, and June 15 of each State fiscal year. For a casino licensee that was not in operation in calendar year 2002, the tax in State fiscal year 2004 shall be due and payable to the State Treasurer in four quarterly estimated payments on the basis of adjusted net income in the current quarter, and the licensee shall file an annual return for State fiscal year 2004 no later than October 15, 2004. In State fiscal years 2005 and 2006 for such casino licensee, the tax shall be due and payable to the State Treasurer in four equal payments on September 15, December 15, March 15 and June 15.

c. The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation in the Department of the Treasury relating to that tax, shall be deposited by the State Treasurer into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. The Director of the Division of Taxation in the Department of the Treasury shall certify annually on September 30 of each year the amount of tax required to be paid pursuant to this section. The Director of the Division of Taxation may promulgate such rules and regulations as the Director of the Division of Taxation determines are necessary to effectuate the provisions of this section.

e. (Deleted by amendment, P.L.2004, c.128).

f. The tax imposed under this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

108. Section 149 of P.L.1977, c.110 (C.5:12-149) is amended to read as follows:

**C.5:12-149 Determination of tax liability.**

149. Determination of Tax Liability. The Division of Taxation may perform audits of the books and records of a casino licensee, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of tax payments. If a return or deposit required by section 145 with

regard to obligations imposed by subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144) is not filed or paid, or if a return or deposit when filed or paid is determined by the Division of Taxation to be incorrect or insufficient with or without an audit, the amount of tax or deposit due shall be determined by the Division of Taxation. Notice of such determination shall be given to the licensee liable for the payment of the tax or deposit. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the Division of Taxation for a hearing in accordance with the regulations of the Division of Taxation.

109. 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 Uniform Tax Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes. If the Division of Taxation determines that the failure to comply with any provision of this Article was excusable under the circumstances, the Division of Taxation 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 Division of Taxation 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.

110. Section 151 of P.L.1977, c.110 (C.5:12-151) is amended to read as follows:

**C.5:12-151 Forms.**

151. In addition to the other powers granted by this act, the Division of Taxation is hereby authorized and empowered to promulgate and distribute all forms and returns necessary to the implementation of this act.

111. Section 4 of P.L.1985, c.539 (C.5:12-186) is amended to read as follows:

**C.5:12-186 Minority, women's business contracts.**

4. a. Notwithstanding the provisions of any law, rule or regulation to the contrary, every casino licensee shall establish goals of expending at least 5% of the dollar value of its contracts for goods and services with minority and women's business enterprises by the end of the third year following the receipt of a casino license, and 10% of the dollar value of its contracts for goods and services with minority and women's business enterprises by the end of the sixth year following the receipt of a casino license; and each such licensee shall have a goal of expending 15% of the dollar value of its contracts for goods and services with minority and women's business enterprises by the end of the 10th year following the receipt of a casino license. Each casino licensee shall be required to demonstrate annually that the requirements of this act have been met by submitting a report which shall include the total dollar value of contracts awarded for goods or services and the percentage thereof awarded to minority and women's business enterprises.

As used in this section, "goods and services" shall not include (1) utilities and taxes; (2) financing costs, such as mortgages, loans or any other type of debt; (3) medical insurance; (4) dues and fees to the Atlantic City Casino Association; (5) fees and payments to a parent or affiliated company of the casino licensee other than those that represent fees and payments for goods and services supplied by non-affiliated persons through an affiliated company for the use or benefit of the casino licensee; and (6) rents paid for real property and any payments constituting the price of an interest in real property as a result of a real estate transaction.

b. A casino licensee shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the division that such an effort was made.

c. A casino licensee may fulfill no more than 70% of its obligation or part of it under this act by requiring a vendor to set aside a portion of his contract for minority or women's business enterprises. Upon request, the licensee shall provide the division with proof of the amount of the set-aside.

112. Section 5 of P.L.1985, c.539 (C.5:12-187) is amended to read as follows:

**C.5:12-187 Bus business set aside.**

5. a. Every casino licensee shall establish goals of expending at least 5% of the dollar value of its bus business with minority and women's business enterprises by the end of the third year following the receipt of a casino license, and 10% of the dollar value of its bus business with minority and women's business enterprises by the end of the sixth year following the receipt of a casino license; and each such licensee shall have a goal of expending 15% of the dollar value of its bus business with minority and women's business enterprises by the end of the 10th year following the receipt of a casino license. Each casino licensee shall be required to demonstrate annually that the requirements of this act have been met by submitting a report which shall include the total bus business expended and the percentage thereof awarded to minority and women's business enterprises.

b. A casino licensee shall make a good faith effort to meet the requirements of this section.

113. Section 7 of P.L.1987, c.137 (C.5:12-187.1) is amended to read as follows:

**C.5:12-187.1 Penalties for violations.**

7. If the division determines that the provisions of sections 4 and 5 of P.L.1985, c.539 (C.5:12-186 and C.5:12-187) relating to expenditures and assignments to minority and women's business enterprises have not been met by a licensee, the division may recommend to the commission the suspension or revocation of the casino license, and the commission may, in its discretion, revoke or suspend the license, or the division may fine or impose appropriate conditions on the licensee, to ensure that the goals for expenditures and assignments to minority and women's business enterprises are met; except that if a determination is made that a casino licensee has

failed to demonstrate compliance with the provisions of sections 4 and 5 of P.L.1985, c.539 (C.5:12-186 and C.5:12-187), a casino licensee will have 90 days from the date of the determination of noncompliance within which to comply with the provisions of those sections.

114. Section 8 of P.L.1985, c.539 (C.5:12-190) is amended to read as follows:

**C.5:12-190 Additional regulations.**

8. The Division of Development for Small Businesses and Women's and Minority Businesses and the Division of Gaming Enforcement shall develop such other regulations as may be necessary to interpret and implement the provisions of this act.

115. Section 3 of P.L.1992, c.19 (C.5:12-193) is amended to read as follows:

**C.5:12-193 Casino simulcasting permitted.**

193. It shall be lawful for a casino to conduct casino simulcasting with any in-State sending track and with any out-of-State sending track in accordance with the provisions of this act, the applicable regulations of the New Jersey Racing Commission and the Division of Gaming Enforcement and any joint regulations of these commissions promulgated pursuant to this act.

116. Section 4 of P.L.1992, c.19 (C.5:12-194) is amended to read as follows:

**C.5:12-194 Establishment of casino simulcasting facility.**

194. a. (1) A casino licensee which wishes to conduct casino simulcasting shall establish a simulcasting facility as part of the casino hotel. The simulcasting facility may be adjacent to, but shall not be part of, any room or location in which casino gaming is conducted pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.). The simulcasting facility shall conform to all requirements concerning square footage, equipment, security measures and related matters which the Division of Gaming Enforcement shall by regulation prescribe. The space required for the establishment of a simulcasting facility shall not reduce the space authorized for casino gaming activities as specified in section 83 of P.L.1977, c.110 (C.5:12-83). The cost of establishing, maintaining and operating a simulcasting facility shall be the sole responsibility of the casino licensee.

(2) Wagering on simulcast horse races shall be conducted only in the simulcasting facility, which shall be open and operated whenever simulcast horse races are being transmitted to the casino hotel during permitted hours of casino operation.

(3) Any authorized game, as defined in section 5 of P.L.1977, c.110 (C.5:12-5), other than slot machines may be conducted in a simulcasting facility subject to the rules and regulations of the Division of Gaming Enforcement.

(4) The security measures for a simulcasting facility shall include the installation by the casino licensee of a closed circuit television system according to specifications approved by the Division of Gaming Enforcement. The Casino Control Commission and the Division of Gaming Enforcement shall have access to the system or its signal in accordance with regulations of the commission.

b. All persons engaged directly in wagering-related activities conducted by a casino licensee in a simulcasting facility, whether employed by the casino licensee or by a person or entity conducting casino simulcasting in the simulcasting facility pursuant to an agreement with the casino licensee and all other employees of the casino licensee or of the person or entity conducting casino simulcasting who are working in the simulcasting facility, shall be licensed or registered in accordance with regulations of the Casino Control Commission or the Division of Gaming Enforcement.

Any employee at the Atlantic City Race Course or Garden State Park on or after June 12, 1992, who loses employment with that racetrack as a direct result of the implementation of casino simulcasting and who has been licensed by the New Jersey Racing Commission for five consecutive years immediately preceding the loss of employment shall be given first preference for employment whenever any comparable position becomes available in any casino simulcasting facility, provided the person is qualified pursuant to this subsection. If a casino licensee enters into an agreement with a person or entity for the conduct of casino simulcasting in its simulcasting facility, the agreement shall include the requirement that such first preference in employment shall be given by the person or entity with respect to employment in the simulcasting facility.

c. A casino licensee which establishes a simulcasting facility and conducts casino simulcasting shall, as a condition of continued operation of casino simulcasting, receive all live races which are transmitted by in-State sending tracks.

d. Agreements between a casino licensee and an in-State or out-of-State sending track for casino simulcasting shall be in writing and shall be

filed with the New Jersey Racing Commission and with the Division of Gaming Enforcement in accordance with section 104 of P.L.1977, c.110 (C.5:12-104).

e. If wagering at casinos on sports events is authorized by the voters of this State and by enabling legislation enacted by the Legislature, and if a casino licensee conducts such wagering and casino simulcasting, the two activities shall be conducted in the same area, in accordance with such regulations as the Division of Gaming Enforcement shall prescribe with respect to wagering on sports events and in accordance with this act and such regulations as may be adopted pursuant to section 3 of this act with respect to casino simulcasting.

117. Section 9 of P.L.1992, c.19 (C.5:12-199) is amended to read as follows:

**C.5:12-199 Out-of-State horse races, simulcast; approved casinos, licensed sending tracks.**

199. A casino which chooses to conduct casino simulcasting and which operates a simulcasting facility may, with the approval of both the New Jersey Racing Commission and the New Jersey Division of Gaming Enforcement, also receive simulcast horse races conducted at out-of-State sending tracks in accordance with the provisions of this act and any applicable regulations of these commissions and joint regulations of these commissions promulgated pursuant to this act.

In order to be eligible to participate in casino simulcasting, an out-of-State sending track shall be approved by the New Jersey Racing Commission and be subject to licensure by the Division of Gaming Enforcement as a casino service industry enterprise pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92). The approval of the New Jersey Racing Commission shall only be granted when that commission, in its discretion and after consideration of the interests of the casino making application, determines that approval is in the best interest of the public and the racing industry in New Jersey.

118. Section 20 of P.L.1992, c.19 (C.5:12-210) is amended to read as follows:

**C.5:12-210 Rules, regulations.**

20. The Division of Gaming Enforcement and the New Jersey Racing Commission shall individually and jointly promulgate and adopt any rules

and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to effectuate the purposes of P.L.1992, c.19 (C.5:12-191 et seq.).

119. Section 4 of P.L.2008, c.23 (C.5:12-211) is amended to read as follows:

**C.5:12-211 Continuance of casino, simulcast operations during certain states of emergency; violations, fines.**

4. In the event of a state of emergency, a casino licensee may continue to conduct casino and simulcast operations for a period not to exceed seven calendar days, notwithstanding that employees of the commission and the division are unable to perform their functions, provided that the casino licensee has complied with section 5 of P.L.2008, c.23 (C.5:12-212), and that the casino licensee and its employees shall continue to comply with all relevant provisions of the New Jersey Constitution and all relevant State statutes and regulations and shall maintain detailed records of that compliance.

If, during any period of time that casino and simulcasting facilities remain open pursuant to the provisions of this section, the Governor determines that the holder of a casino license, or any licensed employee thereof, may be engaged in what the Governor believes to be a violation of any State statute or regulation governing the operation of those facilities that would ordinarily subject a licensee to a possible suspension or revocation of its license, the Governor shall have the authority to summarily suspend the license of that casino or employee until such time as it is rescinded by the Governor, or the state of emergency ceases and the commission or the division, as appropriate, is able to address the matter.

Any violation of a statute or regulation that would ordinarily subject a licensee to a fine, but which occurs while a facility remains open during a state of emergency pursuant to this section, which is not reported by the casino licensee in accordance with this act, shall be punishable by a fine of no less than five times and up to ten times the amount of the usual fine, depending on the nature and seriousness of the violation. When the state of emergency ceases, casino licensees shall be responsible for any costs associated with re-implementing onsite State inspections.

120. Section 5 of P.L.2008, c.23 (C.5:12-212) is amended to read as follows:

**C.5:12-212 Division approval of internal controls prior to state of emergency.**

5. In order for a casino licensee to conduct casino and simulcast operations during a state of emergency as authorized in section 4 of P.L.2008, c.23 (C.5:12-211), it shall create, maintain, and file with the division internal controls prior to the state of emergency, which shall become effective only during the state of emergency, that contain, without limitation:

a. Procedures for the casino licensee and its employees to report any violation of a statute or regulation to the casino licensee's chief legal officer and audit committee executive, who shall report any such violations to the Governor immediately and to the commission and division when the state of emergency ceases.

b. Procedures for the casino licensee to engage a certified public accountant to perform the following functions during the state of emergency:

(1) Act in the capacity of the division whenever the presence of an employee of the division is normally required to perform an activity;

(2) Perform any other functions in accordance with instructions issued by the division prior to the state of emergency; and

(3) Maintain a written record of all activity performed.

c. Procedures for the surveillance department of the casino licensee to record any activity that involves the participation of the certified public accountant and to provide the recordings to the division when the state of emergency ceases.

d. Procedures for providing any evidence of tampering or cheating that occurs during the state of emergency to the certified public accountant, who shall preserve such evidence for the division.

e. Procedures to ensure that a designee of the casino licensee's chief legal officer is available at all times to receive any complaint from the public relating to the conduct of casino operations. Any such patron complaint shall be forwarded to the chief legal officer, who shall promptly file it with the division when the state of emergency ceases.

f. Procedures for withholding the payment of slot machine jackpots greater than \$75,000 during the state of emergency, which shall be posted in the casino advising patrons of the temporary jackpot payout procedures. Such procedures shall include, without limitation, issuance of a written receipt to the winning patron and withholding payment of the jackpot until the state of emergency ceases and the division has had the opportunity to inspect the slot machine on which the jackpot was won.

g. Procedures for staffing both the surveillance and casino security departments with at least one additional officer at all times during the state of emergency.

121. Section 6 of P.L.2008, c.23 (C.5:12-213) is amended to read as follows:

**C.5:12-213 Prohibitions relative to operation during state of emergency.**

6. During any state of emergency, as defined in section 23 of P.L.2011, c.19 (C.5:12-45.3), a casino licensee shall not:

a. Amend or seek permission to amend: (1) any submission required by section 99 of P.L.1977, c.110 (C.5:12-99); or (2) its operation certificate.

b. (Deleted by amendment, P.L.2011, c.19)

c. (Deleted by amendment, P.L.2011, c.19)

d. Perform any modification to any casino computer system or multi-casino progressive slot system, except in the event of an emergency that, in the opinion of its chief gaming executive and the director of its Management Information Systems department, could affect the integrity of casino or simulcasting operations or the collection and certification of gross revenue.

e. Perform an adjustment to the amount on the progressive meter of any slot machine; provided, however, notwithstanding any division regulation to the contrary, if a casino licensee reasonably believes a progressive meter is displaying an incorrect amount, it may take the progressive slot machine out of service until the state of emergency ceases.

f. Conduct any gaming tournament or other activity that requires division approval, unless the tournament or activity has been approved by the division prior to the commencement of the state of emergency.

122. Section 7 of P.L.2008, c.23 (C.5:12-214) is amended to read as follows:

**C.5:12-214 Restriction of transfer of property.**

7. During any state of emergency, no transfer of property shall occur that would otherwise require the issuance of interim casino authorization pursuant to section 3 of P.L.1987, c.409 (C.5:12-95.12) prior to such transfer.

123. Section 8 of P.L.2008, c.23 (C.5:12-215) is amended to read as follows:

**C.5:12-215 Calculation of certain time periods.**

8. In the event a state of emergency is declared that prevents employees of the commission and the division from performing their normal duties, the duration of the state of emergency shall not be included in the calculation of the time period required by any law, rule or regulation for:

- a. Action by the Casino Control Commission or the Division of Gaming Enforcement on any pending application; and
- b. The filing of any application or other required submission with the Casino Control Commission or the Division of Gaming Enforcement by any person.

124. Section 55 of P.L.1977, c.110 (C.5:12-55) is amended to read as follows:

**C.5:12-55 Division of gaming enforcement.**

55. Division of gaming enforcement. There is hereby established in the Department of Law and Public Safety the Division of Gaming Enforcement. The division shall be under the immediate supervision of a director who shall also be sworn as an Assistant Attorney General and who shall administer the work of the division under the direction and supervision of the Attorney General. The director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor, except that the first director shall be appointed for a term of 2 years. The director may be removed from office by the Attorney General for cause upon notice and opportunity to be heard.

The director and any employee or agent of the division shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.). The Attorney General shall be responsible for the exercise of the duties and powers assigned to the division.

The division shall be located in Atlantic City, except that the division may maintain a secondary satellite office in Trenton, which shall not be the primary office, if deemed necessary for the effective performance of its duties and responsibilities.

If, as a result of the transfer of duties and responsibilities from the Casino Control Commission to the division in accordance with P.L.2011, c.19 (C.5:12-6.1 et al.), the division needs to employ an individual to fill a position, former employees of the commission who performed the duties of the position to be filled shall be given a one-time right of first refusal offer of employment with the division, and such employees may be removed by the division for cause or if deemed unqualified to hold the position, notwithstanding any other provision of law to the contrary.

**C.5:12-54.1 Restrictions on certain contributions.**

125. A member of the Casino Control Commission and any employee of the commission holding a supervisory or policy-making management

position, and the Director of the Division of Gaming Enforcement and any employee of the division holding a supervisory or policy-making management position, shall not make any contribution as that term is defined in "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.).

126. 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 \$50,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$200,000.

127. 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

\$50,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$200,000.

128. 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 \$20,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.

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 \$20,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.

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 \$50,000. 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.

129. 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 \$200,000, and in the case of a person other than a natural person, the amount of a fine may be up to \$500,000.

130. Section 126 of P.L.1977, c.110 (C.5:12-126) is amended to read as follows:

**C.5:12-126 Prohibited activities.**

126. a. It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of N.J.S.2A:85-14 to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in or the activities of which affect casino gaming operations or ancillary industries which do business with any casino licensee. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer or of assisting another to do so, shall not be unlawful under this subsection, provided that the sum total of the securities of the issuer held by the purchaser, the members of his family, and his or their accomplices in any pattern of racketeering activity or in the collection of an unlawful debt does not amount in the aggregate to one percent of the outstanding securities of any one class, or does not, either in law or in fact, empower the holders thereof to elect one or more directors of the issuer.

b. It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, casino gaming operations or ancillary industries which do business with any casino licensee.

c. It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, casino gaming operations or ancillary industries which do business with any casino licensee, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

d. It shall be unlawful for any person to conspire to violate any of the provisions of subsection a., b., or c. of this section.

e. Any person who violates any provision of this section shall be fined not more than \$100,000 or imprisoned not more than twenty years or both and shall forfeit to the State (1) any interest he has acquired or maintained in violation of this section and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which he has established, operated, con-

trolled, conducted, or participated in the conduct of, in violation of this section.

f. In any action brought by the Attorney General under this section, the Superior Court shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

g. Upon conviction of a person under this section, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the State, it shall expire and shall not revert to the convicted person.

131. Section 4 of P.L.1978, c.7 (C.5:12-14.4) is amended to read as follows:

**C.5:12-14.4 "Debt."**

4. "Debt" -- Any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent, including debt convertible into an equity security which has not yet been so converted, and any other debt carrying any warrant or right to subscribe to or purchase an equity security which warrant or right has not yet been exercised.

132. Section 18 of P.L.1977, c.110 (C.5:12-18) is amended to read as follows:

**C.5:12-18 "Equity security."**

18. "Equity security" -- (a) Any voting stock of a corporation, or similar security; (b) any security which has been converted, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security which warrant or right has been exercised; or (c) any security having a direct or indirect participation in the profits of the issuer. The holder of a security described in subsection (b) of this section shall not be required to qualify as a holder of an equity security prior to any such conversion or exercise of any such warrant or rights.

**Repealer.**

133. The following sections are repealed:  
Section 6 of P.L.1995, c.18 (C.5:12-11.1);

Section 38 of P.L.1977, c.110 (C.5:12-38);  
Section 64 of P.L.1977, c.110 (C.5:12-64);  
Section 65 of P.L.1977, c.110 (C.5:12-65);  
Section 67 of P.L.1977, c.110 (C.5:12-67);  
Section 88 of P.L.1977, c.110 (C.5:12-88);  
Section 90 of P.L.1977, c.110 (C.5:12-90); and  
Section 3 of P.L.2003, c.116 (C.5:12-148.1).

134. This act shall take effect immediately and the orderly transition of responsibilities and functions from the Casino Control Commission to the Division of Gaming Enforcement shall take place for 90 days following the effective date, provided, however, that the division and commission may take such anticipatory action as is necessary to effectuate the provisions of this act. Any completed applications properly filed with or submitted to the commission which are pending on the effective date of this act over which the division is accorded authority pursuant to the provisions of this act shall be deemed to have been properly filed with or submitted to the division, provided that any application for a license, which license by effect of this act is no longer required, shall be treated as a registration.

Approved February 1, 2011.

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## CHAPTER 20

AN ACT concerning wind dependent energy facilities in the coastal area and supplementing P.L.1973, c.185 (C.13:19-1 et seq.).

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

**C.13:19-10.1 Wind dependent energy facilities, construction on piers, certain circumstances; permitted.**

1. a. Notwithstanding the provisions of any rule or regulation adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) to the contrary, construction of a wind dependent energy facility shall not be prohibited within 500 feet of the mean high water line of tidal waters on a pier pursuant to P.L.1973, c.185, provided that (1) the permit application filed with the department meets all other criteria established by P.L.1973, c.185, any rules and regulations adopted pursuant thereto, and any other applicable law, rule or regula-

tion, and (2) the wind dependent energy facility is an accessory use to the other uses of, or purposes for, the pier.

b. Within 30 days after the date of enactment of this act, and notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the department shall adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or readopted in accordance with the provisions of P.L.1968, c.410.

2. This act shall take effect immediately.

Approved February 3, 2011.

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## CHAPTER 21

AN ACT establishing the "New Jersey Veterans' Hospital Task Force."

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

1. There is established the "New Jersey Veterans' Hospital Task Force." The purpose of the task force shall be to study and evaluate, and develop recommendations relating to, the construction and operation of a veterans' health care facility in southern New Jersey.

2. a. The task force shall be comprised of 18 members as follows:

(1) the Adjutant General of the Department of Military and Veterans' Affairs and the Commissioner of Health and Senior Services, or their designees, who shall serve ex officio;

(2) two members of the Senate to be appointed by the President of the Senate, who shall be members of different political parties; and two members of the General Assembly to be appointed by the Speaker of the General Assembly, who shall be members of different political parties;

(3) twelve public members, to be appointed as follows:

(a) two members appointed by the Governor, upon the recommendation of the New Jersey Business and Industry Association, who shall be veterans and active participants in the business community in southern New Jersey;

(b) eight members appointed by the Governor, who shall include prominent veteran leaders from across the State; and

(c) two members appointed by the Governor who shall be subject matter experts from the New Jersey Hospital Association and veterans' health-care services from the New Jersey Department of Military and Veterans' Affairs.

b. The legislative and public members of the task force shall be appointed no later than the 60th day after the effective date of this act. Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

c. The task force shall organize as soon as practicable following the appointment of its members and shall elect a chairperson and vice-chairperson from among the members of the task force. The task force shall appoint a secretary who need not be a member of the task force.

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

e. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

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

g. The Department of Military and Veterans' Affairs and the Department of Health and Senior Services shall provide staff support to the task force.

3. It shall be the duty of the task force to:

a. estimate the capital, operational and administrative expenses associated with establishing a new veterans' health care facility in southern New Jersey, or contracting with an existing health care facility to provide medical services to veterans;

b. obtain and review statistical data on the number of veterans residing in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem counties and the number of veterans receiving medical services at hospitals within those counties in the past five years in order to determine a central location for a veterans' health care facility;

c. determine the size and staffing levels necessary for a veterans' health care facility to provide a full range of primary care and medical and surgical subspecialty care to eligible veterans;

- d. review various methods of financing a veterans' health care facility through public, private and public-private partnership financing systems; and
- e. investigate opportunities for the State to enter into collaborative agreements with the federal government to ensure the most efficient use of funds and resources related to the operation of a veterans' health care facility.

4. The task force shall report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than 12 months after its initial meeting, on its findings and recommendations regarding strategies for the construction and operation of a veterans' health care facility in southern New Jersey.

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

Approved February 3, 2011.

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## CHAPTER 22

AN ACT concerning the Board of Medical Examiners and amending R.S.45:9-1, P.L.1989, c.300, P.L.1995, c.69, and supplementing Title 45 of the Revised Statutes.

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

1. R.S.45:9-1 is amended to read as follows:

**State Board of Medical Examiners; advisory committee.**

45:9-1. The State Board of Medical Examiners, hereinafter in this chapter designated as the "board" shall consist of 21 members, one of whom shall be the Commissioner of Health and Senior Services, or his designee, three of whom shall be public members and one an executive department designee as required pursuant to section 2 of P.L.1971, c.60 (C.45:1-2.2), and 16 of whom shall be persons of recognized professional ability and honor, and shall possess a license to practice their respective professions in New Jersey, and all of whom shall be appointed by the Governor in accordance with the provisions of section 2 of P.L.1971, c.60 (C.45:1-2.2); provided, however, that said board shall consist of 12 graduates of schools of

medicine or osteopathic medicine who shall possess the degree of M.D. or D.O. The number of osteopathic physicians on the board shall be a minimum of, but not limited to, two members. In addition the membership of said board shall comprise: one podiatric physician who does not possess a license to practice in any other health care profession regulated under Title 45 of the Revised Statutes; one physician assistant; one certified nurse midwife; and one licensed bio-analytical laboratory director, who may or may not be the holder of a degree of M.D. The term of office of members of the board hereafter appointed shall be three years or until their successors are appointed. A member is eligible for reappointment for one additional term of office, but no member shall serve more than two consecutive terms of office. Said appointees shall, within 30 days after receipt of their respective commissions, take and subscribe the oath or affirmation prescribed by law and file the same in the office of the Secretary of State.

The Governor shall also appoint an advisory committee to consist of four licensed bio-analytical laboratory directors, only two of whom shall possess the degree of M.D. or D.O., and who shall be appointed from a list to be submitted by the society or organization of which the persons nominated are members. The members of this advisory committee shall serve for a term of three years and until their successors are appointed and qualified, and shall be available to assist the board in the administration of the "Bio-analytical Laboratory and Laboratory Directors Act (1953)," P.L.1953, c.420 (C.45:9-42.1 et al.). The advisory committee shall meet at the call of the board. The board may authorize reimbursement of the members of the advisory committee for their actual expenses incurred in connection with the performance of their duties as members of the committee.

2. The limitation on serving no more than two consecutive terms pursuant to R.S.45:9-1 shall apply to any member newly appointed after the effective date of P.L.2011, c.22, and in the case of any member serving on the effective date of P.L.2011, c.22, the member shall be limited to two additional consecutive terms.

3. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to read as follows:

**C.45:9-19.9 Notice received by review panel; actions, recommendations.**

9. a. The review panel shall receive:

(1) Notice from a health care entity, provided through the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b);

(2) Notice from an insurer or insurance association or a practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17), regarding a medical malpractice claim settlement, judgment or arbitration award or a termination or denial of, or surcharge on, the medical malpractice liability insurance coverage of a practitioner; and

b. The review panel may receive referrals from the board which may include complaints alleging professional misconduct, incompetence, negligence or impairment of a practitioner from other health care providers and consumers of health care.

c. Upon receipt of a notice or complaint pursuant to this section, the review panel shall investigate the information received, obtain any additional information that may be necessary in order to make a recommendation to the board, and make that recommendation within 90 days after receipt of the referral, except that the 90-day period shall be tolled, whenever additional time is required: to obtain information, records, or evidence sought pursuant to this section that is necessary for the review panel to make its recommendation; for the review panel to consider additional information furnished more than 30 days after receipt of the referral; for expert consultation related to the subject matter under investigation; or for other good cause shown due to extraordinary or unforeseen circumstances. In the event that the 90-day period is tolled, the review panel shall so notify the board, indicating the reason and the amount of additional time required to make its recommendation. A copy of the notice shall be transmitted to the Attorney General and the referring entity. Nothing in this subsection shall be construed to limit or otherwise impair the authority of the board to take any action against a licensee or applicant for a license, or of the review panel to make a recommendation. The review panel may seek the assistance of a consultant or other knowledgeable person, as necessary, in making its recommendation. The review panel may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

(1) If the review panel has reasonable cause to believe that a practitioner represents an imminent danger to his patients, the review panel shall immediately notify the State Board of Medical Examiners and the Attorney General and recommend the initiation of an application before the board to temporarily suspend or otherwise limit the practitioner's license pending further proceedings by the review panel or the board.

If the board temporarily suspends or otherwise limits the license, the board shall notify each health care entity with which the practitioner is af-

filiated and every practitioner in the State with which the practitioner is directly associated in his private practice.

(2) A practitioner who is the subject of an investigation shall be promptly notified of the investigation, pursuant to procedures adopted by regulation of the board that give consideration to the health, safety and welfare of the practitioner's patients and to the necessity for a confidential or covert investigation by the review panel. At the panel's request or upon a good cause showing by the practitioner an informal hearing shall be scheduled before the review panel or a subcommittee of at least three review panel members, in accordance with regulations adopted by the board. The hearing shall be transcribed and the practitioner shall be entitled to a copy of the transcript, at his own expense. A practitioner who presents information to the review panel is entitled to be represented by counsel.

(3) Notwithstanding any provision of this section to the contrary, in any case in which the board determines to conduct an investigation of a practitioner who it has reasonable cause to believe represents an imminent danger to his patients, the board may direct the review panel to provide the board with its files pertaining to that practitioner and may direct the review panel to promptly terminate its investigation of that practitioner without making a recommendation pursuant to subsection d. of this section.

Upon request of the review panel, the State Board of Medical Examiners shall provide the review panel with any information contained in the board's files concerning a practitioner.

d. Upon completion of its review, the review panel shall prepare a report recommending one of the following dispositions:

(1) Recommend to the State Board of Medical Examiners that the matter be referred to the Attorney General for the initiation of disciplinary action against the practitioner who is the subject of the notice or complaint, pursuant to section 8 or 9 of P.L.1978, c.73 (C.45:1-21 or 45:1-22);

(2) Defer making a recommendation to the board pending the outcome of litigation or a health care entity disciplinary proceeding, if there is no evidence that the practitioner's professional conduct may jeopardize or improperly risk the health, safety or life of a patient;

(3) Refer the practitioner to the appropriate licensed health care practitioner treatment program recognized by the State Board of Medical Examiners and promptly notify the medical director of the board of the referral;

(4) Refer the practitioner to the appropriate focused education program recognized by the State Board of Medical Examiners and promptly notify the educational director of the board of the referral; or

(5) Find that no further action is warranted at this time.

e. A member of the State Board of Medical Examiners shall not participate by voting or any other action in any matter before the board on which the board member has participated previously as a review panel member.

f. The State Board of Medical Examiners may affirm, reject or modify any disposition of the review panel. After its consideration of the panel recommendation the board shall notify the practitioner who has been the subject of a notice or complaint of the review panel's recommendation and the board's determination.

g. Nothing in this section shall be construed to prevent or limit the State Board of Medical Examiners, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the Attorney General from taking any other action permitted by law against a practitioner who is the subject of an investigation by the review panel.

h. For the purposes of this section, "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatric medicine under chapter 5 of Title 45 of the Revised Statutes.

i. As used in this section, "focused education program" means an individualized and systematic process to assess the educational needs of a licensee based on scientific analysis, technical skill and interpersonal evaluation as they relate to the licensee's professional practice, and the institution of remedial education and any supervision, monitoring or limitations of the licensee.

4. Section 1 of P.L.1995, c.69 (C.45:9-19.16) is amended to read as follows:

**C.45:9-19.16 Physicians, report out-of-State disciplinary, criminal actions; investigation, determination.**

1. a. A physician licensed by the State Board of Medical Examiners, or a physician who is an applicant for a license from the State Board of Medical Examiners, shall notify the board within 10 days of:

(1) any action taken against the physician's medical license by any other state licensing board or any action affecting the physician's privileges to practice medicine by any out-of-State hospital, health care facility, health maintenance organization or other employer;

(2) any pending or final action by any criminal authority for violations of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense pursuant to the laws of the United States, this State or another state, including, but not limited to:

- (a) criminal homicide pursuant to N.J.S.2C:11-2;
  - (b) aggravated assault pursuant to N.J.S.2C:12-1;
  - (c) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.2C:14-2 through 2C:14-4; or
  - (d) an offense involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes.
- b. A physician who is in violation of this section is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21 to 22 and 45:1-25).
- c. The State Board of Medical Examiners shall notify all physicians licensed by the board of the requirements of this section within 30 days of the date of enactment of this act.
- d. Upon receipt of notification from a physician pursuant to this section, the State Board of Medical Examiners shall, within 60 days, investigate the information received and obtain any additional information that may be necessary in order to make a determination whether to initiate disciplinary action against the physician. Nothing in this subsection shall be construed to limit or otherwise impair the authority of the board to take any action against a licensee or applicant for a license.
5. This act shall take effect immediately.

Approved February 3, 2011.

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## CHAPTER 23

AN ACT concerning saltwater fishing and supplementing P.L.1979, c.199 (C.23:2B-1 et seq.).

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

**C.23:2B-22 Registry program for saltwater recreational anglers.**

1. a. The commissioner, in consultation with the Marine Fisheries Council, shall establish and implement a registry program for saltwater recreational anglers, which program shall provide for:

- (1) the registration, including the name, date of birth, address, telephone number, and other identification and contact information determined

to be necessary by the department pursuant to federal requirements, of individuals who engage in recreational fishing:

- (a) in the Exclusive Economic Zone;
  - (b) for anadromous species;
  - (c) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; or
  - (d) in the tidal waters of the State; and
- (2) the registration, including the ownership, operator, and identification of the vessel, of vessels used in such fishing.

b. (1) The registry program established pursuant to this section shall comply with the provisions of the registry program to be established pursuant to the “Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006,” Pub.L.109-479 (16 U.S.C. s.1801 et seq.).

(2) Upon establishment of the registry program pursuant to this section, the commissioner shall apply to the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration for exempted state designation from the federal registration requirements.

c. The department shall not charge a fee for the registration required pursuant to this section.

d. A person who is under 16 years of age or a customer fishing from a state-licensed or federally permitted for-hire vessel shall not be required to register pursuant to this section.

2. This act shall take effect immediately.

Approved February 21, 2011.

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## CHAPTER 24

AN ACT concerning banking services and supplementing Title 17 of the Revised Statutes.

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

**C.17:16Z-1 Short title.**

1. This act shall be known and may be cited as the “Banking Development District Act.”

**C.17:16Z-2 Definitions relative to banking development districts.**

2. As used in this act:

“Bank” means a State or federally chartered bank, savings bank, savings and loan association, or credit union doing business in the State.

“Banking services” means deposit taking, check cashing, sale of money orders, and origination of residential or commercial mortgages, consumer loans, and commercial loans.

“Branch” means a full service branch office of a bank, providing banking services with tellers, customer service representatives, and loan officers available at least 40 hours per week.

“Commissioner” means the Commissioner of Banking and Insurance.

“Department” means the Department of Banking and Insurance.

“District” means a banking development district approved under this act.

“Program” means the Banking Development District Program established pursuant to this act.

**C.17:16Z-3 Banking Development District Program.**

3. There is established in the department, the Banking Development District Program. The commissioner shall administer and monitor the program to encourage the establishment of bank branches in geographic locations in this State where there is a demonstrated need for banking services by the establishment of banking development districts.

**C.17:16Z-4 Rules, regulations setting forth criteria for establishment of banking development districts.**

4. The department shall promulgate rules and regulations which set forth the criteria for the establishment of banking development districts. The criteria shall include, but not be limited to, the following:

a. The location, number, and proximity of sites where banking services are currently available within the district;

b. The identification of consumer needs for banking services within the district;

c. The economic viability and local credit needs of the community within the district;

d. The existing commercial development within the district;

e. The impact additional banking services would have on potential economic development in the district; and

f. Such other criteria that the commissioner shall identify as appropriate.

**C.17:16Z-5 Application for designation of banking development district.**

5. a. A municipality, in conjunction with a bank, may submit an application to the commissioner for the designation of a banking development district within a specified geographic area.

b. The commissioner shall issue a determination as to an application for designation as a district within 60 days of receipt of the application. If an application is approved, the commissioner shall transmit notification of the approval to the municipality requesting the district, the State Treasurer, and any bank which has or will have a branch located in the district.

c. A bank may submit an application to open a branch in the requested banking development district, subject to all applicable federal and State laws regarding the establishment of branch offices, simultaneously with the submission of the application for the designation of a banking development district.

**C.17:16Z-6 Selection of bank as depository for public moneys, funds.**

6. a. Notwithstanding the provisions of section 1 of P.L.1956, c.174 (C.52:18-16.1) or any other law to the contrary, the State Treasurer may select a bank in a district as a depository for public moneys or funds that are otherwise in the custody of the State Treasurer.

b. Subject to an agreement between the State Treasurer and the bank, funds of the State deposited in the bank may earn a fixed rate of interest which is at or below the bank's posted rate for a mutually agreeable depository product, for a mutually agreeable term.

**C.17:16Z-7 Selection of bank as depository of funds of municipality.**

7. a. The governing body of a municipality in which a banking development district has been designated by the commissioner may, by resolution, select a bank in the district as a depository for funds of the municipality, provided the bank shall be subject to the requirements for a public depository established pursuant to P.L.1970, c.236 (C.17:9-41 et seq.). The resolution shall state the maximum amount which may be on deposit at any time with the bank and such other terms and conditions as are determined to be necessary by the governing body of the municipality.

b. Subject to an agreement between the governing body of the municipality and the bank, funds of the municipality deposited in the bank may earn a fixed rate of interest which is at or below the bank's posted rate for a mutually agreeable depository product, for a mutually agreeable term.

c. The selection of a bank, deposit amount, and the terms and conditions of a deposit may be changed at any time by the governing body of the municipality by further resolution.

**C.17:16Z-8 Rules, regulations.**

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

9. This act shall take effect 60 days following enactment.

Approved February 21, 2011.

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**CHAPTER 25**

AN ACT regulating wholly-owned insurance subsidiaries and supplementing Title 17 of the Revised Statutes.

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

**C.17:47B-1 Definitions relative to captive insurers.**

1. As used in this act:

"Affiliated company" means a company in the same corporate system as a parent, an industrial insured or a member organization by virtue of common ownership, control, operation or management.

"Alien captive insurance company" means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of a jurisdiction other than this State which imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that jurisdiction.

"Association" means a legal association of individuals, corporations, limited liability companies, partnerships, associations or other entities that has been in continuous existence for at least one year, the member organizations of which or which does itself, whether or not in conjunction with some or all of the member organizations:

(1) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer;

(2) have complete voting control over an association captive insurance company incorporated as a mutual insurer; or

(3) constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

"Association captive insurance company" means a company that insures risks of the member organizations of the association and their affiliated companies.

"Branch business" means any insurance business transacted by a branch captive insurance company in this State.

"Branch captive insurance company" means an alien captive insurance company licensed by the commissioner to transact the business of insurance in this State through a business unit with a principal place of business in this State.

"Branch operations" means any business operations of a branch captive insurance company in this State.

"Captive insurance company" means any pure captive insurance company, association captive insurance company, sponsored captive insurance company, or industrial insured captive insurance company formed or licensed under the provisions of this act. For purposes of this act, a branch captive insurance company shall be a pure captive insurance company with respect to operations in the State, unless otherwise permitted by the commissioner.

"Commissioner" means the Commissioner of Banking and Insurance.

"Controlled unaffiliated business" means a company:

(1) that is not in the corporate system of a parent and any affiliated companies;

(2) that has an existing contractual relationship with a parent or affiliated company; and

(3) whose risks are managed by a pure captive insurance company in accordance with section 15 of this act.

"Excess workers' compensation insurance" means, in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable State or federal law, insurance in excess of a specified per incident or aggregate limit established by the commissioner.

"Industrial insured" means an insured:

(1) who procures the insurance of a risk by use of the services of a full time employee acting as an insurance manager or buyer;

(2) who has at least 25 full time employees; and

(3) whose aggregate annual premiums for insurance on all risks total at least \$25,000.

"Industrial insured captive insurance company" means a company that insures risks of the industrial insureds that comprise the industrial insured group, and their affiliated companies.

"Industrial insured group" means a group of industrial insureds that collectively:

(1) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer;

(2) have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(3) constitute all of the subscribers of an industrial insured captive insurance company formed as a reciprocal insurer.

"Member organization" means an individual, corporation, limited liability company, partnership, association or other entity that belongs to an association.

"Mutual corporation" means a corporation organized without stockholders and includes a nonprofit corporation with members.

"Parent" means a corporation, limited liability company, partnership, other entity or individual that directly or indirectly owns, controls or holds with power to vote more than 50 percent of the outstanding voting:

(1) securities of a pure captive insurance company organized as a stock corporation; or

(2) membership interests of a pure captive insurance company organized as a nonprofit corporation.

"Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.

"Pure captive insurance company" means a company that insures risks of its parent and affiliated companies or controlled unaffiliated businesses.

"Sponsor" means an entity that meets the requirements of sections 17 and 18 of this act and that the commissioner has approved to provide all or part of the capital and surplus required by applicable law to operate a sponsored captive insurance company.

"Sponsored captive insurance company" means a captive insurance company:

(1) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(2) that is formed or licensed under this act;

(3) that insures the risks of separate participants through the contract; and

(4) that segregates each participant's liability through one or more protected cells.

**C.17:47B-2 Application by captive insurance company for license.**

2. a. A captive insurance company, if permitted by its articles of association, charter or other organizational document, may apply to the com-

missioner for a license to do business in any of the lines of insurance in subtitle 3 of Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes, including contracts or policies of life insurance, health insurance, annuities, indemnity, property and casualty, fidelity, guaranty and title insurance; provided, however, that:

(1) a pure captive insurance company shall not insure risks other than those of its parent and affiliated companies or controlled unaffiliated businesses;

(2) an association captive insurance company shall not insure risks other than those of the member organizations of its association, and their affiliated companies;

(3) an industrial insured captive insurance company shall not insure risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) a captive insurance company shall not provide private passenger automobile insurance or homeowner's insurance coverage or any component thereof;

(5) a captive insurance company shall not accept or cede reinsurance except as provided in section 10 of this act;

(6) a captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the federal law or laws of the state having jurisdiction over the transaction. A captive insurance company, unless prohibited by federal law, may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies; and

(7) a captive insurance company shall comply with all applicable State and federal laws.

b. A captive insurance company shall not write any insurance business in this State unless:

(1) it first obtains from the commissioner a license authorizing it to write insurance business in this State;

(2) its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers' advisory committee, holds at least one meeting each year in this State;

(3) it maintains its principal place of business in this State with the appropriate number of in-State professional services provider staff to carry out the business of the captive, including but not limited to, attorneys, accountants, managers, actuaries, brokers, and third party administrators; and

(4) it appoints a registered agent to accept service of process and to otherwise act on its behalf in this State; provided that whenever that regis-

tered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the Secretary of State shall be an agent of the captive insurance company upon whom any process, notice or demand may be served.

c. (1) Before receiving a license, a captive insurance company shall:

(a) file with the commissioner a certified copy of its organization documents, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner; and

(b) submit to the commissioner for approval a description of the coverage limits and rates, together with any additional information as the commissioner may reasonably require. In the event of any subsequent material change in an item in the description, the captive insurance company shall submit to the commissioner for approval an appropriate revision and shall not offer any additional lines of insurance until a revision of the description is approved by the commissioner. The captive insurance company shall inform the commissioner of any material change in rates within 30 days of the adoption of any change.

(2) Each captive insurance company shall also file with the commissioner evidence of the following:

(a) the amount and liquidity of its assets relative to the risks to be assumed;

(b) the adequacy of the expertise, experience and character of the person who will manage it;

(c) the overall soundness of its plan of operation;

(d) the adequacy of the loss prevention programs of its insureds; and

(e) those other factors deemed relevant by the commissioner in determining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted pursuant to this subsection shall remain confidential and shall not be made public by the commissioner without the written consent of the company except that:

(a) the information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted the information is a party, upon a showing by the party seeking to discover the information that:

(i) the information sought is relevant to and necessary for the furtherance of that action or case;

(ii) the information sought is unavailable from other nonconfidential sources; and

(iii) a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the commissioner; and

(b) the commissioner may, in the commissioner's discretion, disclose the information to a public official having jurisdiction over the regulation of insurance in another state, if:

(i) the public official agrees in writing to maintain the confidentiality of the information; and

(ii) the laws of the state in which the public official serves require the information to remain confidential.

d. A captive insurance company shall pay to the commissioner a non-refundable fee for examining, investigating and processing its application for license and the commissioner is authorized to retain legal, financial and examination services from outside the department, the reasonable cost of which may be charged against the applicant. In addition, each captive insurance company shall pay a license fee for the year of registration and a renewal fee for each year thereafter. The commissioner shall establish by regulation fees necessary for the administration of this act.

e. If the commissioner is satisfied that the documents and statements filed by a captive insurance company comply with the provisions of this act, the commissioner may grant a license authorizing it to write insurance business in this State until April 1 thereafter, which license may be renewed.

f. A captive insurance company shall not adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in the State.

g. The commissioner may establish by regulation an expedited licensing process for a captive insurance company currently formed or licensed pursuant to the laws of a jurisdiction other than this State that applies for license to do business in this State.

**C.17:47B-3 Conditions for issuance of license.**

3. a. A captive insurance company shall not be issued a license unless it maintains unimpaired paid-in capital and surplus of:

(1) in the case of a pure captive insurance company, not less than \$250,000;

(2) in the case of an association captive insurance company, not less than \$750,000;

(3) in the case of an industrial insured captive insurance company, not less than \$500,000; and

(4) in the case of a sponsored captive insurance company, not less than \$500,000.

b. The commissioner may prescribe additional capital and surplus requirements based upon the type, volume and nature of insurance business transacted.

c. Capital and surplus may be in the form of cash or an irrevocable letter of credit issued by a bank chartered by the State of New Jersey or a member bank of the Federal Reserve System located in this State and approved by the commissioner.

**C.17:47B-4 Approval required for payment of dividend.**

4. A captive insurance company shall not pay a dividend out of, or other distribution with respect to, capital or surplus without the prior approval of the commissioner. Approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the commissioner. Notwithstanding any provisions of the "New Jersey Non-profit Corporation Act," N.J.S.15A:1-1 et seq. to the contrary, a captive insurance company organized under the provisions of the "New Jersey Non-profit Corporation Act," N.J.S.15A:1-1 et seq. may make distributions as are in conformity with its purposes and approved by the commissioner.

**C.17:47B-5 Incorporation, organization of captive insurance company.**

5. a. A pure captive insurance company may be incorporated or organized as:

(1) a stock insurer with its capital divided into shares and held by the stockholders;

(2) a nonprofit corporation with one or more members; or

(3) a manager-managed limited liability company.

b. An association captive insurance company or an industrial insured captive insurance company may be:

(1) incorporated as a stock insurer with its capital divided into shares and held by the stockholders;

(2) incorporated as a mutual corporation;

(3) organized as a reciprocal insurer in accordance with the provisions of P.L.1945, c.161 (C.17:50-1 et seq.); or

(4) organized as a manager-managed limited liability company.

c. A captive insurance company incorporated or organized in this State shall have not less than three incorporators or three organizers of whom at least one shall be a resident of this State.

d. In the case of a captive insurance company:

(1) formed as a corporation: (a) before the articles of incorporation are transmitted to the Secretary of State, the incorporators shall petition the commissioner to issue a certificate setting forth the commissioner's finding that the establishment and maintenance of the proposed corporation will promote the general good of the State. In arriving at a finding the commissioner shall consider:

(i) the character, reputation, financial standing and purposes of the incorporators or organizers;

(ii) the character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors; and

(iii) any other aspects of the proposed corporation as the commissioner deems advisable.

(b) the articles of incorporation, certificate and organization fee shall be transmitted to the Secretary of State, who shall record both the articles of incorporation and the certificate.

(2) formed as a reciprocal insurer, the organizers shall petition the commissioner to issue a certificate setting forth the commissioner's finding that the establishment and maintenance of the proposed association will promote the general good of the State. In arriving at a finding the commissioner shall consider the items set forth in sub-subparagraphs (i), (ii) and (iii) of subparagraph (a) of paragraph (1) of this subsection as applicable to a reciprocal insurer.

(3) formed as a limited liability company, before the articles of organization are transmitted to the Secretary of State, the organizers shall petition the commissioner to issue a certificate setting forth the commissioner's finding that the establishment and maintenance of the proposed company will promote the general good of the State. In arriving at a finding, the commissioner shall consider the items set forth in subsubparagraphs (i), (ii) and (iii) of subparagraph (a) of paragraph (1) of this subsection as applicable to a limited liability company.

e. The capital stock of a captive insurance company incorporated as a stock insurer may be authorized with no par value.

f. In the case of a captive insurance company:

(1) formed as a corporation, at least one of the members of the board of directors shall be a resident of this State;

(2) formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee shall be a resident of this State;

(3) formed as a limited liability company, at least one of the managers shall be a resident of this State.

g. Other than a captive insurance company formed as a limited liability company pursuant to the "New Jersey Limited Liability Company Act," P.L.1993, c.210 (C.42:2B-1 et seq.) or as a nonprofit corporation pursuant to the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq., a captive insurance company formed as a corporation under the provisions of this act shall have the privileges and be subject to the provisions of the "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq., as well as the applicable provisions contained in this act. In the event of a conflict between the provisions of the "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq., and the provisions of this act, this act shall control.

h. A captive insurance company formed under the provisions of this act:

(1) as a limited liability company shall have the privileges and be subject to the provisions of the "New Jersey Limited Liability Company Act," P.L.1993, c.210 (C.42:2B-1 et seq.) as well as the applicable provisions contained in this act. In the event of a conflict between the provisions of the "New Jersey Limited Liability Company Act," P.L.1993, c.210 (C.42:2B-1 et seq.) and the provisions of this act, this act shall control; or

(2) as a nonprofit corporation shall have the privileges and be subject to the provisions of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq., as well as the applicable provisions contained in this act. In the event of a conflict between the provisions of the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq., and the provisions of this act, this act shall control.

i. The procedures to be followed by a captive insurance company in carrying out a merger, consolidation, conversion, mutualization or redomestication shall be prescribed by the commissioner by regulation.

j. A captive insurance company formed as a reciprocal insurer under the provisions of this act shall have the privileges and be subject to the provisions of P.L.1945, c.161 (C.17:50-1 et seq.) in addition to the applicable provisions of this act. In the event of a conflict between the provisions of P.L.1945, c.161 (C.17:50-1 et seq.) and the provisions of this act, this act shall control.

k. The articles of incorporation or bylaws of a captive insurance company formed as a corporation may authorize a quorum of its board of directors to consist of not less than one-third of the fixed or prescribed number of directors determined under applicable provisions of the "New Jersey Business Corporation Act," N.J.S.14A:1-1 et seq., or the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq.

l. The subscribers' agreement or other organizing document of a captive insurance company formed as a reciprocal insurer may authorize a quo-

rum of its subscribers' advisory committee to consist of not less than one-third of the number of its members.

m. With the commissioner's approval, a captive insurance company organized as a stock insurer may convert to a nonprofit corporation with one or more members by filing with the Secretary of State an irrevocable election for a conversion, provided that:

(1) the irrevocable election certifies that, at the time of the company's organization and at all times thereafter, the company conducted its business in a manner consistent with a nonprofit purpose; and

(2) at the time of the filing of its irrevocable election, the company files with both the commissioner and the Secretary of State amended and restated articles of incorporation consistent with the provisions of this act and the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq., duly authorized by the corporation.

**C.17:47B-6 Report of financial condition of captive insurance company.**

6. a. Prior to March 1 of each year, a captive insurance company shall submit to the commissioner a report of its financial condition, verified by oath of two of its executive officers. A captive insurance company shall report using generally accepted accounting principles, unless the commissioner approves the use of regulatory accounting principles, with any appropriate or necessary modifications or adaptations as may be required, approved or accepted by the commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the commissioner. Except as otherwise provided, an association captive insurance company shall file its report in the form required by R.S.17:23-1. The commissioner shall by rule prescribe the forms in which a pure captive insurance company and an industrial insured captive insurance company shall report. The confidentiality requirements of paragraph (3) of subsection c. of section 2 of this act shall apply to each report filed pursuant to this section.

b. A pure captive insurance company or an industrial insured captive insurance company may make written application for filing the required report on a fiscal year-end. If an alternative reporting date is granted, the annual report is due 60 days after the fiscal year-end.

**C.17:47B-7 Visit, inspection, examination.**

7. a. At least once in every three years, and whenever the commissioner determines it to be prudent, the commissioner shall personally, or by some competent person appointed by the commissioner, visit each captive insur-

ance company and thoroughly inspect and examine its affairs to determine its financial condition, its ability to fulfill its obligations and whether it has complied with the provisions of this act. The commissioner may increase the three-year period to five years, if the captive insurance company is subject to a comprehensive annual audit during that period of a scope satisfactory to the commissioner by independent auditors approved by the commissioner. The expenses and charges of the examination shall be paid to the State by the company examined.

b. All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and shall not be made public by the commissioner without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection shall prevent the commissioner from using the information in furtherance of the commissioner's regulatory authority under this act. The commissioner may, in the commissioner's discretion, grant access to the information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this State or any other state or agency of the federal government at any time, so long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

c. As to a branch captive insurance company, the commissioner shall only examine the branch operations and branch business of the branch captive insurance company, in a manner to be prescribed by the commissioner by regulation.

**C.17:47B-8 Suspension, revocation of license.**

8. a. Pursuant to subsection b. of this section, the commissioner may suspend or revoke the license of a captive insurance company for any of the following reasons:

- (1) Insolvency or impairment of capital or surplus;
- (2) Failure to meet the capital surplus requirements of section 3 of this act;
- (3) Refusal or failure to submit an annual report, as required by this act, or any other report or statement required by law or by lawful order of the commissioner;
- (4) Failure to comply with the provisions of its own charter, bylaws or other organizational document;

(5) Failure to submit to or pay the cost of examination or any legal obligation relative to an examination, as required by this act;

(6) Use methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders; or

(7) Failure to otherwise comply with the laws of this State.

b. If the commissioner finds, upon examination, hearing or other evidence, that a captive insurance company has violated any provision of subsection a. of this section, the commissioner may suspend or revoke the company's license if the commissioner deems it in the best interest of the public and the policyholders of the captive insurance company, notwithstanding any other provision of this act.

**C.17:47B-9 Compliance with investment requirements.**

9. a. A captive insurance company shall comply with investment requirements to be prescribed by the commissioner by regulation.

b. A pure captive insurance company shall not make a loan to, or an investment in, its parent company or affiliates without prior written approval of the commissioner, and a loan or investment shall be evidenced by documentation approved by the commissioner. A pure captive insurance company shall not make a loan using the minimum capital and surplus funds required by section 3 of this act.

**C.17:47B-10 Provision of reinsurance on risks ceded by other insurers.**

10. a. A captive insurance company may provide reinsurance on risks ceded by any other insurer.

b. A captive insurance company may take credit for the reinsurance of risks or portions of risks ceded to reinsurers complying with the provisions of P.L.1993, c.243 (C.17:51B-1 et seq.). A captive insurance company shall not take credit for the reinsurance of risks or portions of risks ceded to reinsurers not complying with P.L.1993, c.243 (C.17:51B-1 et seq.).

c. For purposes of this act, insurance by a captive insurance company of any workers' compensation qualified self-insured plan of its parent and affiliates shall be deemed to be reinsurance.

**C.17:47B-11 Regulations relative to captive insurance company.**

11. a. A captive insurance company shall not be required to join a rating organization.

b. A captive insurance company shall not be permitted to join or contribute financially to a plan, pool, association, or guaranty or insolvency

fund in this State, including the New Jersey Life and Health Insurance Guaranty Association, P.L.1991, c.208 (C.17B:32A-1 et seq.), the New Jersey Property-Liability Insurance Guaranty Association, P.L.1974, c.17 (C.17:30A-1 et seq.), the New Jersey Surplus Lines Insurance Guaranty Fund, P.L.1984, c.101 (C.17:22-6.70 et seq.), or “the workers’ compensation security fund” created pursuant to R.S.34:15-105, nor shall a captive insurance company, or an insured or affiliate thereof, or a claimant thereof, receive a benefit from a plan, pool, association, or guaranty or insolvency fund, including the New Jersey Life and Health Insurance Guaranty Association, P.L.1991, c.208 (C.17B:32A-1 et seq.), the New Jersey Property-Liability Insurance Guaranty Association, P.L.1974, c.17 (C.17:30A-1 et seq.), the New Jersey Surplus Lines Insurance Guaranty Fund, P.L.1984, c.101 (C.17:22-6.70 et seq.), or “the workers’ compensation security fund” created pursuant to R.S.34:15-105, for claims arising out of the operations of a captive insurance company.

**C.17:47B-12 Taxes paid by captive insurance company.**

12. a. Each captive insurance company shall pay to the Director of the Division of Taxation in the Department of the Treasury, on or before March 1 of each year, a tax at the rate of .38 of one percent on the first \$20,000,000 and .285 of one percent on the next \$20,000,000 and .19 of one percent on the next \$20,000,000 and .072 of one percent on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders; except that no tax shall be due or payable as to considerations received for annuity contracts.

b. Each captive insurance company shall pay to the Director of the Division of Taxation in the Department of the Treasury, on or before March 1 of each year, a tax at the rate of .214 of one percent on the first \$20,000,000 of assumed reinsurance premium, and .143 of one percent on the next \$20,000,000 and .048 of one percent on the next \$20,000,000 and .024 of one percent of each dollar thereafter. However, no tax under this subsection applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection a. of this section. No tax under this subsection shall apply in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part

of a plan to discontinue the operations of the other insurer, and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

c. The annual minimum aggregate tax to be paid by a captive insurance company calculated under subsections a. and b. of this section shall be \$7,500, and the annual maximum aggregate tax shall be \$200,000. The maximum aggregate tax to be paid by a sponsored captive insurance company shall apply to each protected cell only and not to the sponsored captive insurance company as a whole.

d. (1) A captive insurance company shall, on or before March 1 of each year, file with the commissioner an annual tax return, signed and sworn to by an officer of the company, or by its United States manager, if a company of a foreign country, in the form and containing matters as may be necessary for carrying out the provisions of this section.

(2) A captive insurance company shall pay the balance of any tax due under this section based on the company's business during the preceding calendar year and make an installment payment in an amount equal to one-half of the tax payable under this section on the company's business done during the preceding calendar year.

(3) The examination of returns and the assessment of additional taxes, penalties and interest shall be as provided by the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

e. Two or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company.

f. For the purposes of this section, "common ownership and control" shall mean:

(1) in the case of stock corporations, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(2) in the case of mutual or nonprofit corporations, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

g. The tax provided for in this section shall constitute all taxes collectible under the laws of this State from any captive insurance company, and a captive insurance company shall not pay taxes pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.).

h. The tax provided for by this section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or

contracts, the premium shall be prorated for purposes of determining the tax under this section.

i. The tax provided for by this section shall only apply to the branch business of a branch captive insurance company.

**C.17:47B-13 "Captive Insurance Regulation and Supervision Fund."**

13. There is created within the Department of Banking and Insurance a fund to be known as the "Captive Insurance Regulation and Supervision Fund," for the purpose of providing the financial means for the commissioner to administer this act and for reasonable expenses incurred in promoting the captive insurance industry in this State. The commissioner may establish by regulation, fees necessary for the administration of this act. All fees and assessments received by the department pursuant to the administration of this act shall be credited to this fund. All fees received by the department from reinsurers who assume risk solely from captive insurance companies and are subject to the provisions of P.L.1993, c.243 (C.17:51B-1 et seq.), shall be deposited into the Captive Insurance Regulation and Supervision Fund.

**C.17:47B-14 Applicability of C.17:30C-1 et seq.**

14. Except as otherwise provided in this act, the terms and conditions set forth in P.L.1975, c.113 (C.17:30C-1 et seq.), pertaining to insurance reorganizations, receiverships and injunctions, shall apply to captive insurance companies formed or licensed under this act.

**C.17:47B-15 Rules.**

15. The commissioner may adopt rules establishing standards to ensure that a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by a pure captive insurance company, except that until such time as rules under this section are adopted, the commissioner may approve the coverage of the risk by a pure captive insurance company.

**C.17:47B-16 Conversion, merger into reciprocal insurer.**

16. a. An association captive insurance company or industrial insured captive insurance company formed as a stock or mutual corporation may be converted to or merged with and into a reciprocal insurer in accordance with a plan of conversion or merger and the provisions of this section.

b. A plan for conversion or merger shall provide a fair and equitable plan for purchasing, retiring or otherwise extinguishing the interests of the

stockholders and policyholders of a stock insurer, and the members and policyholders of a mutual insurer, including a fair and equitable provision for the rights and remedies of dissenting stockholders, members or policyholders.

c. In the case of a conversion authorized under subsection a. of this section:

(1) the conversion shall be accomplished under a reasonable plan and procedure as approved by the commissioner, except that the commissioner shall not approve a plan of conversion unless the plan:

(a) satisfies the provisions of subsection b. of this section;

(b) provides for a hearing, of which notice is given to the captive insurance company, its directors, officers and policyholders, and, in the case of a stock insurer, its stockholders, and in the case of a mutual insurer, its members, all of which persons shall be entitled to attend and appear at the hearing if notice of a hearing is given and no director, officer, policyholder, member or stockholder requests a hearing, the commissioner may cancel the hearing;

(c) provides a fair and equitable plan for the conversion of stockholder, member or policyholder interests into subscriber interests in the resulting reciprocal insurer, substantially proportionate to the corresponding interests in the stock or mutual insurer. This requirement shall not preclude the resulting reciprocal insurer from applying underwriting criteria that could affect ongoing ownership interests; and

(d) is approved:

(i) in the case of a stock insurer, by a majority of the shareholders entitled to vote represented in person or by proxy at a duly called regular or special meeting at which a quorum is present; and

(ii) in the case of a mutual insurer, by a majority of the voting interests of policyholders represented in person or by proxy at a duly called regular or special meeting thereof at which a quorum is present;

(2) the commissioner shall approve the plan of conversion if the commissioner finds that the conversion will promote the general good of the State in conformity with those standards set forth in paragraph (2) of subsection d. of section 5 of this act;

(3) if the commissioner approves the plan, the commissioner shall amend the converting insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue the amended certificate of authority to the company's attorney-in-fact;

(4) the conversion shall be effective upon the issuance of an amended certificate of authority of a reciprocal insurer by the commissioner; and

(5) the corporate existence of the converting insurer shall cease and the resulting reciprocal insurer shall notify the Secretary of State of the conversion upon the conversion becoming effective.

d. A merger authorized under subsection a. of this section shall be accomplished substantially in accordance with the procedures to be prescribed by the commissioner, except that, solely for purposes of the merger:

(1) the plan of merger shall satisfy the provisions of subsection b. of this section;

(2) the subscribers' advisory committee of a reciprocal insurer shall be equivalent to the board of directors of a stock or mutual insurance company;

(3) the subscribers of a reciprocal insurer shall be the equivalent of the policyholders of a mutual insurance company;

(4) if a subscribers' advisory committee does not have a president or secretary, the officers of the committee having substantially equivalent duties shall be deemed the president or secretary of the committee;

(5) the commissioner shall approve the articles of merger if the commissioner finds that the merger will promote the general good of the State in conformity with those standards set forth in paragraph (2) of subsection d. of section 5 of this act. If the commissioner approves the articles of merger, the commissioner shall indorse the commissioner's approval thereon and the surviving insurer shall present the same to the Secretary of State;

(6) notwithstanding section 3 of this act, the commissioner may permit the formation, without surplus, of a captive insurance company organized as a reciprocal insurer, into which an existing captive insurance company may be merged for the purpose of facilitating a transaction under this section, except that there shall be no more than one authorized insurance company surviving the merger; and

(7) an alien captive insurance company may be a party to a merger authorized under subsection a. of this section in accordance with procedures to be prescribed by the commissioner by regulation.

**C.17:47B-17 Sponsored captive insurance company.**

17. a. One or more sponsors may form a sponsored captive insurance company as prescribed in this act.

b. A sponsored captive insurance company may establish and maintain one or more protected cells to insure the risks of one or more participants, subject to the following conditions:

(1) A sponsored captive insurance company shall not have any stockholders other than its participants and sponsors.

(2) A sponsored captive insurance company shall separately account for each protected cell in its books and records to reflect the financial condition and results of operations of each protected cell, net income or loss of each protected cell, dividends or other distributions to participants of each protected cell and any other factors prescribed in the participant contract or required by the commissioner.

(3) The assets of a sponsored captive insurance company are not chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct.

(4) A sponsored captive insurance company shall not sell, exchange or transfer assets, issue a dividend or make a distribution between or among any of its protected cells without the written consent of all its protected cells.

(5) A sponsored captive insurance company shall not sell, exchange or transfer assets, issue a dividend or make a distribution to a sponsor or participant unless the commissioner approves the transaction and determines that the transaction will not cause insolvency or impairment of any protected cell.

(6) At the time of filing its annual report pursuant to section 6 of this act, a sponsored captive insurance company shall also file with the department:

(a) an accounting statement detailing the financial experience of each protected cell, in a form to be prescribed by the commissioner; and

(b) any other financial report prescribed by the commissioner.

(7) A sponsored captive insurance company shall notify the commissioner in writing within 10 days after learning of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations.

(8) A sponsored captive insurance company shall obtain the commissioner's written approval of any participant contract before the contract becomes effective.

(9) The addition of a new participant or the withdrawal of a participant from an existing sponsored captive insurance company shall be considered a change in the captive insurer's business plan and shall require the commissioner's approval.

(10) With respect to each protected cell, the insurance business written by a sponsored captive insurance company may be:

(a) assumed from an insurance company licensed under the laws of any state;

(b) reinsured by a reinsurer authorized or accredited by the State; or

(c) secured by a trust fund or an irrevocable letter of credit.

**C.17:47B-18 Regulations relative to risk retention group.**

18. a. A risk retention group shall not be either a sponsor or participant in a sponsored captive insurance company.

b. An association, corporation, limited liability company, partnership, trust or any another business entity may be a participant in any sponsored captive insurance company formed or licensed under this act.

c. A sponsor may be a participant in a sponsored captive insurance company.

d. A participant need not be a shareholder of a sponsored captive insurance company or any affiliate of a sponsored captive insurance company.

e. A participant shall insure only its own risks through a sponsored captive insurance company.

**C.17:47B-19 No cause of action, imposition of liability against the commissioner.**

19. a. No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized agent or any examiner appointed by the commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this act. This section does not abrogate or modify in any way any common law or other statutory privilege or immunity available to any person identified in this subsection. A person identified in this subsection shall be entitled to an award of attorney's fees and costs if he is the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of activities in carrying out the provisions of this act and the party bringing the action was not substantially justified in doing so. For purposes of this subsection, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

b. No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this act, if the communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

20. This act shall take effect on the 90th day following enactment.

Approved February 21, 2011.

## CHAPTER 26

AN ACT concerning off-track wagering and amending and supplementing P.L.2001, c.199.

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

1. Section 2 of P.L.2001, c.199 (C.5:5-128) is amended to read as follows:

**C.5:5-128 Findings, declarations relative to horse racing and off-track wagering.**

2. The Legislature finds and declares that:

a. The horse racing industry is economically important to this State, and the general welfare of the people of the State will be promoted by the advancement of horse racing and related projects and facilities in the State.

b. It is the intent of the Legislature, by authorizing off-track wagering and account wagering in this State, to promote the economic future of the horse racing industry in this State, to foster the potential for increased commerce, employment and recreational opportunities in this State, to preserve the State's open spaces, to preserve and enhance the overall economic well-being of the horse racing and horse breeding industries, and to generate greater interest in the horse racing industry and the sport of horse racing in New Jersey.

c. It is the further intent of the Legislature that facilities offering off-track wagering opportunities to the public also offer other amenities such as quality dining and handicapping facilities and that, in doing so, these facilities strive to be of the highest quality in the country.

d. The Legislature has determined that the New Jersey Racing Commission is best suited to oversee, license and regulate off-track wagering and account wagering in the State, and that the New Jersey Sports and Exposition Authority, by virtue of its experience in the operation of parimutuel wagering facilities and other entertainment-related projects in this State, is particularly well-suited to ensure the fiscal soundness and technical reliability of an account wagering system, and to be licensed, along with other well-suited entities, as off-track wagering licensees pursuant to the terms of this act.

e. In establishing off-track wagering facilities, the authority and other licensees will not be performing an essential government function but rather an essentially private business function. Numerous municipalities, residents and businesses will be impacted by the establishment of off-track wagering facilities throughout the State. A municipality having an off-track

wagering facility sited within its boundaries is therefore entitled to receive an appropriate level of property tax for municipal services. Fundamental fairness dictates that an off-track wagering facility, even if owned and not leased by the authority, be subject to local property tax requirements.

f. By regulation of the Division of Alcoholic Beverage Control, there exist special licenses that permit the sale of alcoholic beverages on public property. These special licenses are typically available to the authority. Because the establishment of off-track wagering facilities is, in reality, essentially a private business function and not an essential government function a private holder of a Class C plenary retail consumption license is given priority to provide alcoholic beverages at an off-track wagering facility. However, many municipalities in New Jersey do not have a sufficient number of liquor licenses or licensees who are available. Therefore, in order to ensure the establishment of an off-track wagering facility when a license or a private holder of a plenary retail consumption license is not available, it is necessary in this act to allow for the issuance of a special concessionaire permit to the authority, and a special license to other off-track wagering licensees, under certain limited circumstances.

2. Section 3 of P.L.2001, c.199 (C.5:5-129) is amended to read as follows:

**C.5:5-129 Definitions relative to horse racing and off-track wagering.**

3. As used in this act:

"Account holder" means a resident of this State over age 18 who establishes an account pursuant to this act through which account wagers are placed.

"Account wagering" means a form of parimutuel wagering in which an account holder may deposit money in an account with the account wagering licensee and then use the account balance to pay for parimutuel wagers by the account holder.

"Account wagering licensee" means the New Jersey Sports and Exposition Authority or its assignee, provided that the commission has granted its approval for the authority to establish an account wagering system as provided for in this act.

"Account wagering system" means the system through which account wagers are processed by the account wagering licensee pursuant to this act.

"Applicant" means the New Jersey Sports and Exposition Authority or another entity that submits an application to the commission for a license to establish and conduct an off-track wagering facility pursuant to this act.

"Authority" means the New Jersey Sports and Exposition Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

"Backstretch Benevolency" means the Backstretch Benevolency Programs Fund established pursuant to section 1 of P.L.1993, c.15 (C.5:5-44.8).

"Breeders and Stallions" means the distribution from the special trust account created pursuant to section 46 a. (2) of P.L.1940, c.17 (C.5:5-66) for the purposes of subparagraph (c) of that citation.

"Breeding and Development" means the New Jersey Horse Breeding and Development Account established pursuant to section 5 of P.L.1967, c.40 (C.5:5-88).

"Commission" means the New Jersey Racing Commission created by section 1 of P.L.1940, c.17 (C.5:5-22).

"Executive Director" means the Executive Director of the commission.

"Health and Welfare" means moneys distributed to the Standardbred Breeders' and Owners' Association for the administration of a health benefits program pursuant to section 46 a. (5) of P.L.1940, c.17 (C.5:5-66).

"In-State host track" means a racetrack within this State which is operated by a permit holder which conducts a horse race upon which account wagers are placed pursuant to this act.

"In-State sending track" means a racetrack within this State which is operated by a permit holder and is equipped to conduct off-track simulcasting.

"In-State track" means an in-State host track or an in-State sending track.

"Interstate common pool" means the parimutuel pool established within this State or in another state or foreign nation within which is combined parimutuel pools of one or more receiving tracks located in one or more states or foreign nations upon a race at an out-of-State sending track or out-of-State host track for the purpose of establishing payoff prices in the various jurisdictions.

"Jockey's Health and Welfare" means a health and welfare trust established by the organization certified by the New Jersey Racing Commission as representing a majority of the active licensed thoroughbred jockeys in New Jersey for the purpose of providing health and welfare benefits to active, disabled and retired New Jersey jockeys and their dependents based upon reasonable criteria by that organization.

"New Jersey Racing Industry Special Fund" means the fund established pursuant to section 27 of this act.

"New Jersey Thoroughbred Horsemen's Association" means the association representing the majority of New Jersey thoroughbred owners and

trainers responsible for receiving and distributing funds for programs designed to aid thoroughbred horsemen.

"Off-track simulcasting" means the simultaneous audio or visual transmission of horse races conducted at in-State and out-of-State racetracks to off-track wagering facilities and parimutuel wagering at those off-track wagering facilities on the results of those races.

"Off-track wagering" means parimutuel wagering at an off-track wagering facility as authorized under this act.

"Off-track wagering facility" means a licensed facility, other than a racetrack, at which parimutuel wagering is conducted pursuant to this act.

"Off-track wagering licensee" means the New Jersey Sports and Exposition Authority or its assignee, or another entity to which the commission has granted its approval to conduct an off-track wagering facility as provided for in this act.

"Out-of-State host track" means a racetrack in a jurisdiction other than the State of New Jersey, the operator of which is lawfully permitted to conduct a horse race meeting and which conducts horse races upon which account wagers may be placed pursuant to this act.

"Out-of-State sending track" means a racetrack in a jurisdiction other than the State of New Jersey which is equipped to conduct off-track simulcasting and the operator of which is lawfully permitted to conduct a horse race meeting and to provide simulcast horse races to off-track wagering facilities in this State.

"Out-of-State track" means an out-of-State host track or an out-of-State sending track.

"Outstanding parimutuel ticket" means a winning parimutuel ticket which is not claimed within six months of sale.

"Parimutuel" means any system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool conducted by an authorized person, and in which the participants are wagering with each other and not against the person conducting the wagering pool.

"Participation agreement" means the written contract entered into prior to the effective date of P.L.2011, c.26, that provides for the establishment or implementation of either (a) an off-track wagering facility or facilities or (b) an account wagering system. Each such contract shall set forth the manner in which the off-track wagering facility or facilities or the account wagering system shall be managed, operated and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the authority and the other eligible participants subject to the agreement.

"Permit holder" means the holder of an annual permit to conduct a horse race meeting issued by the commission.

"Racetrack" means the physical facility where a permit holder conducts a horse race meeting with parimutuel wagering.

"Racing costs" means the prospective and actual costs for all licensing, investigation, operation, regulation, supervision and enforcement activities and functions performed by the commission.

"Simulcast horse races" means horse races conducted at an in-State sending track or an out-of-State sending track, as the case may be, and transmitted simultaneously by picture to a receiving track or an off-track wagering facility.

"Sire Stakes" means the Sire Stakes Program established pursuant to section 1 of P.L.1971, c.85 (C.5:5-91).

"Standardbred Drivers' Health and Welfare" means a health and welfare trust established by the Standardbred Breeders' and Owners' Association of New Jersey for the purpose of providing health and welfare benefits to active, disabled and retired New Jersey standardbred drivers and their dependents based upon reasonable criteria by that organization.

"Takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed other than to persons placing wagers.

"Thoroughbred Breeders and Stallions" means the special trust account created pursuant to section 46 b.(1)(e) of P.L.1940, c.17 (C.5:5-66).

3. Section 4 of P.L.2001, c.199 (C.5:5-130) is amended to read as follows:

**C.5:5-130 Issuance of license to permit off-track wagering.**

4. a. The commission is authorized to issue a license to the authority to permit off-track wagering at a specified facility, upon application of the authority and in accordance with the provisions of this act. A license issued pursuant to this act shall be valid for a period of one year. The commission shall issue a license pursuant to this subsection only if the permit holder at Monmouth Park and the thoroughbred and standardbred permit holders at Meadowlands Racetrack schedule at least the minimum number of race dates required in section 30 of this act, P.L.2001, c.199 (C.5:5-156), and it is satisfied that the authority has entered into a participation agreement with each and every other person, partnership, association, corporation, or authority or the successor in interest to such person, partnership, association, corporation or authority that:

(1) held a valid permit to hold or conduct a race horse meeting within this State in the calendar year 2000;

(2) has complied with the terms of such permit; and

(3) is in good standing with the commission and the State of New Jersey.

An off-track wagering license may not be transferred or assigned to a successor in interest without the approval of the commission and the Attorney General, which approval may not be unreasonably withheld.

b. (1) As part of the license application process, any participation agreement entered into for the purposes of subsection a. of this section, or any modification to the agreement made thereafter, shall be reviewed by the commission and the Attorney General to determine whether the agreement meets the requirements of this act and shall be subject to the approval of the commission and the Attorney General. Notwithstanding any other law, rule, or regulation to the contrary, a permit holder subject to a participation agreement entered into prior to the effective date of P.L.2011, c.26 shall have made progress since the signing of that agreement toward establishing the permit holder's share of the 15 off-track wagering facilities authorized pursuant to section 10 of P.L.2001, c.199 (C.5:5-136), provided that any facility that has not received a license under section 7 of P.L.2001, c.199 (C.5:5-133) by January 1 of 2012 shall no longer be considered as part of the permit holder's share, and shall be available to be established by a horsemen's organization in this State as provided by paragraph (2) of this subsection. However, if the commission finds that a permit holder is making progress toward obtaining an off-track wagering license and establishing an off-track wagering facility according to specified benchmarks developed by the commission, the commission may allow a permit holder to retain its share of the off-track wagering facilities to be established, provided the permit holder continues to make progress on an annual basis. For the purposes of this section, a permit holder shall be deemed to have made progress toward establishing its share of off-track wagering facilities if it has entered into an agreement, in connection with good faith negotiations over the sale or lease of a racetrack under the permit holder's control, to transfer allocated off-track wagering licenses or facilities to an individual or entity that is a bona fide prospective purchaser or lessee, or has demonstrated to the satisfaction of the Commission that the execution of such an agreement is imminent based upon the portions of such an agreement agreed upon in principle by the parties as evidenced by a memorandum of understanding or similar accord.

(2) The commission is authorized to issue a license or licenses to any horsemen's organization in this State, for the establishment of one or more

of the remaining off-track wagering facilities in partnership with other horsemen's organizations in this State, the authority, or private investors, in accordance with all applicable provisions of the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.). A horsemen's organization shall make progress on an annual basis in establishing an off-track wagering facility from the date the organization is eligible to apply for an initial license pursuant to this subsection, provided that any facility that has not received a license under section 7 of P.L.2001, c.199 (C.5:5-133) within a reasonable timeframe from the date the horsemen's organization became eligible to apply for its initial license shall no longer be considered eligible to be established by a horsemen's organization under this paragraph, and shall be available to be established by a well-suited entity pursuant to subsection c. of this section.

c. With respect to any licenses that remain to be issued under paragraph (2) of subsection b. of this section, the commission is also authorized to issue a license to a well-suited entity to permit off-track wagering at a specified facility, upon application of the entity and in accordance with the provisions of this act and the provisions of section 14 of P.L.1940, c.17 (C.5:5-34). A license issued pursuant to this act shall be valid for a period of one year and, if the licensed entity is not a permit holder in this State, the license shall be contingent upon the licensee showing simulcast New Jersey races and allowing wagering thereon at the off-track wagering facility, subject to the rules and regulations of the commission, and shall be issued only if the permit holders schedule at least the minimum number of race dates required in section 30 of P.L.2001, c.199 (C.5:5-156). In assessing the qualifications of an entity to establish and conduct an off-track wagering facility, the commission shall apply substantially similar standards and criteria to those applied to the authority, its assignees, and other permit holders and licensees in the State. These standards and criteria shall enable the commission to determine by clear and convincing evidence in the opinion of the commission that the person or persons applying for licensure on behalf of the entity are well-suited to receive licensure, and shall include, but may not be limited to:

- (1) proof of financial resources sufficient to enable the entity to establish and conduct a quality off-track wagering facility or facilities with appropriately staffed and managed operations;
- (2) evidence of good character, honesty, competency and integrity;
- (3) the absence of a conviction for a crime involving fraud, dishonesty or moral turpitude; and

(4) any additional standards and criteria the commission may establish by rule or regulation in accordance with this act.

d. (1) The commission, in consultation with the State Treasurer, shall develop a process by which the commission will accept bids for each off-track wagering license to be awarded under this act, P.L.2001, c.199. An off-track wagering licensee and an entity interested in establishing an off-track wagering facility and being licensed as an off-track wagering licensee shall be eligible to submit a bid. The bidding process shall include procedures for the establishment of a minimum bid threshold, for the selection of a successful bidder and, when the successful bidder is not yet licensed as an off-track wagering licensee, for the awarding of a bid to that successful bidder subject to its eligibility to be licensed as an off-track wagering licensee in compliance with the provisions of this act, P.L.2001, c.199. As part of the bidding process, and in addition to submitting a monetary bid, a bidder shall submit to the commission a conceptual plan of the off-track wagering facility the bidder intends to establish, which shall include, but may not be limited to, a description of the proposed facility and the amenities it would offer, and its proposed or intended location. In selecting a successful bidder, the commission shall consider and balance the following: (a) the monetary value of the bid in comparison to other bids submitted; (b) the level of quality of the proposed facility and amenities in striving to be a first-rate experience for the customer that includes the provision of first-class dining facilities; (c) the potential of the proposed facility and amenities to generate greater interest in the horse racing industry and the sport of horse racing in the State; and (d) the proximity of the bidder's proposed or intended location for the off-track wagering facility and its impact on other planned or existing off-track wagering facilities and racetracks in the State. For the purposes of this act, P.L.2001, c.199, a successful bid shall be conditional upon the successful bidder's compliance with all the provisions of this act, P.L.2001, c.199, and the applicable rules and regulations promulgated by the commission.

(2) The commission shall consider the amount of a successful bid pursuant to paragraph (1) of this subsection as a license fee in connection with the issuance of an initial license to an off-track wagering facility licensee. The initial license fee need not be uniform for all off-track wagering facility licenses, and may vary depending on the results of the bidding process for each license. The proceeds generated by the initial license fee shall be distributed as follows: 50% to the New Jersey Thoroughbred Horsemen's Association for programs designed to aid the horsemen, and 50% to the Stan-

dardbred Breeders' and Owners' Association of New Jersey for programs designed to aid the horsemen.

e. The commission shall, in consultation with the New Jersey Economic Development Authority, develop progress benchmarks, within three months of the effective date of P.L.2011, c.26, for each off-track wagering licensee to follow for the timely and expeditious establishment of each off-track wagering facility. Such benchmarks shall provide that a permit holder shall be deemed to have made progress toward establishing its share of off-track wagering facilities if it has entered into an agreement, in connection with good faith negotiations over the sale or lease of a racetrack under the permit holder's control, to transfer allocated off-track wagering licenses or facilities to an individual or entity that is a bona fide prospective purchaser or lessee, or has demonstrated to the satisfaction of the Commission that the execution of such an agreement is imminent based upon the portions of such an agreement agreed upon in principle by the parties as evidenced by a memorandum of understanding or similar accord. The failure of a licensee to meet the benchmarks shall constitute a basis for the denial by the commission of the renewal of the off-track wagering license, except that the licensee shall have the right to appeal the commission's decision.

4. Section 5 of P.L.2001, c.199 (C.5:5-131) is amended to read as follows:

**C.5:5-131 Filing fee, certification; standards.**

5. a. At the time of filing an application for an off-track wagering license, the applicant shall submit to the commission a non-refundable filing fee in an amount established by regulation by the commission, and a certification in a form prescribed by the commission which specifies, but is not limited to, the following information:

(1) a plan depicting the proposed facility and improvements thereon, including information about the size, seating capacity, parking and services to be provided at the facility;

(2) the location of the proposed facility, and relevant demographic or other information concerning the municipality and surrounding area where the proposed facility is to be located;

(3) the number of permanent and part-time jobs expected to be created at the proposed facility, and gross revenues expected to be generated by the facility;

(4) the fire evacuation plan for the proposed facility;

(5) the type of food and beverages available, which shall include the provision of first-class dining facilities; and

(6) such other information as the commission may require.

b. The applicant shall file a separate application and certification for each proposed off-track wagering facility.

c. The commission shall charge each off-track wagering licensee an annual fee in connection with the renewal of the off-track wagering license, and shall establish by regulation procedures and conditions for renewal of licenses issued under this act. The amount of the annual license renewal fee shall be used by the commission to cover commission expenses associated with implementation of the provisions of this act, P.L.2001, c.199, and shall reasonably reflect those costs.

d. The commission shall by regulation establish the maximum hours of operation of off-track wagering facilities.

e. (1) Notwithstanding R.S.33:1-42, priority for the service of alcoholic beverages for on-premise consumption at an off-track wagering facility shall be given to a Class C plenary retail consumption licensee, by an agreement or contract with the off-track wagering licensee, pursuant to the provisions of R.S.33:1-1 et seq. in accordance with such procedures as established by statute and by regulation of the Division of Alcoholic Beverage Control. When a Class C plenary retail consumption license or licensee is available in the municipality, the authority shall not hold a license to provide alcoholic beverages at an off-track wagering facility. However, when a Class C plenary retail consumption licensee or license is not available in the municipality, the Director of the Division of Alcoholic Beverage Control shall issue a special concessionaire permit to the authority for the provision of alcoholic beverages at the off-track wagering facility and, if the off-track wagering license is held by an off-track wagering licensee other than the authority, the director may issue a non-transferable special license to provide alcoholic beverages at the off-track wagering facility pursuant to paragraph (2) of this subsection.

(2) The Director of the Division of Alcoholic Beverage Control may issue one special license to an individual, corporation, or other type of legal entity to serve alcoholic beverages at an off-track wagering facility located in the municipality where a Class C plenary retail consumption licensee was not available to provide alcoholic beverages at the off-track wagering facility pursuant to paragraph (1) of this subsection. The license shall authorize the sale of alcoholic beverages for immediate consumption on the premises of the off-track wagering facility. The director may issue not more than 15 licenses pursuant to this paragraph. Furthermore, licenses

issued pursuant to this paragraph shall be subject to the following requirements:

(a) No person who would fail to qualify as a licensee under Title 33 of the Revised Statutes shall be permitted to hold an interest in a special license under the provisions of this paragraph;

(b) Licenses shall be subject to the provisions of Title 33 of the Revised Statutes and rules and regulations promulgated by the director, to the extent those provisions are not inconsistent with the provisions of this act;

(c) No license issued pursuant to this paragraph shall be transferred to any other premises;

(d) Application for the initial issuance and renewal of each license shall be made to the director on an annual basis. The fee for the initial issuance of the license shall be the average sale price for the three most recent sales of plenary retail consumption licenses in the municipality where the license is being issued during the preceding five years. If the off-track wagering facility is located within the boundaries of two or more municipalities, the highest average sale price of the two or more municipalities shall be used. If less than three plenary retail consumption licenses have been sold in the municipality or municipalities, as the case may be, within the previous five years, the director shall obtain an appraisal, at the applicant's expense, to determine the appropriate fee for the license. The appraisal process shall include an examination of previous transactions in the municipality or municipalities, as the case may be, and shall reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality or municipalities, as the case may be. One half of the amount of the application fee for the initial issuance of the license shall be paid upon the issuance of the license and the other half of that amount shall be paid one year later. The director shall establish an annual fee for the license which shall not exceed the fee which may be imposed by a municipality for a plenary retail consumption license pursuant to R.S.33:1-12, a portion of which shall be paid by the director to the New Jersey Racing Commission for the funding of horse breeding incentive programs;

(e) The fee for the initial issuance of the license shall be distributed in the following manner:

(i) Twenty-five percent shall be paid to the municipality where the off-track wagering facility is located and if the off-track wagering facility is located within the boundaries of two or more municipalities, the fee shall be divided equally among those municipalities;

(ii) Twenty-five percent shall be paid to the Director of the Division of Alcoholic Beverage Control;

(iii) Fifty percent shall be paid to the New Jersey Racing Commission for the funding of horse breeding incentive programs;

(f) The individual corporation or entity holding the license shall not be entitled to sell a license issued pursuant to this paragraph, and the license shall expire upon the closure of the off-track wagering facility;

(g) The director shall not issue a special concessionaire permit for any off-track wagering facility or premises which is eligible to obtain a license to serve alcoholic beverages under the provisions of this paragraph; and

(h) Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director shall adopt rules and regulations to effectuate the purposes of this paragraph.

(3) Nothing in this subsection shall be construed to allow the Director of the Division of Alcoholic Beverage Control to issue a special concessionaire permit or a special license described in paragraph (2) of this subsection to the authority pursuant to this act, P.L.2001, c.199, or to issue a special license to any individual, corporation, or other type of legal entity to serve alcoholic beverages in a municipality that prohibits the retail sale of alcoholic beverages within its boundaries.

f. Persons under the age of 18 years shall not be permitted in any off-track wagering facility, except in dining areas if accompanied by a parent or guardian.

g. The commission shall by regulation establish minimum standards for off-track wagering facilities and timelines for their establishment and completion, including, but not limited to, standards for quality, size, seating capacity, the provision of first-class dining facilities, parking and services to be provided, as well as expected dates of construction, renovations and opening. The failure of an off-track wagering licensee to meet these standards shall be sufficient cause for the commission to revoke, suspend or refuse to renew a license pursuant to the provisions of section 8 of P.L.2001, c.199 (C.5:5-134).

h. Notwithstanding the provisions of any law, rule, or regulation to the contrary, an off-track wagering facility shall be a permitted use in all commercial and industrial districts of a municipality.

i. In evaluating an application for an off-track wagering license, the commission shall consider the proximity of the applicant's proposed site to other planned or existing off-track wagering facilities and to racetracks in this State. If, in the opinion of the commission, the establishment of the facility at its proposed location would be inimical to the interests of another

planned or established off-track wagering facility, or to a State racetrack, the commission shall require the applicant to consider alternative sites for the proposed facility.

5. Section 6 of P.L.2001, c.199 (C.5:5-132) is amended to read as follows:

**C.5:5-132 Public hearing.**

6. Within 14 days of receipt of a completed application, certification and applicable fees, the executive director shall determine whether the same is in due form and meets the requirements of law in all respects, and upon being satisfied thereof, the commission, within 45 days of receipt of a completed application, certification and applicable fees, shall hold a public hearing in the municipality in which the proposed off-track wagering facility is to be located. The costs of the public hearing shall be paid by the applicant. The executive director shall cause a display advertisement, approximately 11 inches by 8 inches in size, to be published at least once in a daily newspaper, and at least once in a weekly newspaper, published, or circulated if none is published, in the county where the municipality is located at least 15 days before the date of the public hearing and to be published again in that daily newspaper on the third day preceding the public hearing and in the latest edition of that weekly newspaper that will be in circulation on the third day preceding the public hearing. The advertisement shall contain sufficient information to apprise the public as to the purpose of the hearing, the time and place thereof, and the nature of the license applied for. The advertisement shall be prepared and placed by the executive director, but shall be paid for by the applicant.

6. Section 7 of P.L.2001, c.199 (C.5:5-133) is amended to read as follows:

**C.5:5-133 Final determination on license application.**

7. a. No sooner than 30 days nor later than 60 days following the public hearing, the commission shall make a final determination on the license application. The commission shall approve the application if it determines that the plan for the proposed facility includes appropriate standards of quality for the premises and services it will provide and that the applicant has demonstrated by clear and convincing evidence that establishment of the proposed off-track wagering facility will not be inimical to the interests of the public and the horse racing industry in this State. The commission

shall submit its determination to the Attorney General for review and approval. The determination of the commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the commission shall issue to the applicant an off-track wagering license specifying the location, the periods of time during a calendar year and the hours of operation during which off-track wagering is permitted at the facility, and prescribing any other conditions or terms the commission deems appropriate.

b. With the approval of the commission, the authority may assign an off-track wagering license to a permit holder, provided that the authority shall retain responsibility for license renewals. In the event the authority assigns an off-track wagering license, the assignee shall reimburse the authority for its costs associated with the application for the license. With the approval of the commission, an off-track wagering licensee may enter into a contract or agreement with a person or entity to conduct or operate an off-track wagering facility for the licensee and to act as the agent of the licensee in all off-track wagering matters approved by the commission.

**C.5:5-151.1 Payment in-lieu-of taxes, tax exemption, abatement.**

7. Notwithstanding any other law, rule, or regulation to the contrary:

(1) when the authority is the owner of the land, building, and premises where an off-track wagering facility is operated pursuant to an initial off-track wagering facility license issued after the effective date of P.L.2011, c.26, the authority shall pay to the municipality where the facility is located a payment in-lieu-of taxes for the first five years of operation of the off-track wagering facility, which payment amount shall be determined upon agreement with the municipality, and shall pay regular property tax payments beginning on the sixth year and thereafter; and

(2) when a private off-track wagering licensee is the owner of the land, building, and premises where an off-track wagering facility is operated pursuant to an initial off-track wagering facility license issued after the effective date of P.L.2011, c.26, the private off-track wagering licensee shall be eligible to receive a five-year tax exemption, or abatement, or both, when located in an area in need of rehabilitation as defined under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), except that the private off-track wagering licensee shall pay to the municipality where the facility is located a payment in-lieu-of taxes for the first five years of operation of the off-track wagering facility, which payment amount

shall be less than the amount of regular property tax payments as determined upon agreement with the municipality pursuant to section 10 of P.L.1991, c.441 (C.40A:21-10), and shall pay regular property tax payments beginning on the sixth year and thereafter.

8. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commission may adopt immediately upon filing with the Office of Administrative Law such regulations as the Commission deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days and may thereafter be amended, adopted or readopted by the Commission in accordance with the requirements of P.L.1968, c.410.

9. This act shall take effect immediately.

Approved February 23, 2011.

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## CHAPTER 27

AN ACT concerning the names and State filings of certain business entities and amending various parts of the statutory law.

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

1. Section 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.," "P.C.," "PA," or "PC". 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.," "P.C.," "PA," or "PC" 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.," "P.C.," "PA," or "PC" is omitted. Nothing in this subsection shall limit the right of a professional corporation to use or register an alternate name pursuant to N.J.S.14A:2-2.1, provided that the alternate name contains the full or last name of one or more of the shareholders or adequately describes the type of professional service in which the professional corporation will be engaged.

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. Section 5 of P.L.1983, c.489 (C.42:2A-5) is amended to read as follows:

**C.42:2A-5 Definitions relative to limited partnerships.**

5. Definitions. As used in this chapter, unless the context otherwise requires:

a. "Certificate of limited partnership" and "partnership certificate" mean the certificate referred to in section 13 of P.L.1983, c.489 (C.42:2A-14) as it may be corrected pursuant to section 48 of P.L.1988, c.130 (C.42:2A-16.1) or amended or restated from time to time.

b. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

c. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in this chapter, or in the partnership agreement.

d. "Foreign limited partnership" means a partnership formed under the laws of any state other than this State and having as partners one or more general partners and one or more limited partners.

e. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership

agreement and named in the certificate of limited partnership as a general partner.

f. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

g. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners.

h. "Partner" means a limited or general partner.

i. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

j. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

k. "Person" means a natural person, partnership, limited partnership (domestic or foreign), limited liability company or other limited liability entity, trust, estate, association, or corporation.

l. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

m. Unless otherwise provided in the partnership certificate or in the partnership agreement, "in interest" shall mean a vote or percentage of a limited partner (in a class of limited partners) equal to the portion that partner's share in contributions to the partnership bears to the share in contributions to the partnership of all limited partners (of that class).

n. "Principal office" means the place designated in the partnership agreement or the place of business of the limited partnership where the chief or principal affairs and business of the partnership are transacted.

o. "Secretary of State" refers to the State Treasurer, based upon the transfer of the functions, powers and duties of the Division of Commercial Recording, established pursuant to section 1 of P.L.1982, c.150 (C.52:16A-35) and currently referred to as the Business Services Office, from the Department of State to the Department of the Treasury pursuant to Reorganization Plan No. 004-1998.

p. "Treasurer" means the State Treasurer of the Department of the Treasury.

3. Section 6 of P.L.1983, c.489 (C.42:2A-6) is amended to read as follows:

**C.42:2A-6 Name of limited partnership.**

6. Name of limited partnership. a. The name of each limited partnership as set forth in its certificate of limited partnership or the name of any foreign limited partnership applying for a certificate of authority to transact business in this State:

(1) Shall contain the words "limited partnership" or the abbreviation "L.P.," or "LP";

(2) May not contain the name of a limited partner unless it is also the name of a general partner or the corporate name of a corporate general partner, or the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) May not contain any word or phrase indicating or implying that it is organized other than for a purpose stated in its certificate of limited partnership;

(4) Shall be such to distinguish it upon the records in the office of the State Treasurer from the names of other domestic limited partnerships, foreign limited partnerships, domestic profit corporations, foreign profit corporations, domestic nonprofit corporations, and foreign nonprofit corporations or a current name reservation or a current name registration unless there is filed a certified copy of a final judgment of a court of competent jurisdiction establishing the prior right of the limited partnership to the use of the name in this State;

(5) Shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by any other statutes of this State, unless the restrictions have been complied with.

b. This section shall not require any domestic limited partnership organized prior to April 1, 1985 to change its name in accordance with this section, if the name is otherwise lawful on March 31, 1985. A limited partnership or foreign limited partnership transacting business in this State shall not change its limited partnership name on or after the effective date of P.L.1988, c.130 to a name which is not available for limited partnership use under this chapter.

c. If the name of a foreign limited partnership is not available for use in this State because of paragraphs (1) through (4) of subsection a., the limited partnership may be authorized to transact business in this State under an assumed name by filing in the office of the State Treasurer with its application for an original or amended certificate of authority a certificate of its general partner adopting the assumed name for use in transacting business in this State.

d. The limited partnership name of a domestic limited partnership whose certificate of limited partnership has been cancelled, the limited partnership name of a foreign limited partnership whose certificate of limited partnership has been cancelled or withdrawn, and the corporate name of any profit or nonprofit corporation which has been dissolved and any name confusingly similar to the name of a foreign limited partnership whose certificate of limited partnership has been cancelled or withdrawn, domestic limited partnership or profit or nonprofit corporation which has been dissolved or which has been terminated shall not be available for foreign or domestic limited partnership use for two years after the effective time of cancellation, withdrawal or termination, unless, within the two-year period, the written consent of the dissolved, withdrawn or cancelled domestic or foreign limited partnership or corporation to the adoption of its name, or a confusingly similar name, is filed in the office of the State Treasurer with the certificate of limited partnership of the new proposed domestic limited partnership or with the application of a foreign limited partnership for an original or amended certificate of authority to transact business in this State.

e. The filing in the office of the State Treasurer of the certificate of limited partnership of a domestic limited partnership or the issuance by the State Treasurer of a certificate to a foreign limited partnership authorizing it to transact business in this State shall not preclude an action by this State to enjoin a violation of this section or any action by any person adversely affected to enjoin the violation or the use of a limited partnership name in violation of the rights of that person, whether on principles of unfair competition or otherwise, and the court may grant any other appropriate relief in the action.

4. Section 2 of P.L.1993, c.210 (C.42:2B-2) is amended to read as follows:

**C.42:2B-2 Definitions relative to limited liability companies.**

2. As used in this act unless the context otherwise requires:

"Bankruptcy" means an event that causes a person to become dissociated from a limited liability company as provided in section 24 of this act.

"Certificate of formation" means the certificate referred to in section 11 of this act, and the certificate as amended.

"Contribution" means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a person contributes to a limited liability company in his capacity as a member; provided however, that services rendered and obliga-

tions to perform services are contributions only to the extent designated as contributions in the operating agreement.

"Foreign limited liability company" means a limited liability company formed under the laws of any state or under the laws of any foreign country or other foreign jurisdiction and denominated as such under the laws of such state or foreign country or other foreign jurisdiction.

"Limited liability company" and "domestic limited liability company" means a limited liability company formed under the laws of this State and having one or more members.

"Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

"Liquidating trustee" means a person carrying out the winding up of a limited liability company.

"Manager" means a person who is named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, an operating agreement or similar instrument under which the limited liability company is formed.

"Member" means a person who has been admitted to a limited liability company as a member as provided in section 21 of this act or, in the case of a foreign limited liability company, in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is organized.

"Operating agreement" means a written agreement among the members, or in the case of a limited liability company with only one member, the declaration by that one member of the terms of the operating agreement which shall be deemed an agreement between the member and the limited liability company, as to the affairs of a limited liability company and the conduct of its business.

"Person" means a natural person, partnership (whether general or limited and whether domestic or foreign), limited liability company, foreign limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

"Secretary of State" refers to the State Treasurer, based upon the transfer of the functions, powers and duties of the Division of Commercial Recording, established pursuant to section 1 of P.L.1982, c.150 (C.52:16A-35) and currently referred to as the Business Services Office, from the Department of State to the Department of the Treasury pursuant to Reorganization Plan No. 004-1998.

"State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than this State.

"Treasurer" means the State Treasurer of the Department of the Treasury.

5. Section 3 of P.L.1993, c.210 (C.42:2B-3) is amended to read as follows:

**C.42:2B-3 Name of limited liability company.**

3. The name of each limited liability company as set forth in its certificate of formation:

a. Shall contain the words "Limited Liability Company" or the abbreviation "L.L.C.," or "LLC";

b. May contain the name of a member or manager;

c. Must be such as to distinguish it upon the records in the office of the State Treasurer from the name of any corporation, limited partnership, business trust or limited liability company reserved, registered, formed or organized under the laws of this State or qualified to do business or registered as a foreign corporation, foreign limited partnership or foreign limited liability company in this State; provided, however, that a limited liability company may register under any name which does not distinguish it upon the records in the office of the State Treasurer from the name of any domestic or foreign corporation, limited partnership, business trust or limited liability company reserved, registered, formed or organized under the laws of this State with the written consent of the other corporation, limited partnership, business trust or limited liability company, which written consent shall be filed with the State Treasurer; and

d. Shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by any other statute of this State, unless the restrictions have been complied with.

6. This act shall take effect immediately.

Approved March 1, 2011.

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CHAPTER 28

AN ACT eliminating the use of the rebate procedure for claims of sales and use tax exemption made in connection with certain sales to certain Urban Enterprise Zone qualified businesses, amending P.L.1983, c.303.

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

1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to read as follows:

**C.52:27H-79 Sales tax procedure relative to sales to enterprise zone business; definition; refunds.**

20. a. Receipts from retail sales of tangible personal property (except motor vehicles and energy) and sales of services (except telecommunications services and utility services) to a qualified business for the exclusive use or consumption of such business within an enterprise zone are exempt from the taxes imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. (Deleted by amendment, P.L.2011, c.28)

c. As used in this section:

"Qualified business" includes a person who is certified as a qualified business by the authority on or before the date a claim for refund is made and filed with the Director of the Division of Taxation in the Department of the Treasury pursuant to subsection e. of this section.

d. (Deleted by amendment, P.L.2011, c.28)

e. (1) Notwithstanding the provisions of section 20 of P.L.1966, c.30 (C.54:32B-20) and the provisions of R.S.54:49-14, the Director of the Division of Taxation in the Department of the Treasury shall refund to a person who is a qualified business the amount of any sales tax or any use tax paid by the person in connection with that person's purchase of tangible personal property or services that is exempt, pursuant to subsection a. of this section, from the taxes imposed by P.L.1966, c.30 (C.54:32B-1 et seq.) if the person who is a qualified business makes and files a claim for refund with the director within one year of the date the payment of tax for purchase is made.

(2) A person who is a qualified business shall make and file a claim for refund on such forms, and accompanied by auditable receipts and such other documentation, as the director may prescribe.

2. This act shall take effect immediately; provided however, that section 1 shall remain inoperative until the first day of the first month next following the date of enactment.

Approved March 1, 2011.

## CHAPTER 29

AN ACT concerning motorcycle sales, supplementing chapter 10 of Title 39 of the Revised Statutes, and amending P.L.1999, c.90.

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

**C.39:10-38 Sale of motorcycles permitted on Sunday, certain circumstances.**

1. Any dealer engaged in the business of selling motorcycles and licensed pursuant to R.S.39:10-19 and who holds a franchise from a manufacturer of new motorcycles may engage in the business of buying, selling, or exchanging motorcycles in this State on any day of the week, except that such a dealer shall not be permitted to engage in the business of buying, selling, or exchanging motorcycles on a Sunday in any county where Sunday sales are prohibited pursuant to sections 14 through 18 of P.L.1999, c.90 (C.40A:64-1 et seq.). Nothing in this act shall be construed to affect the sale of automobiles, nor shall it be construed to require a dealer to conduct business on any particular day of the week.

2. Section 4 of P.L.1999, c.90 (C.2C:33-26) is amended to read as follows:

**C.2C:33-26 Sale of motor vehicles on Sunday; exemption.**

4. Except as provided in section 1 of P.L.2011, c.29 (C.39:10-38), a person who engages in the business of buying, selling, or exchanging motor vehicles or who opens a place of business and attempts to engage in such conduct on a Sunday commits a disorderly persons offense. The first offense is punishable by a fine not to exceed \$100 or imprisonment for a period of not more than 10 days or both; the second offense is punishable by a fine not to exceed \$500 or imprisonment for a period of not more than 30 days or both; the third or each subsequent offense is punishable by a fine of \$750 or imprisonment for a period of six months or both. If the person is a licensed dealer in new or used motor vehicles in this State, under the provisions of chapter 10, Title 39 of the Revised Statutes, the person shall also be subject to suspension or revocation of his dealer's license to engage in the business of buying, selling, or exchanging motor vehicles in this State as provided in Title 39, chapter 10, section 20, for violation of this statute. Nothing contained in this section shall be construed to prohibit a person from accepting a deposit to secure the sale of a recreational vehicle, as de-

fined in section 1 of P.L.1999, c.284 (C.54:4-1.18), at an off-site sale authorized pursuant to section 2 of P.L.2005, c.351 (C.39:10-19.2), on a Sunday. Nothing contained in this section shall be construed to prohibit a dealer, engaged in the business of selling motorcycles and licensed pursuant to R.S.39:10-19, and who holds a franchise from a manufacturer of new motorcycles from engaging in the business of buying, selling, or exchanging motorcycles on a Sunday, except that such a dealer shall be prohibited from engaging in the business of buying, selling, or exchanging motorcycles on a Sunday in a county where Sunday sales are prohibited pursuant to sections 14 through 18 of P.L.1999, c.90 (C.40A:64-1 et seq.) and for a violation of this prohibition shall be subject to the penalties provided in this section for the buying, selling, or exchanging of motor vehicles on a Sunday. As used in this section, the terms "dealer," "motor vehicle," and "motorcycle" shall have the meaning set forth in R.S.39:1-1.

3. This act shall take effect immediately.

Approved March 1, 2011.

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## CHAPTER 30

AN ACT concerning benefit corporations and supplementing Title 14A of the New Jersey Statutes.

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

**C.14A:18-1 Definitions relative to benefit corporations.**

1. For purposes of this act:

“Benefit corporation” means a corporation organized under provisions of the “New Jersey Business Corporation Act,” N.J.S.14A:1-1 et seq., that has elected to become subject to this act and whose status as a benefit corporation has not been terminated as provided in this act.

“Benefit director” means the director designated as the benefit director of a benefit corporation as provided in section 7 of this act.

“Benefit enforcement proceeding” means a claim or action brought directly by a benefit corporation, or derivatively on behalf of a benefit corporation, against a director or officer for:

(1) Failure to pursue the general public benefit purpose of the benefit corporation or any specific public benefit purpose set forth in its certificate of incorporation; or

(2) Violation of a duty or standard of conduct under this act.

“Benefit officer” means the officer of a benefit corporation, if any, designated as the benefit officer as provided in section 9 of this act.

“General public benefit” means a material positive impact on society and the environment by the operations of a benefit corporation through activities that promote some combination of specific public benefits.

“Independent” means that a person has no material relationship with a benefit corporation or any of its subsidiaries (other than the relationship of serving as the benefit director or benefit officer), either directly or as a shareholder, partner, member or other owner or a director, officer or other manager of an entity that has a material relationship with the benefit corporation or any of its subsidiaries. A material relationship between an individual and a benefit corporation or any of its subsidiaries will be conclusively presumed to exist if:

(1) The person is, or has been within the last three years, an employee of the benefit corporation or any of its subsidiaries, other than as a benefit officer;

(2) An immediate family member of the person is, or has been within the last three years, an executive officer, other than a benefit officer, of the benefit corporation or any of its subsidiaries; or

(3) The person, or an entity of which the person is a director, officer or other manager or in which the person owns beneficially or of record 5% or more of the outstanding equity interests, owns beneficially or of record 5% or more of the outstanding shares of the benefit corporation.

A percentage of ownership in an entity shall be calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

“Minimum status vote” means that, in addition to any other approval or vote required by Title 14A of the New Jersey Statutes or the certificate of incorporation:

(1) The holders of shares of every class or series shall be entitled to vote on the corporate action regardless of any limitation stated in the certificate of incorporation on the voting rights of any class or series; and

(2) The corporate action must be approved by vote of the shareholders of each class or series entitled to cast at least two-thirds of the votes that all shareholders of the class or series are entitled to cast thereon.

“Specific public benefit” includes:

- (1) Providing low-income individuals or communities with beneficial products or services;
- (2) Promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;
- (3) Preserving the environment;
- (4) Improving human health;
- (5) Promoting the arts, sciences or advancement of knowledge;
- (6) Increasing the flow of capital to entities with a public benefit purpose; and
- (7) The accomplishment of any other particular benefit for society or the environment.

“Subsidiary” of a person means an entity in which the person owns beneficially or of record 50% or more of the outstanding equity interests. A percentage of ownership in an entity shall be calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

“Third-party standard” means a recognized standard for defining, reporting and assessing corporate social and environmental performance that is:

- (1) Developed by a person that is independent of the benefit corporation; and
- (2) Transparent because the following information about the standard is publicly available:
  - (a) the factors considered when measuring the performance of a business;
  - (b) the relative weightings of those factors; and
  - (c) the identity of the persons who developed and control changes to the standard and the process by which those changes are made.

**C.14A:18-2 Formation of benefit corporation.**

2. A benefit corporation shall be formed in accordance with chapter 2 of Title 14A of the New Jersey Statutes, except that its certificate of incorporation shall also state that it is a benefit corporation.

**C.14A:18-3 Certain corporations may become benefit corporations.**

3. a. A corporation organized under the provisions of the “New Jersey Business Corporation Act,” N.J.S.14A:1-1 et seq., may become a benefit corporation under this act by amending its certificate of incorporation so that it contains a statement that the corporation is a benefit corporation. The amendment shall not be effective unless it is adopted by at least the minimum status vote.

b. If a corporation that is not a benefit corporation is a party to a merger or consolidation or is the exchanging corporation in a share exchange, and the surviving or new corporation in the merger, consolidation, or share exchange is to be a benefit corporation, then the plan of merger, consolidation, or share exchange shall not be effective unless it is adopted by the corporation by at least the minimum status vote.

**C.14A:18-4 Termination of status as benefit corporation.**

4. a. A benefit corporation may terminate its status as a benefit corporation and cease to be subject to this act by amending its certificate of incorporation to delete the provision required by section 2 or subsection a. of section 3 of this act. The amendment shall not be effective unless it is adopted by at least the minimum status vote.

b. If a plan of merger, consolidation or exchange would have the effect of terminating the status of a corporation as a benefit corporation, the plan shall not be effective unless it is adopted by at least the minimum status vote.

**C.14A:18-5 Purpose of benefit corporation.**

5. a. Every benefit corporation shall have the purpose of creating a general public benefit. This purpose is in addition to, and may be a limitation on, its purpose under its certificate of incorporation and any specific purpose set forth in its certificate of incorporation.

b. The certificate of incorporation of a benefit corporation may identify one or more specific public benefits that is the purpose of the benefit corporation to create in addition to its purposes under its certificate of incorporation and subsection a. of this section. The identification of a specific public benefit under this subsection does not limit the obligation of a benefit corporation to create general public benefit.

c. The creation of general and specific public benefits, as provided in subsections a. and b. of this section, shall be in the best interests of the benefit corporation.

d. A benefit corporation may amend its certificate of incorporation to add, amend or delete a specific public benefit that is the purpose of the benefit corporation to create. The amendment shall not be effective unless it is adopted by at least the minimum status vote.

**C.14A:18-6 Consideration of effects of action.**

6. a. The board of directors, committees of the board and individual directors of a benefit corporation, in considering the best interests of the benefit corporation shall consider the effects of any action upon:

- (1) the shareholders of the benefit corporation;
  - (2) the employees and workforce of the benefit corporation and its subsidiaries and suppliers;
  - (3) the interests of customers as beneficiaries of the general or specific public benefit purposes of the benefit corporation;
  - (4) community and societal considerations, including those of any community in which offices or facilities of the benefit corporation or its subsidiaries or suppliers are located;
  - (5) the local and global environment; and
  - (6) the short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the benefit corporation;
- b. The board of directors, committees of the board and individual directors of a benefit corporation, in considering the best interests of the benefit corporation may consider:
- (1) matters listed in subsection (2) of N.J.S.14A:6-1; and
  - (2) any other pertinent factors or the interests of any other group that they deem appropriate; and
- c. The board of directors, committees of the board and individual directors of a benefit corporation shall not be required to give priority to the interests of any particular person or group referred to in subsection a. or subsection b. of this section over the interests of any other person or group unless the benefit corporation has stated its intention to give priority to interests related to a specific public benefit purpose identified in its certificate of incorporation.
- d. A director is not personally liable for monetary damages for failure of the benefit corporation to create general or specific public benefits.

**C.14A:18-7 “Benefit director.”**

7. a. The board of directors of a benefit corporation shall include one director who shall be designated the “benefit director” and shall have, in addition to all of the powers, duties, rights and immunities of the other directors of the benefit corporation, the powers, duties, rights and immunities provided in this act.
- b. The benefit director shall be elected, and may be removed, in the manner provided by chapter 6 of Title 14A of the New Jersey Statutes, and shall be an individual who is independent. The benefit director may serve as the benefit officer, designated pursuant to section 9 of this act, at the same time as serving as the benefit director. The certificate of incorporation

or bylaws of a benefit corporation may prescribe additional qualifications of the benefit director not inconsistent with this subsection.

c. The benefit director shall prepare, and the benefit corporation shall include in the annual benefit report to shareholders required by section 11 of this act, a statement whether, in the opinion of the benefit director, the benefit corporation acted in accordance with its general, and any specific, public benefit purpose in all material respects during the period covered by the report and whether the directors and officers complied with subsection a. of section 6 of this act and subsection a. of section 8 of this act. If in the opinion of the benefit director the benefit corporation or its directors or officers failed to act in accordance with its public benefit purpose, then the statement of the benefit director shall include a description of the ways in which the benefit corporation or its directors or officers failed to act.

d. If the by-laws of a benefit corporation provide that the powers and duties conferred or imposed upon the board of directors shall be exercised or performed by a person other than the directors pursuant to N.J.S.14A:6-1, then the bylaws of the benefit corporation must provide that the person or shareholders who perform the duties of a board of directors shall include a person with the powers, duties, rights and immunities of a benefit director.

e. Regardless of whether the certificate of incorporation of a benefit corporation includes a provision eliminating or limiting the personal liability of directors authorized by subsection (3) of N.J.S.14A:2-7, a benefit director shall not be personally liable for any act or omission in the capacity of a benefit director unless the act or omission constitutes self-dealing, willful misconduct or a knowing violation of law.

**C.14A:18-8 Actions of officers.**

8. a. Each officer of a benefit corporation shall consider the interests and factors described in subsection a. of section 6 of this act when:

(1) The officer has discretion to act with respect to a matter; and

(2) It reasonably appears to the officer that the matter may have a material effect on:

(a) the creation of general or specific public benefits by the benefit corporation; or

(b) any of the interests or factors referred to in subsection a. of section 6 of this act.

b. The consideration of interests and factors in the manner described in subsection c. of section 6 of this act.

c. An officer is not personally liable for monetary damages for failure of the benefit corporation to create general or specific public benefit.

**C.14A:18-9 “Benefit officer.”**

9. A benefit corporation may have an officer designated the “benefit officer” who shall have authority and shall perform duties in the management of the benefit corporation relating to the purpose of the corporation to create general or specific public benefits as may be provided by or pursuant to the by-laws or, in the absence of controlling provisions in the by-laws, as may be determined by or pursuant to resolutions or orders of the board of directors. If a benefit corporation has a benefit officer, the duties of the benefit officer shall include preparing the benefit report required by section 11 of this act.

**C.14A:18-10 Enforcement of duties of directors and officers.**

10. a. The duties of directors and officers under this act, and the general and any specific public benefit purpose of a benefit corporation, may be enforced only in a benefit enforcement proceeding. No person may bring an action or assert a claim against a benefit corporation or its directors or officers with respect to the duties of directors and officers under this act and the general and any specific public benefit purpose of the benefit corporation except in a benefit enforcement proceeding.

b. A benefit enforcement proceeding may be commenced or maintained only:

- (1) Directly by the benefit corporation; or
- (2) Derivatively by:
  - (a) a shareholder;
  - (b) a director;
  - (c) a person or group of persons that owns beneficially or of record 10% or more of the equity interests in an entity of which the benefit corporation is a subsidiary; or
  - (d) such other persons as may be specified in the certificate of incorporation or by-laws of the benefit corporation.

**C.14A:18-11 Annual benefit report.**

11. a. A benefit corporation shall deliver to each shareholder an annual benefit report including:

- (1) A narrative description of:
  - (a) The ways in which the benefit corporation pursued a general public benefit during the year and the extent to which the general public benefit was created;
  - (b) The ways in which the benefit corporation pursued any specific public benefit that the certificate of incorporation states is the purpose of

the benefit corporation to create and the extent to which that specific public benefit was created; and

(c) Any circumstances that have hindered the creation by the benefit corporation of general or specific public benefits;

(2) An assessment of the social and environmental performance of the benefit corporation, prepared in accordance with a third-party standard applied consistently with any application of that standard in prior benefit reports or accompanied by an explanation of the reasons for any inconsistent application;

(3) The name of the benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed;

(4) The compensation paid by the benefit corporation during the year to each director in that capacity;

(5) The name of each person that owns 5% or more of the outstanding shares of the benefit corporation either beneficially, to the extent known to the benefit corporation without independent investigation, or of record; and

(6) The statement of the benefit director described in section 7 of this act.

b. The benefit report must be sent annually to each shareholder within 120 days following the end of the fiscal year of the benefit corporation or at the same time that the benefit corporation delivers any other annual report to its shareholders.

c. A benefit corporation must post its most recent benefit report on the public portion of its website, if any, except that the compensation paid to directors and any financial or proprietary information included in the benefit report may be omitted from the benefit report as posted.

d. (1) With the delivery of the benefit report to shareholders pursuant to subsection b. of this section, the benefit corporation must deliver a copy of the benefit report to the Department of the Treasury for filing, except that the compensation paid to directors and any financial or proprietary information included in the benefit report may be omitted from the benefit report as filed under this section. The State Treasurer shall charge a fee of \$70 for filing a benefit report.

(2) If a benefit corporation has not delivered a benefit report to the department for a period of two years, the department may prepare and file a statement that the corporation has forfeited its status as a benefit corporation and is no longer subject to this act. If the corporation subsequently delivers a benefit report to the department for filing, the status of the corporation as a benefit corporation shall be automatically reinstated upon the filing of the benefit report by the department and the corporation shall again be subject to this act.

12. This act shall take effect immediately.

Approved March 1, 2011.

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## CHAPTER 31

AN ACT concerning indemnification of certain corporate directors and officers and amending N.J.S.14A:3-5.

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

1. N.J.S.14A:3-5 is amended to read as follows:

**Indemnification of directors, officers and employees.**

14A:3-5. Indemnification of directors, officers and employees.

(1) As used in this section,

(a) "Corporate agent" means any person who is or was a director, officer, employee or agent of the indemnifying corporation or of any constituent corporation absorbed by the indemnifying corporation in a consolidation or merger and any person who is or was a director, officer, trustee, employee or agent of any other enterprise, serving as such at the request of the indemnifying corporation, or of any such constituent corporation, or the legal representative of any such director, officer, trustee, employee or agent;

(b) "Other enterprise" means any domestic or foreign corporation, other than the indemnifying corporation, and any partnership, joint venture, sole proprietorship, trust or other enterprise, whether or not for profit, served by a corporate agent;

(c) "Expenses" means reasonable costs, disbursements and counsel fees;

(d) "Liabilities" means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties;

(e) "Proceeding" means any pending, threatened or completed civil, criminal, administrative or arbitative action, suit or proceeding, and any appeal therein and any inquiry or investigation which could lead to such action, suit or proceeding; and

(f) References to "other enterprises" include employee benefit plans; references to "fines" include any excise taxes assessed on a person with

respect to an employee benefit plan; and references to "serving at the request of the indemnifying corporation" include any service as a corporate agent which imposes duties on, or involves services by, the corporate agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner the person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this section.

(2) Any corporation organized for any purpose under any general or special law of this State shall have the power to indemnify a corporate agent against his expenses and liabilities in connection with any proceeding involving the corporate agent by reason of his being or having been such a corporate agent, other than a proceeding by or in the right of the corporation, if

(a) such corporate agent acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation; and

(b) with respect to any criminal proceeding, such corporate agent had no reasonable cause to believe his conduct was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that such corporate agent did not meet the applicable standards of conduct set forth in paragraphs 14A:3-5(2)(a) and 14A:3-5(2)(b).

(3) Any corporation organized for any purpose under any general or special law of this State shall have the power to indemnify a corporate agent against his expenses in connection with any proceeding by or in the right of the corporation to procure a judgment in its favor which involves the corporate agent by reason of his being or having been such corporate agent, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation. However, in such proceeding no indemnification shall be provided in respect of any claim, issue or matter as to which such corporate agent shall have been adjudged to be liable to the corporation, unless and only to the extent that the Superior Court or the court in which such proceeding was brought shall determine upon application that despite the adjudication of liability, but in view of all circumstances of the case, such corporate agent is fairly and reasonably entitled to indemnity for such expenses as the Superior Court or such other court shall deem proper.

(4) Any corporation organized for any purpose under any general or special law of this State shall indemnify a corporate agent against expenses

to the extent that such corporate agent has been successful on the merits or otherwise in any proceeding referred to in subsections 14A:3-5(2) and 14A:3-5(3) or in defense of any claim, issue or matter therein.

(5) Any indemnification under subsection 14A:3-5(2) and, unless ordered by a court, under subsection 14A:3-5(3) may be made by the corporation only as authorized in a specific case upon a determination that indemnification is proper in the circumstances because the corporate agent met the applicable standard of conduct set forth in subsection 14A:3-5(2) or subsection 14A:3-5(3). Unless otherwise provided in the certificate of incorporation or bylaws, such determination shall be made

(a) by the board of directors or a committee thereof, acting by a majority vote of a quorum consisting of directors who were not parties to or otherwise involved in the proceeding; or

(b) if such a quorum is not obtainable, or, even if obtainable and such quorum of the board of directors or committee by a majority vote of the disinterested directors so directs, by independent legal counsel, in a written opinion, such counsel to be designated by the board of directors; or

(c) by the shareholders if the certificate of incorporation or bylaws or a resolution of the board of directors or of the shareholders so directs.

(6) Expenses incurred by a corporate agent in connection with a proceeding may be paid by the corporation in advance of the final disposition of the proceeding as authorized by the board of directors upon receipt of an undertaking by or on behalf of the corporate agent to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified as provided in this section.

(7) (a) If a corporation upon application of a corporate agent has failed or refused to provide indemnification as required under subsection 14A:3-5(4) or permitted under subsections 14A:3-5(2), 14A:3-5(3) and 14A:3-5(6), a corporate agent may apply to a court for an award of indemnification by the corporation, and such court

(i) may award indemnification to the extent authorized under subsections 14A:3-5(2) and 14A:3-5(3) and shall award indemnification to the extent required under subsection 14A:3-5(4), notwithstanding any contrary determination which may have been made under subsection 14A:3-5(5); and

(ii) may allow reasonable expenses to the extent authorized by, and subject to the provisions of, subsection 14A:3-5(6), if the court shall find that the corporate agent has by his pleadings or during the course of the proceeding raised genuine issues of fact or law.

(b) Application for such indemnification may be made

(i) in the civil action in which the expenses were or are to be incurred or other amounts were or are to be paid; or

(ii) to the Superior Court in a separate proceeding. If the application is for indemnification arising out of a civil action, it shall set forth reasonable cause for the failure to make application for such relief in the action or proceeding in which the expenses were or are to be incurred or other amounts were or are to be paid.

The application shall set forth the disposition of any previous application for indemnification and shall be made in such manner and form as may be required by the applicable rules of court or, in the absence thereof, by direction of the court to which it is made. Such application shall be upon notice to the corporation. The court may also direct that notice shall be given at the expense of the corporation to the shareholders and such other persons as it may designate in such manner as it may require.

(8) The indemnification and advancement of expenses provided by or granted pursuant to the other subsections of this section shall not exclude any other rights, including the right to be indemnified against liabilities and expenses incurred in proceedings by or in the right of the corporation, to which a corporate agent may be entitled under a certificate of incorporation, bylaw, agreement, vote of shareholders, or otherwise; provided that no indemnification shall be made to or on behalf of a corporate agent if a judgment or other final adjudication adverse to the corporate agent establishes that his acts or omissions (a) were in breach of his duty of loyalty to the corporation or its shareholders, as defined in subsection (3) of N.J.S.14A:2-7, (b) were not in good faith or involved a knowing violation of law or (c) resulted in receipt by the corporate agent of an improper personal benefit.

(9) Any corporation organized for any purpose under any general or special law of this State shall have the power to purchase and maintain insurance on behalf of any corporate agent against any expenses incurred in any proceeding and any liabilities asserted against him by reason of his being or having been a corporate agent, whether or not the corporation would have the power to indemnify him against such expenses and liabilities under the provisions of this section. The corporation may purchase such insurance from, or such insurance may be reinsured in whole or in part by, an insurer owned by or otherwise affiliated with the corporation, whether or not such insurer does business with other insureds.

(10) The powers granted by this section may be exercised by the corporation, notwithstanding the absence of any provision in its certificate of incorporation or bylaws authorizing the exercise of such powers.

(11) Except as required by subsection 14A:3-5(4), no indemnification shall be made or expenses advanced by a corporation under this section, and none shall be ordered by a court, if such action would be inconsistent with a provision of the certificate of incorporation, a bylaw, a resolution of the board of directors or of the shareholders, an agreement or other proper corporate action, in effect at the time of the accrual of the alleged cause of action asserted in the proceeding, which prohibits, limits or otherwise conditions the exercise of indemnification powers by the corporation or the rights of indemnification to which a corporate agent may be entitled.

(12) This section does not limit a corporation's power to pay or reimburse expenses incurred by a corporate agent in connection with the corporate agent's appearance as a witness in a proceeding at a time when the corporate agent has not been made a party to the proceeding.

(13) A right to indemnification or to advancement of expenses in favor of an officer or director pursuant to a corporation's certificate of incorporation or bylaws shall not be eliminated or impaired by an amendment to the certificate of incorporation or bylaws after the occurrence of an act or omission that is the subject of a civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the certificate of incorporation or bylaws in effect at the time of the act or omission explicitly authorizes that elimination or impairment after the action or omission has occurred.

2. This act shall take effect immediately.

Approved March 1, 2011.

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## CHAPTER 32

AN ACT concerning unemployment insurance benefit claims and amending R.S.43:21-6.

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

1. R.S.43:21-6 is amended to read as follows:

**Claim for benefits.**

43:21-6. (a) Filing. (1) Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Unemployment and

Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers and at such places as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed a printed copy of benefit instructions. Both the aforesaid notices and instructions shall be supplied by the division to employers without cost to them.

(2) Any claimant, except for a claimant who has, for any period during his base year, served in the military, worked for the federal government, or worked outside the State of New Jersey, may choose to certify, cancel or close his claim for unemployment insurance benefits at any time, 24 hours a day and seven days a week, via the Internet on a website developed by the division; however, any claim that is certified, cancelled or closed after 7:00 PM will not be processed by the division until the next scheduled posting date.

(b) (1) Procedure for making initial determinations with respect to benefit years commencing on or after January 1, 1953.

A representative or representatives designated by the director of the division and hereafter referred to as a "deputy" shall promptly examine the claim, and shall notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. Such notification shall require said employing unit and employer to furnish such information to the deputy as may be necessary to determine the claimant's eligibility and his benefit rights with respect to the employer in question.

In his discretion, the director may appoint special deputies to make initial or subsequent determinations under subsection (f) of R.S.43:21-4 and subsection (d) of R.S.43:21-5.

If any employer or employing unit fails to respond to the request for information within 10 days after the mailing, or communicating by electronic means, of such request, the deputy shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of fraud, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

The deputy shall promptly make an initial determination based upon the available information. The initial determination shall show the weekly benefit amount payable, the maximum duration of benefits with respect to

the employer to whom the determination relates, and the ratio of benefits chargeable to the employer's account for benefit years commencing on or after July 1, 1986, and also shall show whether the claimant is ineligible or disqualified for benefits under the initial determination. The claimant and the employer whose account may be charged for benefits payable pursuant to said determination shall be promptly notified thereof.

Whenever an initial determination is based upon information other than that supplied by an employer because such employer failed to respond to the deputy's request for information, such initial determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such initial determination shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week following the receipt of the employer's reply shall be paid in accordance with such altered initial determination.

The deputy shall issue a separate initial benefit determination with respect to each of the claimant's base year employers, starting with the most recent employer and continuing as necessary in the inverse chronological order of the claimant's last date of employment with each such employer. If an appeal is taken from an initial determination, as hereinafter provided, by any employer other than the first chargeable base year employer or for benefit years commencing on or after July 1, 1986, that employer from whom the individual was most recently separated, then such appeal shall be limited in scope to include only one or more of the following matters:

(A) The correctness of the benefit payments authorized to be made under the determination;

(B) Fraud in connection with the claim pursuant to which the initial determination is issued;

(C) The refusal of suitable work offered by the chargeable employer filing the appeal; or

(D) Gross misconduct as provided in subsection (b) of R.S.43:21-5.

The amount of benefits payable under an initial determination may be reduced or canceled if necessary to avoid payment of benefits for a number of weeks in excess of the maximum specified in subsection (d) of R.S.43:21-3.

Unless the claimant or any interested party, within seven calendar days after delivery of notification of an initial determination or within 10 calendar days after such notification was mailed to his or their last-known ad-

dress and addresses, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith, except for such determinations as may be altered in benefit amounts or duration as provided in this paragraph. Benefits payable for periods pending an appeal and not in dispute shall be paid as such benefits accrue; provided that insofar as any such appeal is or may be an appeal from a determination to the effect that the claimant is disqualified under the provisions of R.S.43:21-5 or any amendments thereof or supplements thereto, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in said section, and notwithstanding such appeal, the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; and provided, also, that if there are two determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal which may thereafter be taken, but no employer's account shall be charged with benefits so paid, if the decision is finally reversed.

(2) Procedure for making initial determinations in certain cases of concurrent employment, with respect to benefit years commencing on or after January 1, 1953 and prior to benefit years commencing on or after July 1, 1986.

Notwithstanding any other provisions of this Title, if an individual shows to the satisfaction of the deputy that there were at least 13 weeks in his base period in each of which he earned wages from two or more employers totaling \$30.00 or more but in each of which there was no single employer from whom he earned as much as \$100.00, then such individual's claim shall be determined in accordance with the special provisions of this paragraph. In such case, the deputy shall determine the individual's eligibility for benefits, his average weekly wage, weekly benefit rate and maximum total benefits as if all his base year employers were a single employer. Such determination shall apportion the liability for benefit charges thereunder to the individual's several base year employers so that each employer's maximum liability for charges thereunder bears approximately the same relation to the maximum total benefits allowed as the wages earned by the individual from each employer during the base year bears to his total wages earned from all employers during the base year. Such initial determination shall also specify the individual's last date of employment within the base year with respect to each base year employer, and such employers shall be charged for benefits paid under said initial determination in the inverse chronological order of such last date of employment.

(3) Procedure for making subsequent determinations with respect to benefit years commencing on or after January 1, 1953. The deputy shall make determinations with respect to claims for benefits thereafter in the course of the benefit year, in accordance with any initial determination allowing benefits, and under which benefits have not been exhausted, and each notification of a benefit payment shall be a notification of an affirmative subsequent determination. The allowance of benefits by the deputy on any such determination, or the denial of benefits by the deputy on any such determination, shall be appealable in the same manner and under the same limitations as is provided in the case of initial determinations.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and the determination. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the board of review, unless further appeal is initiated pursuant to subsection (e) of this section within 10 days after the date of notification or mailing of the decision for any decision made on or before December 1, 2010, or within 20 days after the date of notification or mailing of such decision for any decision made after December 1, 2010.

(d) Appeal tribunals. To hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under subsection (d) of R.S.43:21-16, the director with the approval of the Commissioner of Labor and Workforce Development shall establish impartial appeal tribunals consisting of a salaried body of examiners under the supervision of a Chief Appeals Examiner, all of whom shall be appointed pursuant to the provisions of Title 11A of the New Jersey Statutes, Civil Service and other applicable statutes.

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and from any determination which has been overruled or modified by any appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceedings so removed to the board of review shall be heard by a quorum thereof in accordance with the

requirements of subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed benefit claims, and appeals from determinations with respect to (1) claims for benefits and (2) demands for refunds of benefits under subsection (d) of R.S.43:21-16 shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness fees. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this chapter (R.S.43:21-1 et seq.).

(h) Court review. Any decision of the board of review shall become final as to any party upon the mailing of a copy thereof to such party or to his attorney, or upon the mailing of a copy thereof to such party at his last-known address. The Division of Unemployment and Temporary Disability Insurance and any party to a proceeding before the board of review may secure judicial review of the final decision of the board of review. Any party not joining in the appeal shall be made a defendant; the board of review shall be deemed to be a party to any judicial action involving the review of, or appeal from, any of its decisions, and may be represented in any such judicial action by any qualified attorney, who may be a regular salaried employee of the board of review or has been designated by it for that purpose, or, at the board of review's request, by the Attorney General.

(i) Failure to give notice. The failure of any public officer or employee at any time heretofore or hereafter to give notice of determination or decision required in subsections (b), (c) and (e) of this section, as originally passed or amended, shall not relieve any employer's account of any charge by reason of any benefits paid, unless and until that employer can show to the satisfaction of the director of the division that the said benefits, in whole or in part, would not have been charged or chargeable to his account had such notice been given. Any determination hereunder by the director shall be subject to court review.

2. This act shall take effect on the 120th day after enactment.

Approved March 1, 2011.

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## CHAPTER 33

AN ACT concerning State agency rule-making and supplementing P.L.1968, c.410 (C.52:14B-1 et seq.).

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

**C.52:14B-4.10 Changes to agency rule, certain, upon adoption.**

1. a. Notwithstanding any other provision of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), or rule adopted pursuant thereto, to the contrary, where, following a notice of proposal and upon conclusion of the public comment period, an agency determines that it would be appropriate to make substantial changes to the proposed rule upon adoption, the agency may follow the procedure set forth in this section instead of filing a new notice of proposal.

As used in this section, “substantial changes” means any changes to a proposed rule that would significantly: enlarge or curtail who and what will be affected by the proposed rule; change what is being prescribed, proscribed or otherwise mandated by the rule; or enlarge or curtail the scope of the proposed rule and its burden on those affected by it.

b. Upon making a determination that it would be appropriate to make substantial changes to a proposed rule upon adoption, an agency may submit a public notice to the Office of Administrative Law setting forth the proposed changes. The public notice shall include: (1) a description of the changes between the rule as originally proposed and the new proposed changes; (2) the specific reasons for proposing the additional changes; (3) a discussion of how the new proposed changes would alter the impact statements and analyses included in the notice of proposal; (4) a report listing all parties submitting comments on the originally proposed rule provisions subject to the proposed additional changes, summarizing the content of the submissions on those provisions, and providing the agency's response to the data, views and arguments contained in the submissions; and (5) the manner in which interested persons may present their views on the new proposed changes.

c. (1) Upon receipt of a public notice pursuant to subsection b. of this section, the Office of Administrative Law shall publish the notice in the New Jersey Register.

(2) The agency submitting the public notice containing substantial changes to a notice of proposal shall comply with the notice requirements set forth in paragraphs (1) and (3) of subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4), and provide a comment period of 60 days from the date the public notice is published in the New Jersey Register in which interested parties may present their views on the new proposed changes.

d. Upon the conclusion of the 60-day public comment period, the agency may proceed with a notice of adoption in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). As part of the notice of adoption, the agency shall prepare for public distribution a report listing all parties submitting comments concerning the provisions of the proposed rule changes contained in the public notice, summarizing the content of the submissions that are related to the proposed rule changes contained in the public notice, and providing the agency's response to the data, views and arguments contained in the relevant submissions.

e. A notice of proposal that includes a public notice pursuant to this section shall expire 18 months after the date of publication of the notice of proposal in the New Jersey Register.

2. This act shall take effect immediately.

Approved March 1, 2011.

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## CHAPTER 34

AN ACT concerning State and local agency business permits related to economic development projects and supplementing Title 52 of the Revised Statutes.

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

**C.52:14B-26 Definitions relative to State and local agency business permits.**

1. As used in this act:

"Local agency" means any department of a political subdivision of this State, or any division, office, agency, or bureau thereof that issues a permit to a business.

"Permit" means a permit, license, certificate, registration, compliance schedule, or any other form of permission or approval required by law to be issued by a State agency in order to engage in a business activity, or any other authorization related thereto, whether that authorization is in the form of a permit, approval, license, certification, waiver, letter of interpretation, agreement, or any other executive or administrative decision which allows a business to engage in an activity.

"State agency" means any New Jersey principal department or any division, office, agency, or bureau thereof that issues a permit to a business.

**C.52:14B-27 Periodic review of permits.**

2. Consistent with the requirements of applicable statutes, every State agency shall periodically review those permits the State agency issues to identify permits that:

- a. Can be administered through an expedited process, such as developing procedures for the electronic submission of permit applications ; or
- b. May be obsolete, are no longer necessary, or cost more to administer than the benefits they provide, and thus should be eliminated so long as the public health, safety, or general welfare is not endangered.

Each State agency shall provide notice to the Secretary of State or other State officer or employee designated by the Governor pursuant to section 3 of P.L.2011, c.34 (C.52:14B-28) of its identification of permits that can be administered through an expedited process or may be obsolete, and its actions taken or recommended to be taken to expedite permitting and its actions taken or recommended to be taken to eliminate obsolete permits.

**C.52:14B-28 System of review of business permits issued.**

3. The Secretary of State or other State officer or employee as the Governor may designate to manage this program within the Department of State shall develop a system of consolidated and contemporaneous review of State and local agency-issued business permits for the purpose of accelerating the process of issuing business permits, eliminating redundancy among different levels of State and local government, and ensuring more consistency in permit issuance. This system shall be adopted by rule pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Under such system, any county or municipality issuing a business permit shall be encouraged and incentivized to voluntarily join in a collaborative effort to manage the permitting process for a business project with any State agency, as applicable to each project, and jointly agree on a process and schedule for a cooperative and contemporaneous handling of busi-

ness permits and approvals. Any municipality issuing a business permit or approval pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) shall not be subject to the provisions of this act. A permit or approval related to a federally-funded program or project or a permit or approval that is specified or determined by or pursuant to federal law or regulation shall not be subject to the provisions of this act.

**C.52:14B-29 Designation of contact person.**

4. Concerning any large, complex project having a significant potential employment or investment impact, the Secretary of State or other State officer or employee designated by the Governor pursuant to section 3 of P.L.2011, c.34 (C.52:14B-28) shall designate an employee of the Department of State from among those positions otherwise filled to act as a contact person to be responsible for assisting each business undertaking such project on an individual basis and to continue as the point of contact between that business and all appropriate government entities throughout the permit and approval application process. Concerning projects which require permits from multiple State and local agencies, the Secretary of State or the Governor's designee shall designate an employee of the Department of State from among those positions otherwise filled to guide such projects throughout the process of applying for and receiving any business permit or approval. The duties of the designated contact person shall include:

- a. Developing, from the outset, a checklist of permits to which the applicable agencies agree;
- b. Establishing a detailed course of actions and milestones for the permitting or approval process that shall be agreed to by the applicable agencies;
- c. Reporting any impediments to, or conflicts regarding, milestones to the Secretary of State or the Governor's Designee, and promptly evaluating any disputes, delays, or other issues requiring centralized review; and
- d. Coordinating as needed with the New Jersey Economic Development Authority to ensure that businesses considering investing in this State receive integrated project management of all State and local agency required permits and approvals.

**C.52:14B-30 Annual report to Governor, Legislature.**

5. a. The Secretary of State or other State officer or employee designated by the Governor pursuant to section 3 of P.L.2011, c.34 (C.52:14B-28) shall report annually on or before March 1 to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), concerning:

(1) Permits identified pursuant to section 2 of P.L.2011, c.34 (C.52:14B-27) as either being able to be administered through an expedited process or obsolete, and actions taken or recommended to be taken to implement expedited processes or eliminate obsolete permits;

(2) The counties and municipalities participating in cooperative and contemporaneous handling of business permits and approvals pursuant to section 3 of P.L.2011, c.34 (C.52:14B-28);

(3) The specific employees assigned as designated contact persons to specific projects, by project, pursuant to section 4 of P.L.2011, c.34 (C.52:14B-29), a summary of actions taken on behalf of each project, and outcomes; and

(4) Other matters as the Secretary of State or the Governor's designee may find material.

b. The report required by subsection a. of this section shall be posted on the Department of State web site.

6. This act shall take effect on the 60th day after the date of enactment, but any affected agency may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved March 1, 2011.

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## CHAPTER 35

AN ACT concerning the lease and sale of certain property not needed for public purposes to certain nonprofits to encourage and facilitate urban farming and gardening, and providing a property tax exemption for land leased or sold for urban farms, amending and supplementing P.L.1971, c.199 and amending R.S.54:4-3.6.

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

**C.40A:12-15.1 Findings, declarations relative to lease, sale of certain property to non-profits for certain purposes.**

1. The Legislature finds and declares:

a. There exists in certain older, urban municipalities an excess of vacant property that is not needed for public use; and

b. Vacant properties present numerous problems for these municipalities such as: presenting the opportunity for criminal activity, deterring neighboring property owners from improving their properties and prospective purchasers and renters from locating into these areas, and serving as a location to dispose of unwanted items; and

c. These municipalities are often centers of high and increasing populations and population densities comprised, in part, of lower income families; and

d. Due, in part, to increasing population densities, the deterioration of infrastructure such as parks, and fiscal constraints, these municipalities have been challenged to offer residents opportunities to enhance the quality of their lives; and

e. Due to the scarcity of full service supermarkets and farmer's markets within these municipalities, municipal residents often suffer from a shortage of fresh fruits and vegetables; and

f. The shortages of recreational opportunities and sources of fresh fruits and vegetables have contributed to alarming increases in childhood obesity and other adverse health consequences for municipal residents; and

g. While provisions of statutory law authorize local units to lease or sell property that is not needed for public use in order to further various public purposes, these statutory provisions limit municipalities from enlisting the assistance of nonprofit entities to develop these properties for a range of public purposes that could enhance the recreational, educational, and nutritional needs of local residents; and

h. Authorization for local units to lease and sell vacant land to nonprofit entities to cultivate these lands can provide both recreational opportunities and a source of fresh, locally grown fruits and vegetables for local residents; and

i. The nonprofit cultivation of previously vacant land by nonprofit entities is a public purpose for which the long term lease and sale of these properties, and exemption from property taxation therefor, is warranted, even in those instances when produce is sold to further the mission of these nonprofit entities.

2. 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 persons with mental illness, persons with a mental deficiency, or persons with intellectual disabilities 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.

(l) In any city of the first, second, third or fourth class, the lease of a tract of land of less than five acres to a nonprofit corporation or association to cultivate and sell fresh fruits and vegetables.

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). Any lease entered into pursuant to subsection (l) with a non-profit corporation or association may permit the non-profit corporation or association to sell fresh fruits and vegetables on the leased land, off the leased land, or both, provided, that the sales are related and incidental to the non-profit purposes of the corporation or association and the net proceeds received by the non-profit corporation or association are used to further the non-profit purposes of the corporation or association. Property leased pursuant to subsection (l) of this section shall be exempt from property taxation.

3. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to read as follows:

**C.40A:12-21 Private sales to certain organizations upon nominal consideration.**

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality shall determine that all or any part of a tract of land, with or without improvements, owned by the county or municipality, is not then needed for county or municipal purposes, as the case may be, said governing body, by resolution or ordinance, may authorize a private sale and conveyance of the same, or any part thereof without compliance with any other law governing disposal of lands by counties and municipalities, for a consideration, which may be nominal, and containing a limitation that such lands or buildings shall be used only for the purposes of such organization or association, and to render such services or to provide such facilities as may be agreed upon, and except as provided in subsection (n) of this section not for commercial business, trade or manufacture, and that, unless waived, released, modified, or subordinated pursuant to P.L.1943, c.33 (C.40:60-51.2), if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county or municipality without any entry or reentry made thereon on behalf of such county or municipality, to

(a) A duly incorporated volunteer fire company or board of fire commissioners or first aid and emergency or volunteer ambulance or rescue squad association of a municipality within the county, in the case of a

county, or of the municipality, in the case of a municipality, for the construction thereon of a firehouse or fire school or a first aid and emergency or volunteer ambulance or rescue squad building or for the use of any existing building for any or all of said purposes and any such land or building sold to any duly incorporated volunteer fire company may be leased by such fire company to any volunteer firemen's association for the use thereof for fire school purposes for the benefit of the members of such association, or

(b) Any nationally chartered organization or association of veterans of any war, in which the United States has or shall have been engaged, by a conveyance for consideration, a part of which may be an agreement by the organization or association to render service or to provide facilities for the general public of the county or municipality, of a kind which the county or municipality may furnish to its citizens and to the general public, or

(c) A duly incorporated nonprofit hospital association for the construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier, sailor, marine, nurse or other person, regularly enlisted or inducted, who was or shall have been in the active military or naval forces of the United States in any war in which the United States was engaged, including any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, and who, at the time he was commissioned, enlisted, inducted, appointed or mustered into such military or naval service, was a resident of and who continues to reside in this State, who is suffering from paraplegia and has permanent paralysis of both legs or the lower parts of the body resulting from injuries sustained through enemy action or accident while in such active military or naval service, for the construction of a home to domicile him, or to any organization or association of veterans, for the construction of a home or homes to domicile paraplegic veterans, with powers to convey said lands and premises to the paraplegic veteran or veterans on whose behalf said organization or association shall acquire title to said land, or

(e) Any duly incorporated nonprofit association or any regional commission or authority composed of one or more municipalities or one or more counties for the construction or maintenance thereon of an animal shelter, or

(f) Any duly incorporated nonprofit historical society for the acquisition of publicly owned historic sites for their restoration, preservation, improvement and utilization for the benefit of the general public, or

(g) Any duly incorporated nonprofit cemetery organization or association serving the residents of the municipality or county, or

(h) Any duly incorporated nonprofit organization for the principal purpose of the education or treatment of persons afflicted with developmental disabilities including cerebral palsy, or

(i) Any county or municipal sewerage authority serving the residents of the county or municipality, for the use thereof for sewerage authority purposes, or

(j) Any duly incorporated nonprofit organization for the purpose of building or rehabilitating residential property for resale. Any profits from the resale of the property shall be applied by the nonprofit organization to the costs of acquiring and rehabilitating other residential property in need of rehabilitation owned by the county or municipality, or

(k) Any duly incorporated nonprofit organization or association, other than a political, partisan, sectarian, denominational or religious organization or association, which includes among its principal purposes the provision of educational, gardening, recreational, medical or social services to the general public, including residents of the county or municipality, or

(l) Any duly incorporated nonprofit housing corporation or any limited-dividend housing corporation or housing association organized pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the purpose of constructing housing for low or moderate income persons or families or handicapped persons, or

(m) Any duly incorporated nonprofit hospice organization whose principal purpose is to provide hospice services to the terminally ill, or

(n) Any duly incorporated nonprofit organization or association for the cultivation and sale of fresh fruits and vegetables on a tract of land of less than five acres within a city of the first, second, third or fourth class, provided that the nonprofit organization or association is not controlled, directly or indirectly, by any agricultural, commercial, or other business. The nonprofit organization or association shall be authorized to sell fresh fruits and vegetables either on the land that was conveyed, off that land, or both, provided, that the sales are related and incidental to the non-profit purposes of the organization or association and the net proceeds received by the nonprofit organization or association are used to further the non-profit purposes of the organization or association.

Whenever a sale of property is proposed pursuant to subsection (k), for gardening, or subsection (n) of this section, the county or municipality shall comply with all notice requirements for an application for development under section 7.1 of P.L.1975, c.291 (C.40:55D-12).

4. R.S.54:4-3.6 is amended to read as follows:

**Tax exempt property.**

54:4-3.6. The following property shall be exempt from taxation under this chapter: all buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and exclusively used for public libraries, asylum or schools for adults and children with intellectual disabilities; all buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit; all buildings actually used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used in the work of associations and corporations organized exclusively for religious purposes, including religious worship, or charitable purposes, provided that if any portion of a building used for that purpose is leased to a profit-making organization or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation; all buildings actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings owned or held by an association or corporation created for the purpose of holding the title to such buildings as are actually and exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children; all

buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them; the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises; the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the purposes above mentioned and to no other purpose and does not exceed five acres in extent; the furniture and personal property in said buildings if used in and devoted to the purposes above mentioned; all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of men, women, or children with intellectual disabilities shall also be exempt from taxation, provided that such corporation conducts and maintains research or professional training facilities for the care and training of men, women, or children with intellectual disabilities; provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit, except that the exemption of the buildings and lands used for charitable, benevolent or religious purposes shall extend to cases where the charitable, benevolent or religious work therein carried on is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the buildings; provided the building is wholly controlled by and the entire income therefrom is used for said charitable, benevolent or religious purposes; and any tract of land purchased pursuant to subsection (n) of section 21 of P.L.1971, c.199 (C.40A:12-21), and located within a city of the first, second, third or fourth class, actually used for the cultivation and sale of fresh fruits and vegetables and owned by a duly incorporated nonprofit organization or association which includes among its principal purposes the cultivation and sale of fresh fruits and vegetables, other than a political, partisan, sectarian, denominational or religious organization or association. The foregoing exemption shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which the exemption is claimed or where an educational institution, as provided herein, has leased said property to a

historical society or association or to a corporation organized for such purposes and created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes.

As used in this section "hospital purposes" includes health care facilities for the elderly, such as nursing homes; residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding House Act of 1979"; similar facilities that provide medical, nursing or personal care services to their residents; and that portion of the central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility for the elderly.

5. This act shall take effect immediately.

Approved March 1, 2011.

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## CHAPTER 36

AN ACT concerning the general powers of a corporation and amending N.J.S.14A:3-1.

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

1. N.J.S.14A:3-1 is amended to read as follows:

**General powers.**

14A:3-1. General powers.

(1) Each corporation, subject to any limitations provided in this act or any other statute of this State, or in its certificate of incorporation, shall have power

(a) to have perpetual duration unless a limited period is stated in its certificate of incorporation;

(b) to sue and be sued, complain and defend and participate as a party or otherwise in any judicial, administrative, arbitative or other proceeding, in its corporate name;

(c) to have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(d) to purchase, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

(e) to sell, convey, mortgage, create a security interest in, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets;

(f) to purchase, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, exchange, mortgage, lend, create a security interest in, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of any domestic or foreign government or instrumentality thereof;

(g) to make contracts and guarantees and incur liabilities, borrow money, issue its bonds, and secure any of its obligations by mortgage of or creation of a security interest in all or any of its property, franchises and income;

(h) to lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(i) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this act anywhere in the universe;

(j) to elect or appoint officers, employees and agents of the corporation, and define their duties and fix their compensation;

(k) to make and alter by-laws for the administration and regulation of the affairs of the corporation;

(l) to pay pensions and establish pension, profit-sharing, stock option, stock purchase, incentive and deferred compensation plans, and plans of similar nature for, and to furnish medical services, life, sickness, accident, disability or unemployment insurance and benefits, education, housing, social and recreational services and other similar aids and services to, any or all of its directors, officers, employees, and agents, their families, dependents or beneficiaries;

(m) to participate with others in any corporation, partnership, limited partnership, joint venture, or other association of any kind, or in any transaction, undertaking or arrangement which the participating corporation would have power to conduct by itself, whether or not such participation involves sharing or delegation of control with or to others;

(n) at the request of the United States government or of any of its agencies, to transact any lawful business in time of war or other national emergency, notwithstanding the purpose or purposes set forth in its certificate of incorporation;

(o) to provide for its benefit life insurance and other insurance with respect to the services of any or all of its directors, officers, employees, and agents, or on the life of any shareholder for the purpose of acquiring at his death shares of its stock owned by such shareholder;

(p) to have and exercise all other powers necessary or convenient to effect any or all of the purposes for which the corporation is organized;

(q) to renounce, in its certificate of incorporation or by action of its board of directors, any interest or expectancy of the corporation in, or in being offered an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or shareholders .

(2) It shall not be necessary to set forth in the certificate of incorporation any corporate powers enumerated in this act.

2. This act shall take effect immediately.

Approved March 1, 2011.

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## CHAPTER 37

AN ACT concerning vote by mail ballots and the holding of certain elections, and amending various parts of the statutory law and supplementing Title 19 of the Revised Statutes.

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

1. R.S.19:13-11 is amended to read as follows:

**Determination of validity of objections.**

19:13-11. The officer with whom the original petition was filed shall in the first instance pass upon the validity of such objection in a summary way unless an order shall be made in the matter by a court of competent jurisdiction and for this purpose such officer shall have power to subpoena witnesses and take testimony or depositions. He shall file his determination in writing in his office on or before the ninth day after the last day for the filing of petitions, which determination shall be open for public inspection.

In the case of petitions nominating electors of candidates for President and Vice President of the United States, which candidates have not been nominated at a convention of a political party as defined by this Title, the Secretary of State shall file his or her determination in writing in his or her office on or before the 93rd day before the general election, which determination shall be open for public inspection.

2. R.S.19:13-13 is amended to read as follows:

**Amendment of petitions; time.**

19:13-13. A candidate whose petition of nomination, or any affidavit or affidavits thereto, is defective may cause such petition, or the affidavit or affidavits thereto, to be amended in matters of substance or of form as may be necessary, but not to add signatures, or such amendment or amendments may be made by filing a new or substitute petition, or affidavit or affidavits, and the same when so amended shall be of the same effect as if originally filed in such amended form; but every amendment shall be made on or before the third day after the last day for the filing of petitions. This provision shall be liberally construed to protect the interest of candidates.

Notwithstanding the above provision, in the case of nomination petitions for electors for candidates for President and Vice President of the United States, which candidates have not been nominated at a convention of a political party as defined by this Title, every statutorily authorized amendment shall be made on or before the 93rd day before the general election.

3. R.S.19:13-19 is amended to read as follows:

**Nomination of successor.**

19:13-19. If the candidate vacating the nomination was nominated directly by petition his successor shall be nominated in the same manner by direct petition, which new petition of nomination must be filed with the Secretary of State or county clerk, as the case may require, not later than 64 days before the day of election whereat such candidate is to be voted for.

4. R.S.19:13-20 is amended to read as follows:

**Vacancy procedure.**

19:13-20. In the event of a vacancy, howsoever caused, among candidates nominated at a primary election for the general election, which va-

cancy shall occur not later than the 56th day before the general election, or in the event of inability to select a candidate because of a tie vote at such primary, a candidate shall be selected in the following manner:

a. (1) In the case of an office to be filled by the voters of the entire State, the candidate shall be selected by the State committee of the political party wherein such vacancy has occurred.

(2) In the case of an office to be filled by the voters of a single and entire county, the candidate shall be selected by the county committee in such county of the political party wherein such vacancy has occurred.

(3) In the case of an office to be filled by the voters of a portion of the State comprising all or part of two or more counties, the candidate shall be selected by those members of the county committees of the party wherein the vacancy has occurred who represent those portions of the respective counties which are comprised in the district from which the candidate is to be elected.

(4) In the case of an office to be filled by the voters of a portion of a single county, the candidate shall be selected by those members of the county committee of the party wherein the vacancy has occurred who represent those portions of the county which are comprised in the district from which the candidate is to be elected.

At any meeting held for the selection of a candidate under this subsection, a majority of the persons eligible to vote thereat shall be required to be present for the conduct of any business, and no person shall be entitled to vote at that meeting who is appointed to the State committee or county committee after the seventh day preceding the date of the meeting.

Within 20 days after the meeting of each county committee that is held on the first Tuesday following the primary election at which committee members are elected, the municipal clerk shall certify to the county clerk an official list of the duly elected county committee members and an official list of the municipal committee chairs. The county party chairperson shall have a continuing duty to report to the county clerk any vacancies, resignations, and committee positions filled pursuant to R.S.19:5-2 or 19:5-3. A report of a resignation shall be accompanied by a notarized letter of resignation signed by the resigning committee member or, if the resigning committee member fails to provide such a letter, by a notarized letter stating that the resignation has occurred signed by the chair of the relevant municipal committee who shall also provide a copy thereof to the resigning member. Notice of vacancies in the membership of a county committee that are filled pursuant to R.S.19:5-2 or 19:5-3 shall be accompanied by a certificate of acceptance signed by the newly selected member. The official list of the

county committee members and of the municipal committee chairs maintained by the county clerk shall be deemed to be a government record and only those county committee members listed thereon seven days prior to a selection to fill a vacancy and otherwise qualified to vote on the vacancy shall be entitled to vote on filling a vacancy pursuant to this section.

In addition, every person appointed to the county committee shall file with the county clerk a certificate of acceptance which shall be preserved by the county clerk as a government record.

In the case of a meeting held to select a candidate for other than a Statewide office, the chairperson of the meeting shall be chosen by majority vote of the persons present and entitled to vote thereat. The chairperson so chosen may propose rules to govern the determination of credentials and the procedures under which the meeting shall be conducted, and those rules shall be adopted upon a majority vote of the persons entitled to vote upon the selection. If a majority vote is not obtained for those rules, the delegates shall determine credentials and conduct the business of the meeting under such other rules as may be adopted by a majority vote. All contested votes taken at the selection meeting, as referenced in subsections a. and b. of this section, shall be by secret ballot in a location or manner that protects the anonymity of the person's vote.

b. (1) Whenever in accordance with subsection a. of this section members of two or more county committees are empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairpersons of said county committees, acting jointly not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of their respective committees, as certified by the county clerk, who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(2) Whenever in accordance with the provisions of subsection a. of this section members of a county committee are empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairperson of such county committee, not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of the committee, as certified by the county clerk, who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(3) A county committee chairperson or chairpersons who call a meeting pursuant to paragraph (1) or (2) of this subsection shall not be entitled

to vote upon the selection of a candidate at such meeting unless he or she or they are so entitled pursuant to subsection a.

(4) Whenever in accordance with the provisions of subsection a. of this section the State committee of a political party is empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairperson of that State committee to give notice to each of the members of the committee of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

c. Whenever a selection is to be made pursuant to this section to fill a vacancy resulting from inability to select a candidate because of a tie vote at a primary election for the general election, the selection shall be made from among those who have thus received the same number of votes at the primary.

d. A selection made pursuant to this section shall be made not later than the 54th day preceding the date of the general election, and a statement of such selection shall be filed with the Secretary of State or the appropriate county clerk, as the case may be, not later than that day, and in the following manner:

(1) A selection made by a State committee of a political party shall be certified to the Secretary of State by the State chairperson of the political party.

(2) A selection made by a county committee of a political party, or a portion of the members thereof, shall be certified to the county clerk of the county by the county chairperson of such political party; except that when such selection is of a candidate for the Senate or General Assembly or the United States House of Representatives the county chairperson shall certify the selection to the State chairperson of such political party, who shall certify the same to the Secretary of State.

(3) A selection made by members of two or more county committees of a political party acting jointly shall be certified by the chairpersons of said committees, acting jointly, to the State chairperson of such political party, who shall certify the same to the Secretary of State.

e. A statement filed pursuant to subsection d. of this section shall state the residence and post office address of the person so selected, and shall certify that the person so selected is qualified under the laws of this State to be a candidate for such office, and is a member of the political party filling the vacancy. Accompanying the statement, the person endorsed therein shall file a certificate stating that he or she is qualified under the laws of this State to be a candidate for the office mentioned in the statement, that he

or she consents to stand as a candidate at the ensuing general election and that he or she is a member of the political party named in said statement, and further that he or she is not a member of, or identified with, any other political party or any political organization espousing the cause of candidates of any other political party, to which shall be annexed the oath of allegiance prescribed in R.S.41:1-1 duly taken and subscribed by him or her before an officer authorized to take oaths in this State. The person so selected shall be the candidate of the party for such office at the ensuing general election. Each candidate for the office of Governor or the office of member of the Senate or General Assembly filing a certification shall annex thereto a statement signed by the candidate that he or she:

(1) has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

(2) has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

5. R.S.19:13-21 is amended to read as follows:

**Candidate for Presidential elector.**

19:13-21. If the nomination vacated is that of a candidate for elector of the President and Vice-President of the United States, the vacancy shall be filled by the committee to whom power shall have been delegated to fill vacancies if such there be, otherwise by the State committee of the political party which nominated the elector whose nomination is vacated. The chairman and secretary of the vacancy committee or State committee shall file with the Secretary of State on or before the 54th day prior to the general election a certificate of nomination for filling the vacancy. This certificate shall be made and filed in the same manner and form as heretofore provided for filling vacancies among candidates nominated at the primary and there shall be annexed thereto the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by the person so nominated before an officer authorized to take oaths in this State.

6. R.S.19:14-1 is amended to read as follows:

**Copy for printer.**

19:14-1. Every county clerk shall have ready for the printer on or before the 50th day prior to the general election a copy of the contents of official ballots as hereinafter required to be printed for use at such election. He shall also on or before that time place another copy of such contents on file in his office and keep the same open to public inspection until the sample ballots hereinafter provided to be printed shall have been distributed.

7. R.S.19:23-12 is amended to read as follows:

**Committee on vacancies.**

19:23-12. The signers to petitions for "Choice for President," delegates and alternates to national conventions, for Governor, United States Senator, member of the House of Representatives, State Senator, member of the General Assembly and any county office may name three persons in their petition as a committee on vacancies.

This committee shall have power in case of death or resignation or otherwise of the person indorsed as a candidate in said petition to fill such vacancy by filing with the Secretary of State in the case of officers to be voted for by the voters of the entire State or a portion thereof involving more than one county thereof or any congressional district, and with the county clerk in the case of officers to be voted for by the voters of the entire county or any county election district, a certificate of nomination to fill the vacancy.

Such certificate shall set forth the cause of the vacancy, the name of the person nominated and that he is a member of the same political party as the candidate for whom he is substituted, the office for which he is nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee is authorized to fill vacancies and such further information as is required to be given in any original petition of nomination.

The certificate so made shall be executed and sworn to by the members of such committee, and shall upon being filed at least 55 days before election have the same force and effect as the original petition of nomination for the primary election for the general election and there shall be annexed thereto the oath of allegiance prescribed in R.S.41:1-1 duly taken and subscribed by the person so nominated before an officer authorized to take oaths in this State. The name of the candidate submitted shall be immediately certified to the proper municipal clerks. In addition, a person so nominated for the office of Governor or the office of member of the Senate

or General Assembly shall annex to the certificate a statement signed by the candidate that he or she:

a. has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

b. has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

8. R.S.19:23-14 is amended to read as follows:

**Certification by municipal clerk.**

19:23-14. Petitions addressed to the Secretary of State, the county clerks, or the municipal clerks shall be filed with such officers, respectively, before 4:00 p.m. of the 64th day next preceding the day of the holding of the primary election for the general election.

Not later than the close of business of the 54th day preceding the primary election for the general election, the municipal clerk shall certify to the county clerk the full and correct names and addresses of all candidates for nomination for public and party office and the name of the political party of which such persons are candidates together with their slogan and designation. The county clerk shall transmit this information to the Election Law Enforcement Commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination.

9. R.S.19:23-21 is amended to read as follows:

**Certification by Secretary of State.**

19:23-21. The Secretary of State shall certify the names of the persons indorsed in the petitions filed in his office to the clerks of counties concerned thereby not later than the 54th day prior to the holding of the primary election, specifying in such certificate the political parties to which the persons so nominated in the petitions belong. In the case of candidates

for offices other than federal office, the Secretary of State shall also transmit this information to the Election Law Enforcement Commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination.

10. R.S.19:23-22 is amended to read as follows:

**Certification by county clerk.**

19:23-22. The county clerk shall certify all of the persons so certified to him by the Secretary of State and in addition the names of all persons indorsed in petitions filed in his office to the clerk of each municipality concerned thereby in his respective county not later than the close of business of the 53rd day prior to the time fixed by law for the holding of the primary election, specifying in such certificate the political party to which the person or persons so nominated belong. The county clerk shall also transmit this information with respect to persons, other than candidates for federal office, indorsed in petitions filed in his office to the Election Law Enforcement Commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination filed in his office.

11. R.S.19:23-24 is amended to read as follows:

**Primary election ballots; position.**

19:23-24. The position which the candidates and bracketed groups of names of candidates for the primary for the general election shall have upon the ballots used for the primary election for the general election, in the case of candidates for nomination for members of the United States Senate, Governor, members of the House of Representatives, members of the State Senate, members of the General Assembly, candidates for party positions, and county offices or party positions which are to be voted for by the voters of the entire county or a portion thereof greater than a single municipality, including a congressional district which is wholly within a single municipality, shall be determined by the county clerks in their respective counties; and, excepting in counties where R.S.19:49-2 applies, the position on the ballot used for the primary election for the general election in the case of candidates for nomination for office or party position wherein the candidates for office or party position to be filled are to be voted for by the voters of a municipality only, or a subdivision thereof (excepting in the case of members of the House of Representatives) shall be determined by the mu-

municipal clerk in such municipalities, in the following manner: The county clerk, or his deputy, or the municipal clerk or his deputy, as the case may be, shall at his office on the 53rd day prior to the primary election for the general election at three o'clock in the afternoon draw from the box, as hereinafter described, each card separately without knowledge on his part as to which card he is drawing. Any legal voter of the county or municipality, as the case may be, shall have the privilege of witnessing such drawing. The person making the drawing shall make public announcement at the drawing of each name, the order in which same is drawn, and the office for which the drawing is made. When there is to be but one person nominated for the office, the names of the several candidates who have filed petitions for such office shall be written upon cards (one name on a card) of the same size, substance and thickness. The cards shall be deposited in a box with an aperture in the cover of sufficient size to admit a man's hand. The box shall be well shaken and turned over to thoroughly mix the cards, and the cards shall then be withdrawn one at a time. The first name drawn shall have first place, the second name drawn, second place, and so on; the order of the withdrawal of the cards from the box determining the order of arrangement in which the names shall appear upon the primary election ballot. Where there is more than one person to be nominated to an office where petitions have designated that certain candidates shall be bracketed, the position of such bracketed names on the ballot (each bracket to be treated as a single name), together with individuals who have filed petitions for nomination for such office, shall be determined as above described. Where there is more than one person to be nominated for an office and there are more candidates who have filed petitions than there are persons to be nominated, the order of the printing of such names upon the primary election ballots shall be determined as above described.

The county clerk in certifying to the municipal clerk the offices to be filled and the names of candidates to be printed upon the ballots used for the primary election for the general election, shall certify them in the order as drawn in accordance with the above described procedure, and the municipal clerk shall print the names upon the ballots as so certified and in addition shall print the names of such candidates as have filed petitions with him in the order as determined as a result of the drawing as above described. Candidates for the office of the county executive in counties that have adopted the county executive plan of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), shall precede the candidates for other county offices for which there are candidates on the ballot used for the primary election for the general election.

12. R.S.19:23-45 is amended to read as follows:

**Requirements for voting in primary elections; affiliation.**

19:23-45. No voter shall be allowed to vote at any primary election unless his name appears in the signature copy register.

A voter who votes in a primary election of a political party or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in any primary election of a political party, or who indicates on a voter registration form the voter's choice of political party affiliation and submits the form to the commissioner of registration of the county wherein the voter resides, to the employees or agents of a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3), or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), or to the Secretary of State, shall be deemed to be a member of that party until the voter signs and files with the municipal clerk or the commissioner of registration a declaration that he desires to vote in a primary election of another political party at which time he shall be deemed to be a member of such other political party. The Secretary of State shall cause to be prepared political party affiliation declaration forms and shall provide such forms to the commissioners of registration of the several counties and to the clerks of the municipalities within such counties.

No voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election, may vote in a primary election of a political party unless he was deemed to be a member of that party on the 55th day next preceding such primary election.

A member of the county committee of a political party and a public official or public employee holding any office or public employment to which he has been elected or appointed as a member of a political party shall be deemed a member of such political party.

A voter may declare the voter's party affiliation or change the voter's party affiliation, or declare that the voter is unaffiliated with any party regardless of any previously declared party affiliation, by so indicating on a political party declaration form filed with the municipal clerk or the county commissioner of registration. A voter may also indicate that the voter wishes to declare a political party affiliation or that the voter does not want to declare a political party affiliation on a voter registration form filed at the time of initial registration.

Any person voting in the primary ballot box of any political party in any primary election in contravention of the election law shall be guilty of a disorderly persons offense, and any person who aids or assists any such person in such violation by means of public proclamation or order, or by means of any public or private direction or suggestions, or by means of any help or assistance or cooperation, shall likewise be guilty of a disorderly persons offense.

13. Section 2 of P.L.1976, c.16 (C.19:23-45.1) is amended to read as follows:

**C.19:23-45.1 Notice of requirements for voting in primary elections, publication.**

2. a. The county commissioner of registration in each of the several counties shall cause a notice to be published in each municipality of their respective counties in a newspaper or newspapers circulating therein. The notice to be so published shall be published once during each of the two calendar weeks next preceding the week in which the 55th day next preceding any primary election of a political party occurs.

b. The notice required to be published by the preceding paragraph shall inform the reader thereof that no voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election may vote in a primary election of a political party unless he was deemed to be a member of that party on the 55th day next preceding such primary election. It shall further inform the reader thereof that a voter who votes in any primary election of a political party, or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in a primary election of a political party, or who indicates on a voter registration form the voter's choice of political party affiliation and submits the form to the commissioner of registration of the county wherein the voter resides, to the employees or agents of a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3), or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11) or to the Secretary of State, shall be deemed to be a member of that party until the voter signs and files with the municipal clerk or the commissioner of registration a declaration that he desires to vote in a primary election of another political party, at which time he shall be deemed to be a member of such other political party, or that the voter chooses not to be affiliated with any political party. The notice shall also state the time and location where a

person may obtain political party affiliation declaration forms or voter registration forms.

14. R.S.19:24-4 is amended to read as follows:

**National convention delegates.**

19:24-4. Not less than 100 members of each such political party may file with the Secretary of State at least 64 days prior to the presidential primary election in any year of a national convention a petition requesting that the name of a person therein indorsed shall be printed on the presidential primary ticket of such political party as candidate for the position of delegate-at-large or alternate-at-large, to be chosen by the party voters throughout the State to the national convention of that party, or as a delegate or alternate to be chosen to that convention by the voters of any congressional district.

The signers to the petition for any delegate-at-large or alternate-at-large shall be legal voters resident in the State; and the signers for any delegate or alternate from any Congressional district shall be voters of such district.

The Secretary of State shall not later than the 54th day preceding the presidential primary election certify to each county clerk and county board such nominations for delegates and alternates-at-large and the nominations for delegate or alternate for any Congressional district.

15. Section 1 of P.L.1952, c.2 (C.19:25-3) is amended to read as follows:

**C.19:25-3 Presidential candidates.**

1. Not less than 1,000 voters of any political party may file a petition with the Secretary of State on or before the 64th day before a presidential primary election, requesting that the name of the person indorsed therein as a candidate of such party for the office of President of the United States shall be printed upon the official presidential primary ballot of that party for the then ensuing election for delegates and alternates to the national convention of such party.

The petition shall be prepared and filed in the form and manner herein required for the indorsement of candidates to be voted for at the primary election for the general election, except that the candidate shall not be permitted to have a designation or slogan following his name, and that it shall not be necessary to have the consent of such candidate for President indorsed on the petition.

16. Section 2 of P.L.1952, c.2 (C.19:25-4) is amended to read as follows:

**C.19:25-4 Certification of names indorsed.**

2. The Secretary of State shall certify the names so indorsed to the county clerk of each county not later than the 54th day before such presidential primary election, but if any person so indorsed shall on or before such date decline in writing, filed in the office of the Secretary of State, to have his name printed upon the presidential primary election ballot as a candidate for President, the Secretary of State shall not so certify such name.

17. R.S.19:27-6 is amended to read as follows:

**Congressional vacancies.**

19:27-6. In the case of a vacancy in the representation of this State in the United States Senate or House of Representatives, the writ may designate the next general election day for the election, but if a special day is designated, it shall specify the cause and purpose of such election, the name of the officer in whose office the vacancy has occurred, the day on which a special primary election shall be held, which shall be not less than 70 days nor more than 76 days following the date of such proclamation, and the day on which the special election shall be held, which shall be not less than 64 nor more than 70 days following the day of the special primary election. The writ shall also specify the day or days when the district boards shall meet for the purpose of making, revising or correcting the registers of voters to be used at such special election.

If the vacancy happens in the representation of this State in the United States Senate the election shall take place at the general election next succeeding the happening thereof, unless the vacancy shall happen within 70 days next preceding the primary election prior to the general election, in which case it shall be filled by election at the second succeeding election, unless the Governor shall deem it advisable to call a special election therefor, which he is authorized hereby to do.

If the vacancy happens in the representation of this State in the House of Representatives in any year, not later than the 70th day prior to the day for holding the next primary election for the general election, the Governor shall issue a writ of election to fill such vacancy, designating in said writ the next general election day as the day on which the election shall be held to fill such vacancy. The nomination of candidates to fill such vacancy shall

be made in the same manner as the nomination of other candidates at the said primary election for the general election.

18. Section 1 of P.L.1945, c.206 (C.19:27-10.1) is amended to read as follows:

**C.19:27-10.1 Vacancy in house of representatives between dates preceding primary and general elections.**

1. When a vacancy, howsoever caused, happens in the representation of this State in the House of Representatives in any year later than the 70th day prior to the day for holding the primary election for the general election but before the 70th day preceding the day of the general election, and the unexpired term to be filled exceeds one year, the Governor, in issuing a writ of election to fill such vacancy, may designate in said writ the next general election day as the day on which the election shall be held to fill such vacancy and that no primary election shall be held for nomination of candidates to fill such vacancy.

In such case, each political party shall select its candidate to fill such vacancy in the same manner prescribed in R.S.19:13-20 for selecting candidates to fill vacancies arising among candidates nominated at primary elections, except that the time for making such selection and filing the statement thereof shall be within 10 days following the issuance of the writ of election.

In such case, petitions of nomination of other candidates shall be filed in the office of the Secretary of State within 10 days of the date of such proclamation.

The Secretary of State on the eleventh day following the date of such proclamation shall certify to the clerk and county board of each county affected by the vacancy, a statement of all candidates selected and nominated for the office so vacated.

The election to fill such vacancy shall in all other respects be conducted as though it were being conducted to fill the office upon the expiration of the term of the incumbent.

19. R.S.19:27-11 is amended to read as follows:

**Filling vacancies in county, municipal offices.**

19:27-11. In the event of any vacancy in any county or municipal office, except for the office of a member of the board of chosen freeholders, which vacancy shall occur after the 70th day preceding the primary election

for the general election and on or before the 70th day preceding the general election, each political party may select a candidate for the office in question in the manner prescribed in R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections to the general elections. A statement of such selection shall be filed with the county clerk not later than the close of business of the 55th day preceding the date of the general election.

Besides the selection of candidates by each political party as before provided, candidates may also be nominated by petition in a similar manner as herein provided for direct nomination by petition for the general election but the petition shall be filed with the county clerk at least 64 days prior to such general election.

When the vacancy occurs in a county office the county clerk shall forthwith give notice thereof to the chairman of the county committee of each political party and in counties of the first class to the county board, and in case the vacancy occurs in a municipal office the municipal clerk shall forthwith give notice thereof to the county clerk, the chairman of the county committee of each political party and in counties of the first class the county board.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office and the names of such persons as have been duly nominated, in their proper columns.

20. Section 7 of P.L.1988, c.126 (C.19:27-11.1) is amended to read as follows:

**C.19:27-11.1 Filling of vacancies in Legislature.**

7. When any vacancy happens in the Legislature otherwise than by expiration of term, it shall be filled by election for the unexpired term only at the next general election occurring not less than 51 days after the occurrence of the vacancy, except that no such vacancy shall be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs. In the event a vacancy eligible to be filled by election hereunder occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election, such petitions may be prepared and filed for nomination in that primary election in the manner provided by article 3 of chapter 23 of this Title. In the event the vacancy occurs after that sixth day preceding the last day for filing petitions for nomination for the primary election for the general election, a political

party may select a candidate for the office in question in the manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections for the general elections. A statement of such selection under R.S.19:13-20 shall be filed with the Secretary of State not later than the 48th day preceding the date of the general election.

Besides the selection of candidates by each political party, candidates may also be nominated by petition in a manner similar to direct nomination by petition for the general election; but if the candidate of any party to fill the vacancy will be chosen at a primary election, such petition shall be filed with the Secretary of State at least 64 days prior to the primary election; and if no candidate of any party will be chosen at a primary election, such petition shall be filed with the Secretary of State not later than 12 o'clock noon of the day on which the first selection meeting by any party is held under this section to select a nominee to fill the vacancy.

When the vacancy occurs in the Senate or General Assembly, the county clerk of each county which is comprised in whole or part in the Senate or General Assembly district shall forthwith give notice thereof to the chairman of the county committee of each political party and in counties of the first class to the county board.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office and the names of such persons as have been duly nominated, in their proper columns.

21. Section 13 of P.L.1995, c.105 (C.19:27A-13) is amended to read as follows:

**C.19:27A-13 Issuance of certificate as to sufficiency of petition; scheduling of recall election; notice.**

13. a. (1) If the recall election official determines that a petition contains the required number of signatures and otherwise complies with the provisions of this act and if the official sought to be recalled makes no timely challenge to that determination, or if the official makes such a challenge but the original determination is confirmed by the recall election official or the court, the recall election official shall forthwith issue a certificate as to the sufficiency of the petition to the recall committee. A copy of the certificate shall be served by the recall election official on the elected official sought to be recalled by personal service or certified mail. If, within five business days of service of the certification, the official has not re-

signed from office, the recall election official shall order and fix the holding of a recall election on the date indicated in the certificate.

(2) In the case of an office which is ordinarily filled at the general election, a recall election shall be held at the next general election occurring at least 60 days following the fifth business day after service of the certification, unless it was indicated in the notice of intention that the recall election shall be held at a special election in which case the recall election official shall order and fix the date for holding the recall election to be the next Tuesday occurring during the period beginning with the 60th day and ending on the 66th day following the fifth business day after service of the certification of the petition or, if that Tuesday falls on, or during the 28-day period before or after, a day on which any general, primary, nonpartisan municipal, school district or other recall election is to be held or shall have been held within all or any part of the jurisdiction, then the first Tuesday thereafter which does not fall within such period. In the case of an office which is ordinarily filled at an election other than the general election, a recall election shall be held at the next general election or the next regular election for that office occurring at least 60 days following the fifth business day after service of the certification, unless it was indicated in the notice of intention that the recall election shall be held at a special election in which case the recall election official shall order and fix the date for holding the recall election to be the next Tuesday occurring during the period beginning with the 60th day and ending on the 66th day following the fifth business day after service of the certification of the petition or, if that Tuesday falls on, or during the 28-day period before or after, a day on which any general, primary, nonpartisan municipal, school district or other recall election is to be held or shall have been held within all or any part of the jurisdiction, then the first Tuesday thereafter which does not fall within such period. A recall election to be held at a special election shall not be scheduled on the same day as a primary election. The date for a recall election shall not be fixed, and no recall election shall be held, after the date occurring six months prior to the general election or regular election for the office, as appropriate, in the final year of an official's term.

(3) A vacancy in an elective office resulting from the resignation of an elective official sought to be recalled prior to the expiration of the five-day period shall be filled in the manner provided by law for filling vacancies in that office.

b. The certificate issued by the recall election official shall contain:

(1) the name and office of the official sought to be recalled;

(2) the number of signatures required by law to cause a recall election to be held for that office;

(3) a statement to the effect that a valid recall petition, determined to contain the required number of signatures, has been filed with the recall election official and that a recall election will be held; and

(4) the date and time when the election will be held if the official does not resign.

c. The recall election official shall transmit a copy of the certificate to the officer or public body designated by law to be responsible for publishing notice of any other election to be held in the jurisdiction on the same day as the recall election, and that officer or body shall cause notice of the recall election, including all of the information contained in the certificate as prescribed by subsection b. of this section, to be printed in a newspaper published in the jurisdiction of the official sought to be recalled or, if none exists, in a newspaper generally circulated in the jurisdiction. The notice of the recall election shall appear on the same schedule applicable to the notice of such other election. In the event that the recall election is to be held as a special election, the recall election official shall transmit a copy of the certificate to the county board or boards of elections, and the county board or boards shall cause notice of the recall election to be printed, in the manner hereinbefore prescribed, once during the 30 days next preceding the day fixed for the closing of the registration books for the recall election and once during the calendar week next preceding the week in which the recall election is held.

22. R.S.19:37-1 is amended to read as follows:

**Referendum.**

19:37-1. When the governing body of any municipality or of any county desires to ascertain the sentiment of the legal voters of the municipality or county upon any question or policy pertaining to the government or internal affairs thereof, and there is no other statute by which the sentiment can be ascertained by the submission of such question to a vote of the electors in the municipality or county at any election to be held therein, the governing body may adopt at any regular meeting an ordinance or a resolution requesting the clerk of the county to print upon the official ballots to be used at the next ensuing general election a certain proposition to be formulated and expressed in the ordinance or resolution in concise form. Such request shall be filed with the clerk of the county not later than 81 days previous to the election.

23. Section 2 of P.L.1967, c.101 (C.19:37-1.1) is amended to read as follows:

**C.19:37-1.1 Petition of voters.**

2. Whenever a governing body of a municipality has adopted an ordinance or resolution pursuant to section 19:37-1 of the Revised Statutes, upon the presentation to the governing body of such municipality of a petition signed by 10% or more of the voters registered and qualified to vote at the last general election in such municipality, requesting the governing body of such municipality to ascertain the sentiment of the legal voters of the municipality upon any question or policy pertaining to the government or internal affairs thereof that is reasonably related to any proposition formulated and expressed in such ordinance or resolution, such governing body of the municipality shall thereupon adopt at its next regular meeting following the presentation of such petition a resolution requesting the clerk of the county to print upon the official ballots to be used at the next ensuing general election a certain proposition as formulated and expressed in the petition. Such request shall be filed with the clerk of the county not later than the 67th day previous to the election.

24. R.S.19:37-2 is amended to read as follows:

**Question placed on ballot by county clerk.**

19:37-2. If a copy of the ordinance or resolution certified by the clerk or secretary of the governing body of any such municipality or county is delivered to the county clerk not less than 65 days before any such general election, he shall cause it to be printed on each sample ballot and official ballot to be printed for or used in such municipality or county, as the case may be, at the next ensuing general election.

25. Section 12 of P.L.1993, c.73 (C.19:59-8.1) is amended to read as follows:

**C.19:59-8.1 Processing overseas voter requests transmitted by electronic means.**

12. Whenever a county clerk receives a request by electronic means from an overseas voter that an overseas ballot be sent to that person by electronic means, the county clerk shall verify the voter's eligibility to vote as an overseas voter in the State and the county desired. If the overseas voter is eligible to vote therein, the county clerk shall send the ballot to the voter at least 45 days before the day of the election and thereafter by electronic

means using the telephone number or electronic address supplied by the voter for that purpose. If the overseas voter is not eligible to vote in the State or the county desired, notice of noneligibility shall be provided to the voter by electronic means as soon as practicable after the receipt of the request.

**C.19:59-16 Information provided to overseas voters.**

26. For the purpose of complying with the federal “Uniformed and Overseas Citizens Absentee Voting Act,” 42 U.S.C. s. 1973ff-1 et seq., the office of the Secretary of State shall:

a. be designated as the single State office responsible for providing information to all overseas voters who wish to register to vote or vote in any jurisdiction in the State with respect to voter registration procedures and vote by mail procedures to be used by overseas voters for all elections for federal offices;

b. work with the federal Election Assistance Commission and the federal Department of Defense to develop standards to report data on the number of overseas voter ballots transmitted and received by mail or electronic means pursuant to the “Overseas Residents Absentee Voting Law,” P.L.1976, c.23 (C.19:59-1 et seq.) and section 7 of P.L.2004, c.88 (C.19:61-7); and

c. provide such additional information relating to voting by overseas voters from this State as the Department of Defense determines is necessary.

27. Section 4 of P.L.1995, c.278 (C.19:60-4) is amended to read as follows:

**C.19:60-4 Submission of public questions.**

4. The secretary of each board of education shall, not later than 10 o’clock a.m. of the 18th day preceding the annual school election or a special school election, make and certify and forward to the clerk of the county in which the school district is located a statement designating the public question to be voted upon by the voters of the district which may be required pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et al.) or Title 18A of the New Jersey Statutes.

28. Section 5 of P.L.2004, c.88 (C.19:61-5) is amended to read as follows:

**C.19:61-5 Free-access system for information to voters using mail-in, overseas ballots.**

5. The Secretary of State shall establish a free-access system, such as a toll-free telephone number, an Internet website or any combination

thereof, that any individual who casts a mail-in ballot or an overseas ballot in a federal election may access to ascertain: (1) whether an application for a mail-in ballot or an overseas ballot has been approved and if not, the reason for its rejection; and (2) whether the mail-in ballot or overseas ballot was received and accepted for counting and, if the ballot was not counted, the reason for the rejection of the ballot. The system shall at all times preserve the confidentiality of each person who has requested an application to vote by mail-in ballot or overseas ballot, or who has voted by mail-in ballot or overseas ballot, and shall ensure that no person, other than the individual who requested or cast the ballot, may discover whether or not that individual's application or ballot was received and accepted, unless so informed by the voter. This system may be the same one used for provisional ballots, established pursuant to section 4 of P.L.2004, c.88 (C.19:61-4).

29. Section 2 of P.L.2005, c.148 (C.19:62-2) is amended to read as follows:

**C.19:62-2 Election by mail, duties of county clerk.**

2. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C.19:62-1), the county clerk shall:

- a. publish, in advance of the election and pursuant to rules and regulations promulgated by the Secretary of State, official notice that the election shall be conducted by mail together with such other information regarding the conduct of the election as shall be deemed necessary by the Secretary of State;
- b. mail a ballot, including an outer envelope and an inner envelope substantially similar to the envelopes provided for mail-in ballots pursuant to sections 12 and 13 of P.L.2009, c.79 (C.19:63-12 and C.19:63-13), not sooner than the 20th day prior to the day of the election nor later than the 14th day prior to the day of the election, to each person registered to vote in the municipality at that election;
- c. designate the county clerk's office or the municipal clerk's office as the places to obtain a replacement ballot pursuant to section 5 of P.L.2005, c.148 (C.19:62-5);
- d. designate, after consultation with the county board of elections and pursuant to criteria established by the Secretary of State, places within the county or municipality that shall be available for the deposit of voted ballots for the election;
- e. make a provisional ballot available at the office of the county clerk and the office of the municipal clerk so that each person who has been a

resident of the county or municipality in which the person seeks to register and vote at least 21 days prior to the day of the election and has moved to a location within the municipality after that 21st day and prior to the day of the election may vote;

f. suspend distribution to each registered voter in the municipality of samples of the official ballot of any election, but distribute to each registered voter in the municipality with each ballot a copy of the voter information notice provided for in section 1 of P.L.2005, c.149 (C.19:12-7.1) as modified and supplemented by the Secretary of State as deemed appropriate for use in municipalities conducting elections by mail, and such instruction about the completion of the ballot as deemed necessary by the Secretary of State;

g. make certain that all qualified voters in the municipality requesting a mail-in ballot between the 45th day and the 21st day prior to the day of an election receive such ballot after the 20th day prior to the day of an election and voters requesting a ballot on or before the seventh day prior to the date of the election shall receive a ballot authorized pursuant to this section; and

h. establish, after consultation with the county board of elections and in accordance with rules and regulations adopted by the Secretary of State, the time by which all ballots must be received by the board on the day of an election to be considered valid and counted.

30. Section 6 of P.L.2009, c.79 (C.19:63-6) is amended to read as follows:

**C.19:63-6 Publication of notice.**

6. a. The county clerk, in the case of any Statewide election, county-wide election, or school election in a regional or other school district comprising more than one municipality; the municipal clerk, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish the following notice in substantially the following form:

**NOTICE TO PERSONS WANTING MAIL-IN BALLOTS**

If you are a qualified and registered voter of the State who wants to vote by mail in the..... (school, municipal, primary, presidential primary, general, or other) election to be held on..... (date of election) complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a mail-in

ballot be forwarded to you. The request must state your home address and the address to which the ballot should be sent. The request must be dated and signed with your signature.

If any person has assisted you to complete the mail-in ballot application, the name, address and signature of the assistor must be provided on the application, and you must sign and date the application for it to be valid and processed. No person shall serve as an authorized messenger for more than 10 qualified voters in an election. No person who is a candidate in the election for which the voter requests a mail-in ballot may provide any assistance in the completion of the ballot or may serve as an authorized messenger or bearer.

No mail-in ballot will be provided to any applicant who submits a request therefor by mail unless the request is received at least seven days before the election and contains the requested information. A voter may, however, request an application in person from the county clerk up to 3 p.m. of the day before the election.

Voters who want to vote only by mail in all future general elections in which they are eligible to vote, and who state that on their application shall, after their initial request and without further action on their part, be provided a mail-in ballot by the county clerk until the voter requests that the voter no longer be sent such a ballot. A voter's failure to vote in the fourth general election following the general election at which the voter last voted may result in the suspension of that voter's ability to receive a mail-in ballot for all future general elections unless a new application is completed and filed with the county clerk.

Voters also have the option of indicating on their mail-in ballot applications that they would prefer to receive mail-in ballots for each election that takes place during the remainder of this calendar year. Voters who exercise this option will be furnished with mail-in ballots for each election that takes place during the remainder of this calendar year, without further action on their part.

Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.

Dated .....

.....

(signature and title of county clerk)

.....

(address of county clerk)

.....

(telephone no. of county clerk)

b. (1) The Secretary of State shall be responsible for providing all information regarding overseas ballots to each overseas voter eligible for such a ballot pursuant to P.L.1976, c.23 (C.19:59-1 et seq.). The secretary shall also make available valid overseas voter registration and ballot applications to any voter who is a member of the armed forces of the United States and who is a permanent resident of this State, or who is an overseas voter who wishes to register to vote or to vote in any jurisdiction in this State. The secretary shall provide such public notice as may be deemed necessary to inform members of the armed forces of the United States and overseas voters how to obtain valid overseas voter registration and ballot applications.

(2) The Secretary of State shall undertake a program to inform voters in this State about their eligibility to vote by mail pursuant to this act. Dissemination of this information shall be included in the standard notices required by this section and other provisions of current law, including but not limited to the notice requirements of R.S.19:12-7, and shall be effectuated by such means as the secretary deems appropriate and to the extent that funds for such dissemination are appropriated including, but not limited to, by means of Statewide or local electronic media, public service announcements broadcast by such media, notices on the Internet site of the Department of State or any other department or agency of the Executive Branch of State government or its political subdivisions deemed appropriate by the secretary, and special mailings or notices in newspapers or other publications circulating in the counties or municipalities of this State.

c. The mail-in ballot materials shall contain a notice that any person voting by mail-in ballot who has registered by mail after January 1, 2003, who did not provide personal identification information when registering and is voting for the first time in his or her current county of residence following registration shall include copies of the required identification information with the mail-in ballot, and that failure to include such information shall result in the rejection of the ballot.

d. The notice provided for in subsection a. of this section shall be published before the 55th day immediately preceding the holding of any election.

Notices relating to any Statewide or countywide election shall be published in at least two newspapers published in each county. All officials charged with the duty of publishing such notices shall publish the same in at least one newspaper published in each municipality or district in which the election is to be held, or if no newspaper is published in the municipality or district, then in a newspaper published in the county and circulating

in the municipality or district. All such notices shall be display advertisements.

31. Section 9 of P.L.2009, c.79 (C.19:63-9) is amended to read as follows:

**C.19:63-9 Delivery of mail-in ballots.**

9. a. Starting on or before the 45th day before the day an election is held, each county clerk shall forward mail-in ballots by first-class postage or hand delivery to each mail-in voter whose request therefor has been approved. Mail-in ballots that have been approved before the 45th day before an election shall be forwarded or delivered at least 45 days before the day of the election. Hand delivery of a mail-in ballot shall be made by the county clerk or the clerk's designee only to the voter, or the voter's authorized messenger, who must appear in person. No person shall serve as an authorized messenger for more than 10 qualified voters in an election. Ballots that have not been hand delivered shall be addressed to the voter at the forwarding address given in the application.

b. (1) Whenever the clerk forwards a mail-in ballot by mail to a mail-in voter between the 45th day and the 13th day before the day of an election, the ballot shall be transmitted within three business days of the receipt of the application.

(2) Whenever the clerk forwards a mail-in ballot by mail to a mail-in voter between the 12th day and the seventh day before the day of an election, the ballot shall be transmitted within two business days of the receipt of the application.

The provisions of this subsection shall not apply to: (a) annual school elections and special school elections in those school districts holding such elections, pursuant to P.L.1995, c.278 (C.19:60-1 et seq.); (b) any municipality in which elections are conducted by mail, pursuant to P.L.2005, c.148 (C.19:62-1 et seq.); (c) annual elections for members of the boards of fire district commissions, pursuant to N.J.S.40A:14-72; and (d) the vote on any public question submitted to the voters of a local unit to increase the amount to be raised by taxation by more than the allowable adjusted tax levy, pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46).

c. (Deleted by amendment, P.L.2011, c.37).

32. Section 4 of P.L.1981, c.379 (C.40:45-8) is amended to read as follows:

**C.40:45-8 Petitions of nomination.**

4. On or before the 64th day prior to a regular municipal election, the names of candidates for all elective offices shall be filed with the municipal clerk, in the following manner and form and subject to the following conditions:

a. The petition of nomination shall consist of individual certificates, equal in number to at least 1%, but in no event less than 25, of the registered voters of the municipality or the ward, as the case may be, and shall read substantially as follows:

"I, the undersigned, a registered voter of the municipality of ....., residing at ..... certify that I do hereby join in a petition of the nomination of ..... whose residence is at ..... for the office of mayor (or councilman-at-large, or ward councilman of the ..... ward, or commissioner, or village trustee, as the case may be) to be voted for at the election to be held in the municipality on the ....., 20....., and I further certify that I know this candidate to be a registered voter, for the period required by law, of the municipality (and the ward, in the case of ward councilman) and a person of good moral character, and qualified, in my judgment, to perform the duties of the office, and I further certify that I have not signed more petitions or certificates of nomination than there are places to be filled for the above office.

Signed ..... "

Any such petition of nomination which is provided to candidates by the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

b. Each petition signature shall be on a separate sheet of paper and shall bear the name and address of the petitioner. The candidate for office and his campaign manager shall make an oath before an officer competent to administer oaths that the statements made therein are true, and that each signature to the papers appended thereto is the genuine signature of the person whose name it purports to be, to their best knowledge and belief. The oath, signed by the candidate, shall constitute his acceptance of nomination and shall be annexed to the petition, together with the oath of his campaign manager, at the time the petition is submitted.

c. The municipal clerk shall immediately provide the Election Law Enforcement Commission with official certification of the filing or withdrawal of a petition of nomination.

d. A candidate shall be permitted to sign or circulate, or both sign and circulate, the petition required to nominate that candidate for elective public office in any municipality holding regular municipal elections.

33. Section 5 of P.L.1981, c.379 (C.40:45-9) is amended to read as follows:

**C.40:45-9 Individual certificates of nomination.**

5. a. The municipal clerk shall furnish, upon request, a reasonable number of forms of individual certificates of nomination.

b. Each certificate shall contain the name of one candidate, and no more. Each signer must not, at the time of signing the certificate, have signed more certificates for candidates for that office than there are places to be filled for the office. Where ward councilmen are to be elected, no petitioner shall sign more than one certificate for ward council, and the candidate named in the petition shall reside in the same ward as the signer. All certificates not complying substantially with this act shall be rejected.

c. When a petition of nomination is presented for filing to the municipal clerk, he shall examine it and ascertain whether or not it conforms to the provisions of this act and, where applicable, the provisions of the general election laws. If it does not conform, he shall retain the petition and notify the person nominated of the defect, by written notice delivered to him personally or by certified mail to his place of residence stated in the petition.

d. Where the nominating petition, or any affidavit or affidavits thereto is found defective, the candidate named therein may file such amendment or amendments as may be necessary to eliminate the defect, whether of matters of substance or form, and when so amended the effect shall be as if the petition had been originally filed in the amended form. After the last day for the filing of the original petition, no amendment may be made for the purpose of adding the name of any person who did not sign the original petition, nor shall any amendment be made at any time for the purpose of changing the name of the candidate or the office for which he was to be nominated. No amendment to a nominating petition shall be made and filed less than 61 days before the election.

34. Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is amended to read as follows:

**C.40A:4-45.46 Public question submitted for approval to raise taxes above the limitation allowable.**

11. a. (Deleted by amendment, P.L.2010, c.44)

b. (1) The governing body of a local unit may request approval, through a public question submitted to the legal voters residing in its territory to increase the amount to be raised by taxation by more than the allowable adjusted tax levy. Approval shall be by an affirmative vote of in excess of 50 percent of the people voting on the question at the election. The local unit budget proposing the increase shall be introduced and approved in the manner otherwise provided for budgets of that local unit at least 20 days prior to the date on which the referendum is to be held, and shall be published in the manner otherwise provided for budgets of the local unit at least 12 days prior to the referendum date, unless otherwise directed by the Director of the Division of Local Government Services in the Department of Community Affairs.

(2) The public question to be submitted to the voters at the referendum shall state only the amount by which the adjusted tax levy shall be increased by more than the otherwise allowable adjusted tax levy, and the percentage rate of increase which that amount represents over the allowable adjusted tax levy. The public question shall include an accompanying explanatory statement that identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question; or, in the alternative and subject to the approval of the Director of the Division of Local Government Services in the Department of Community Affairs, a clear and concise narrative explanation of the circumstances for the increased adjusted tax levy being proposed.

(3) Unless otherwise provided pursuant to section 1 of P.L.1989, c.31 (C.40A:4-5.1), a referendum conducted pursuant to this subsection shall be held:

(a) for calendar year budgets only on the fourth Tuesday in January and the second Tuesday in March other than in a year when a presidential primary election occurs, in which case no such election on that date may be called; and

(b) for fiscal year budgets, only the last Tuesday in September, or the second Tuesday in December.

(4) Any decision of the voters rejecting an increase to the tax levy cap under this subsection shall be final and conclusive, and no appeal or review shall be taken therefrom and no waiver application shall be made to the Local Finance Board.

(5) The director is authorized to act as necessary in order to consolidate ballot questions and procedures when a governing body elects to hold a referendum under both this section and section 9 of P.L.1983, c.49 (C.40A:4-45.16).

c. (Deleted by amendment, P.L.2010, c.44)

d. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of an activity performed by a local unit is transferred to or from a local unit, other government entity, or other service provider.

35. Section 12 of P.L.2007, c.62 (C.40A:4-45.47) is amended to read as follows:

**C.40A:4-45.47 Actions taken by director.**

12. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall take such action as is deemed necessary and consistent with the intent of sections 9 through 11 of P.L.2007, c.62 (C.40A:4-45.44 through C.40A:4-45.46) to implement its provisions.

b. The Director of the Division of Elections in the Department of State, in consultation with the Commissioner of Education and the Director of the Division of Local Government Services in the Department of Community Affairs, shall determine the hours and locations of polling places, and other matters related to the referenda, to effectuate the purposes of subsection b. of section 11 of P.L.2007, c.62 (C.40A:4-45.46).

**C.19:63-7.1 Production, transmission of mail-in ballots in certain circumstances.**

36. a. If in the year in which the Apportionment Commission establishes new legislative districts the production and transmission of mail-in ballots for the primary or general election cannot be accomplished starting on or before the 45th day before the day of either election pursuant to section 9 of P.L.2009, c.79 (C.19:63-9), the Secretary of State shall undertake such actions as the secretary deems necessary to ensure that the ballots are produced and transmitted to mail-in voters as soon as possible after the 45th day before the election.

b. If a member of the Senate or General Assembly who is a member of a political party vacates the office prior to the expiration of the term thereof and a vacancy is created after the 70th day before the day of a general election, and due to the timing of the vacancy the production and transmission of mail-in ballots for the general election cannot be accomplished starting on or before the 45th day before the day of the election pursuant to section 9 of P.L.2009, c.79 (C.19:63-9), the Secretary of State shall undertake such actions as the secretary deems necessary to ensure that the ballots are produced and transmitted to mail-in voters as soon as possible after the 45th day before the election.

37. R.S.19:3-26 is amended to read as follows:

**Vacancies in United States senate; election to fill; temporary appointment by governor.**

19:3-26. If a vacancy shall happen in the representation of this State in the United States senate, it shall be filled at the general election next succeeding the happening thereof, unless such vacancy shall happen within 70 days next preceding such election, in which case it shall be filled by election at the second succeeding general election, unless the governor of this State shall deem it advisable to call a special election therefor, which he is authorized hereby to do.

The governor of this State may make a temporary appointment of a senator of the United States from this State whenever a vacancy shall occur by reason of any cause other than the expiration of the term; and such appointee shall serve as such senator until a special election or general election shall have been held pursuant to law and the Board of State Canvassers can deliver to his successor a certificate of election.

38. R.S.19:3-29 is amended to read as follows:

**Other vacancies; election to fill.**

19:3-29. A vacancy happening in a public office other than that of United States Senator, Member of Congress, State Senator, or member of the House of Assembly, shall be filled at the general election next succeeding the happening thereof, unless such vacancy shall happen within 70 days next preceding such election, in which case it shall be filled at the second succeeding general election.

39. R.S.19:12-1 is amended to read as follows:

**Certification as to creation of political party.**

19:12-1. The Secretary of State shall within thirty days after the completion of the canvass by the board of State canvassers, certify to each county clerk and county board the fact that at the next preceding general election held for the election of all of the members of the General Assembly ten per centum (10%) of the total vote cast in the State for members of the General Assembly had been cast for candidates having the same designation, thereby creating, within the meaning of this Title, a political party, to be known and recognized as such under the same designation as used by the candidates for whom the required number of votes were cast.

The Secretary of State shall also not later than the 67th day preceding the presidential primary election in each presidential year in which electors

of President and Vice-President of the United States are to be selected, and not later than the 67th day preceding the primary election for the general election in which a representative of the United States Senate, members of the House of Representatives, a Governor, a Lieutenant Governor, or Senator, or member or members of the General Assembly for any county, or any of them, are to be elected or any public question is to be submitted to the voters of the entire State, direct and cause to be delivered to the clerk of the county and the county board wherein any such election is to be held, a notice stating that such officer or officers are to be elected and that such public question is to be submitted to the voters of the entire State at the ensuing general election.

40. R.S.19:12-3 is amended to read as follows:

**County clerk, forwarding of notice of creation of political party to municipal clerks.**

19:12-3. The clerk of each county shall immediately upon the receipt of the certificate from the Secretary of State setting forth that a political party has been created, forward a certified copy of such certificate to each municipal clerk of his county.

He shall also, not later than the 57th day preceding the presidential primary election in each presidential year and the primary election for the general election in every other year, cause a copy of the notice received from the Secretary of State of the officer or officers to be elected at the ensuing general election, certified under his hand to be true and correct, to be delivered to the clerk of each municipality in the county.

41. R.S.19:12-5 is amended to read as follows:

**Notice that officers will be chosen at general election.**

19:12-5. The clerk of every county shall, not later than the 57th day preceding the presidential primary election in each presidential year and the primary election for the general election in every other year, immediately preceding the expiration of the term of office of all other officers who are voted for by the voters of the entire county or of more than one municipality within the county, direct and cause to be delivered to the clerk of each municipality and the county board in counties of the first class, a notice that such officer or officers, as the case may be, will be chosen at the ensuing general election.

42. R.S.19:12-6 is amended to read as follows:

**Statement designating public offices to be filled at election.**

19:12-6. All municipal clerks, not later than the 57th day preceding the presidential primary election in each presidential year and the primary election for the general election in every other year, shall make and certify under their hands and seals of office and forward to the clerk of the county in which the municipality is located a statement designating the public offices to be filled at such election, and the number of persons to be voted for each office. In counties of the first class such statement shall also be forwarded to the county board.

43. Sections 34 and 35 of this act shall take effect immediately and the remainder of this act shall take effect on July 1 next following the date of enactment.

Approved March 2, 2011.

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**CHAPTER 38**

AN ACT concerning the raising of revenue for free public libraries and joint free public libraries and amending various sections of statutory law.

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

1. R.S.40:54-8 is amended to read as follows:

**Library tax.**

40:54-8. Within every municipality governed by this article there shall annually be raised by taxation a sum equal to one-third of a mill on every dollar of assessable property within such municipality based on the equalized valuation of such property as certified by the Director of the Division of Taxation in the Department of the Treasury in accordance with the provisions of R.S.54:4-49. The amount shall be assessed, levied and collected in the same manner and at the same time as other municipal purposes taxes are assessed, levied and collected therein and shall be paid from the disbursing officer to the treasurer of the free public library on a quarterly basis. Following enactment of P.L.2011, c.38, the director of the Division of Local Government Services in the Department of Community Affairs shall decrease the municipality's adjusted tax levy pursuant to subsection d. of sec-

tion 11 of P.L.2007, c.62 (C.40A:4-45.46), so that there is no net impact on the amount of the adjusted tax levy available to the municipality for non-library purposes pursuant to section 9 of P.L.2007, c.62 (C.40A:4-45.44).

Such additional sum, as in the judgment of the municipal governing body or appropriate board of the municipality, is necessary for the proper maintenance of a free public library, may be appropriated in the municipal budget from the general purposes municipal tax levy.

2. Section 14 of P.L.1959, c.155 (C.40:54-29.16) is amended to read as follows:

**C.40:54-29.16 Certification of sum needed for operation of joint library; apportionment.**

14. The board of trustees of the joint library shall, not later than December 1 of each year, certify to the respective municipalities the sum required for the operation of the joint library for the ensuing year and the share of such sum to be borne by the taxpayers in each of the municipalities in accordance with the method of apportionment provided in the joint library agreement. If the governing body of any of the municipalities objects to the amount or apportionment so certified, it shall forthwith call a joint meeting of the governing bodies and the board of trustees for the purpose of adjusting and settling any differences. If the governing bodies of such municipalities cannot agree, the matter shall be referred to the Director of the Division of Local Government Services in the Department of Community Affairs for determination.

3. Section 15 of P.L.1959, c.155 (C.40:54-29.17) is amended to read as follows:

**C.40:54-29.17 Raising of sum needed, quarterly payments.**

15. The proportionate share of the sum so certified or agreed upon or determined in its annual budget, shall be raised by taxation, pursuant to the provisions of R.S.54:4-49, and shall be paid over to the disbursing officer of the joint library on a quarterly basis. The amount thus agreed upon shall be assessed, levied, and collected in the same manner and at the same time as other municipal purposes taxes are assessed, levied and collected. Operations under the budget and related matters shall be subject to and in accordance with rules of the Local Finance Board in the Department of Community Affairs.

4. R.S.54:4-49 is amended to read as follows:

**Apportionment valuation; amount to be apportioned among taxing districts; debits and credits.**

54:4-49. (a) Except as to any State tax at a fixed rate provided for in sections 54:4-50 and 54:4-51 of this Title, each county board of taxation, after having received the tax lists and duplicates of the assessors and having revised and corrected the same and having equalized the aggregate valuations of all the real property in the respective taxing districts, as required by R.S.54:3-17 to 54:3-19, shall, after making adjustments for the debits and credits hereinafter mentioned, apportion the amount to be raised in the respective taxing districts for State, State school, county, free county library, free public library, and joint free public library purposes and for purposes of consolidated school districts and school districts comprising two or more taxing districts, on the basis of the total valuation so ascertained for each taxing district. The total valuation for each taxing district, so ascertained, shall be known as the "apportionment valuation."

(b) The amount to be apportioned among the respective taxing districts shall be the amount to be raised for the purposes specified in subsection (a), plus or minus the difference between the total debits and total credits of the taxing districts affected, determined as provided in subsection (c). The net amounts respectively to be raised, after making allowance to the affected districts for the debits and credits, shall be equivalent to the amount required for each of the purposes specified in subsection (a).

(c) The net debit or credit of each taxing district shall be the amount by which the taxing district has overpaid or underpaid its share of the specific tax or taxes for the purposes specified in subsection (a) for the preceding year or years because of increases or decreases in the amount of the assessments of the district subsequent to the apportionment in the preceding year or years by reason of final judgments on appeals, complaints and applications, the correction of clerical errors under R.S.54:4-53 and the allowance of additional veterans' exemptions or deductions during the prior tax year by the collector pursuant to law. When an assessment has been reduced or added to, or increased, on appeal, complaint or other application, and the judgment on that appeal, complaint or other application has been further appealed, no deduction or increase as herein provided for shall be made with respect to the appealed assessment until the further appeal has been finally determined.

(d) So that there shall be uniformity of application and treatment under this section in all of the counties, the Director, Division of Taxation, shall issue regulations for the guidance of the county boards of taxation in the determination of the apportionment valuations, the amounts to be apportioned and the amounts of the debits and credits.

5. R.S.54:4-65 is amended to read as follows:

**Form and content of property tax bills.**

54:4-65. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall approve the form and content of property tax bills.

b. (1) 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, free public library taxes, 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.

(2) When a parcel receives a homestead property tax credit pursuant to the provisions of P.L.2007, c.62 (C.18A:7F-37 et al.), the amount of the credit shall be included with the tax calculation as a reduction in the total tax calculation for the year. One-half of the amount of the credit shall be deducted from taxes otherwise due for the third installment and the remaining one-half shall be deducted from taxes otherwise due for the fourth installment.

(3) There shall be included on or with the tax bill the delinquent interest rate or rates to be charged and any end of year penalty that is authorized and any other such information that the director may require from time to time.

c. The tax bill shall also include a calculation stating the amounts of State aid and assistance received by the municipality, school districts, special districts, free public libraries, and county governments that offset property taxes that are otherwise due on each parcel. The director shall certify to each tax collector the amounts of said State aid and assistance that shall serve as the basis for the calculation for each parcel. The director shall set standards for the calculation and display of the statement on the tax bill.

d. The tax bill or form mailed with the tax bill shall include thereon the date upon which each installment is due.

e. If a property tax bill includes in its calculation a homestead property tax credit, the bill shall, in addition to the calculation showing taxes due, either display a notice concerning the credit on the face of the property tax bill or with a separate notice, with the content and wording as the director provides.

6. This act shall take effect immediately.

Approved March 21, 2011.

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## CHAPTER 39

AN ACT concerning reinsurance and surplus lines requirements, supplementing and amending P.L.1960, c.32 (C.17:22-6.40 et seq.) and amending P.L.1993, c.243.

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

**C.17:22-6.69a Short title.**

1. Sections 1, 2 and 3 of this amendatory and supplementary act shall be known and may be cited as the “Reinsurance and Surplus Lines Stimulus and Enhancement Act.”

**C.17:22-6.69b Designation as domestic surplus lines insurer.**

2. a. Notwithstanding any other provision of law to the contrary, a domestic insurer possessing policyholder surplus of at least \$15,000,000 may, pursuant to a resolution by its board of directors, and upon the written approval of the Commissioner of Banking and Insurance, be designated as a domestic surplus lines insurer. A domestic surplus lines insurer shall be considered an eligible, unauthorized insurer for purposes of writing surplus lines insurance coverage.

b. A domestic surplus lines insurer shall only insure in this State a New Jersey risk procured from a surplus lines agent in accordance with the provisions of “the surplus lines law,” P.L.1960, c.32 (C.17:22-6.40 et seq.).

c. A domestic surplus lines insurer shall not issue policies of private passenger automobile insurance, workers’ compensation or workers’ occupational disease insurance.

d. Insurance written by a domestic surplus lines insurer shall be subject to the tax on premiums provided by section 25 of P.L.1960, c.32 (C.17:22-6.59).

**C.17:22-6.69c Notice to policyholder.**

3. Whenever any insurance risk or any part thereof is placed with a domestic surplus lines insurer, the policy, binder, or cover note shall bear conspicuously on its face in boldface, the following notation:

“Notice to policyholder: This policy is written by a domestic surplus lines insurer, an eligible unauthorized insurer pursuant to section 2 of P.L.2011, c.39 (C.17:22-6.69b), and is not subject to the rate or form filing or approval requirements of the New Jersey Department of Banking and Insurance. This policy may contain conditions, limitations, exclusions and different terms than a policy otherwise issued by a New Jersey authorized or admitted insurer. This policy is not covered by the New Jersey Property-Liability Guaranty Association. This policy may be covered by the New Jersey Surplus Lines Insurance Guaranty Fund, but only to the extent provided pursuant to section 2 of P.L.1984, c.101 (C.17:22-6.71).”

4. Section 2 of P.L.1993, c.243 (C.17:51B-2) is amended to read as follows:

**C.17:51B-2 Credit for reinsurance ceded by certain insurers.**

2. Credit for reinsurance ceded by an insurer which is domiciled in New Jersey, or which is either licensed in New Jersey or eligible to write surplus lines insurance in New Jersey and which in either case is domiciled in a state or country which does not employ standards regarding credit for reinsurance substantially similar, as determined by the commissioner, to those applicable under this act, shall be allowed as either an asset or a deduction from liability only when:

a. The reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this State; or

b. The reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this State. An accredited reinsurer is one which:

(1) Files with the commissioner evidence of its submission to this State's jurisdiction;

(2) Submits to this State's authority to examine its books and records;

(3) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an assuming alien insurer, is entered through, and licensed to transact insurance or reinsurance in, at least one state;

(4) Files annually with the commissioner a copy of its annual statement filed with the insurance department or other regulatory authority of its state of domicile and a copy of its most recent audited financial statement; and either:

(a) Maintains a surplus in regard to policyholders in an amount which is not less than \$20,000,000 and whose accreditation has not been denied by the commissioner within 120 days of its submission therefor; or

(b) Maintains a surplus in regard to policyholders in an amount less than \$20,000,000 and whose accreditation has been approved by the commissioner;

(5) Submits a filing fee in an amount established by the commissioner; and

(6) Provides any additional information, which may include, but may not be limited to, information regarding the concentration of the insurer's exposures, geographic or otherwise, and satisfies such additional requirements as the commissioner deems necessary to ensure that the particular insurer's condition and methods of operation are not such as would render its operations hazardous to the public or policyholders in this State.

No credit shall be allowed a ceding licensed insurer or unauthorized eligible surplus lines insurer if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing; or

c. The reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an assuming alien insurer, is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this act, as determined by the commissioner, and that assuming insurer or United States branch of an assuming alien insurer:

(1) Maintains a surplus in regard to policyholders in an amount of not less than \$20,000,000;

(2) Submits to the authority of this State to examine its books and records; and

(3) Provides any additional information, which may include, but may not be limited to, information regarding the concentration of the insurer's exposures, geographic or otherwise, and satisfies such additional requirements as the commissioner deems necessary to ensure that the particular insurer's condition and methods of operation are not such as would render its operations hazardous to the public or policyholders in this State; except that the requirement of paragraph (1) of this subsection shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system; or

d. The reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust

fund. In addition to the requirements of this subsection, the assuming insurer shall provide any additional information, which may include, but may not be limited to, information regarding the concentration of the insurer's exposures, geographic or otherwise, and satisfy such additional requirements as the commissioner deems necessary to ensure that the particular insurer's condition and methods of operation are not such as would render its operations hazardous to the public or policyholders in this State.

(1) In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and in addition, the assuming insurer shall maintain a trusteed surplus of not less than \$20,000,000.

(2) In the case of a group of insurers, which group includes individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which not less than \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter for the fiscal period immediately preceding, which shall not be less than one year, by the group's domiciliary regulator and its independent certified public accountant.

(3) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in this section, has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, submits to this State's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of not less than \$10,000,000,000: the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; plus a joint trusteed surplus of which not less than \$100,000,000 shall be held jointly and exclusively for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities; and each member of the group shall make available to the commissioner an annual certification of the member's solvency for the fiscal period immediately preceding, which shall not be less than one year, by the member's domiciliary regulator and its independent certified public accountant.

Any trust established pursuant to this subsection shall be in a form approved by the commissioner, and the content, location, legal currency and

financial institutions shall be acceptable to the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year's end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31; or

e. The commissioner may, in his discretion, allow credit for reinsurance if the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection a., b., c. or d. of this section but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required or provided by applicable law or regulation of that jurisdiction; or

f. The commissioner may, in his discretion, allow credit for reinsurance if the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection a., b., c. or d. of this section but only if the assuming insurer holds surplus or equivalent in excess of \$250,000,000. In determining whether credit should be allowed, the commissioner shall consider the following: (1) that the reinsurer has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner; (2) the domiciliary regulatory jurisdiction of the assuming insurer; (3) the structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the reinsurer; (4) the substance of financial and operating standards for reinsurers in the domiciliary jurisdiction; (5) the form and substance of financial reports required to be filed by the reinsurer in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles; (6) the domiciliary regulator's willingness to cooperate with United States regulators in general and the commissioner, in particular; (7) the history of performance by reinsurers in the domiciliary jurisdiction; (8) the reinsurer's or an affiliate's use of in-State professional service providers related or unrelated to the reinsurance, including, but not limited to, attorneys, accountants, managers, actuaries, brokers or intermediaries; (9) any documented evidence of

substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction; and (10) any other matters deemed relevant by the commissioner. The commissioner shall give appropriate consideration to insurer group ratings that may have been issued. The commissioner may, in lieu of granting full credit under this subsection, reduce the amount required to be held in trust under subsection d. of this section.

The provisions of this subsection shall apply only to reinsurance contracts entered into or renewed on or after the effective date of P.L.2011, c.39, except that the provisions applicable to life reinsurance contracts shall not become effective until the earlier of 24 months from the effective date of P.L.2011, c.39, or the implementation of principles-based standards of life insurance reserving by the National Association of Insurance Commissioners.

g. If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this State, the credit permitted by subsections c. and d. of this section shall not be allowed unless the assuming insurer agrees in the reinsurance agreements: (1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give such court jurisdiction, and shall abide by the final decision of such court or any appellate court in the event of an appeal; and (2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

5. Section 11 of P.L.1960, c.32 (C.17:22-6.45) is amended to read as follows:

**C.17:22-6.45 Eligibility as surplus lines insurer.**

11. No surplus lines agent shall place any coverage with any unauthorized insurer which is not then an eligible surplus lines insurer as provided for under this section. No unauthorized insurer shall be or become an eligible surplus lines insurer unless made eligible by the commissioner in accordance with the following conditions:

(a) Eligibility of the insurer must be requested in writing by a licensed surplus lines agent;

(b) The insurer must be currently an authorized insurer in the state or country of its domicile as to the kind or kinds of insurance proposed to be so placed, and must have been such an insurer for not less than one full year preceding; or must be the subsidiary of an admitted insurer or of an already eligible surplus lines insurer that has been so admitted or eligible for a period of not less than one full year preceding or must be a domestic surplus lines insurer as provided by section 2 of P.L.2011, c.39 (C.17:22-6.69b);

(c) Before granting eligibility the requesting surplus lines agent or the insurer shall furnish the commissioner with duly authenticated copies of its current annual financial statement, one in the language and monetary values of the country of the insurer, and the other in the English language and with all monetary values therein expressed in United States dollars, at the current exchange rate shown in the statement, and with such additional information relative to the insurer as the commissioner may require;

(d) The insurer shall establish satisfactory evidence of financial integrity, and:

(1) Have capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, which is not less than twice the amount of minimum capital and surplus required for like admitted insurers or \$15,000,000, whichever is greater; except that unauthorized insurers already eligible under this act shall have at least \$10,000,000 by December 31, 1996; at least \$12,500,000 by December 31, 1997; and \$15,000,000 by December 31, 1998. In addition, an alien insurer shall maintain in the United States, as the sole security requirement to qualify for eligibility in this State, an irrevocable trust fund in a state or federally chartered bank in an amount not less than \$2,500,000 for the protection of all of its policyholders in the United States; provided, however, that an alien insurer eligible for surplus lines may be required to deposit securities in New Jersey in an amount deemed appropriate by the commissioner as a condition of maintaining its eligibility status. The trust fund shall consist of cash, securities, letters of credit, or of investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this State. The trust fund shall not be included in any calculation of capital and surplus or its equivalent and shall have an expiration date which at no time shall be less than five years. In lieu of the above capital and surplus requirements, and trust fund amount, any Lloyd's or other similar group of alien insurers, which group includes unincorporated individual insurers shall maintain a trust fund of not less than \$50,000,000.00 as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and the trust shall likewise comply with the terms and conditions here-

in above set forth. The credit for reinsurance requirements of sections 2 and 3 of P.L.1993, c.243 (C.17:51B-2 and 17:51B-3) shall not apply to an eligible alien surplus lines insurer that appears on the quarterly listing prepared by the International Insurers Department (IID) of the National Association of Insurance Commissioners and that provides the commissioner annually with a copy of such insurer's current Schedule R filing and such other information concerning ceded reinsurance that the International Insurers Department or the commissioner may from time to time require. Any insurance exchange created by the laws of an individual state may be approved by the commissioner as an eligible insurer under the provisions of this section, and shall maintain capital and surplus, or the substantial equivalent thereof, of not less than \$35,000,000.00 in the aggregate. For insurance exchanges which maintain funds in an amount acceptable to the commissioner for the protection of all insurance exchange policyholders, each individual syndicate, except those syndicates which have elected and qualify for S corporation status pursuant to subsection (a) of section 1362 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1362, shall maintain minimum capital and surplus, or the substantial equivalent thereof, of not less than \$2,000,000.00. Any syndicate which has elected and qualified for S corporation status pursuant to subsection (a) of section 1362 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1362, need not maintain the minimum capital and surplus required under the provisions of this section and the failure of any such syndicate to meet these minimum requirements shall not render the exchange ineligible for approval under this section; except that so long as such syndicate fails to maintain the minimum capital and surplus required under the provisions of this section, such syndicate shall not transact the business of insurance in this State and shall not be approved by the commissioner as an eligible insurer under the provisions of this section. In the event the insurance exchange does not maintain funds in an amount acceptable to the commissioner for the protection of all insurance exchange policyholders, each individual syndicate shall have capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, which is not less than twice the amount of minimum capital and surplus required for like admitted insurers. No insurance exchange approved as an eligible insurer by the commissioner shall be a member of the New Jersey Surplus Lines Insurance Guaranty Fund created pursuant to P.L.1984, c.101 (C.17:22-6.70 et seq.) nor shall any claim against an exchange be deemed to be a covered claim pursuant to the provision of that act; and

(2) Have caused to be provided to the commissioner a copy of its current annual statement certified by the insurer, which, relative to the period reported upon, is no more than 18 months old, and which is either: (A) filed

with and approved by the regulatory authority in the domicile of the unauthorized insurer; or (B) certified by an accounting or auditing firm licensed in the jurisdiction of the insurer's domicile. In the case of an insurance exchange, the statement may be an aggregate combined statement of all underwriting syndicates operating during the period reported upon;

(e) The condition or methods of operation of the insurer must not be such as would render its operation hazardous to the public or its policyholders in this State;

(f) The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims;

(g) No insurer shall be eligible the management of which is found by the commissioner to be incompetent or untrustworthy, or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public; or which the commissioner has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations, with any person or persons whose business operations are or have been detrimental to policyholders, stockholders, investors, creditors or to the public;

(h) No insurer shall be eligible the voting control or ownership of which is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency. Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an insurer by public insurance supervisory authority shall not be deemed to be an ownership, control, or operation of the insurer for the purposes of this subsection;

(i) The insurer shall constitute, by a duly executed instrument filed with the department, the commissioner and his successor in office its true and lawful attorney, upon whom all original process in any action or legal proceeding against it may be served, and therein agree that any original process against it which may be served upon the commissioner shall be of the same force and validity as if served on the insurer, and that the authority thereof shall continue in force irrevocable so long as any liability of the insurer remains outstanding in this State.

The commissioner shall annually publish a list of all currently eligible surplus lines insurers, and shall mail a copy thereof to each licensed surplus lines agent at his office last of record with the commissioner.

This section shall not be deemed to cast upon the commissioner any duty or responsibility to determine the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted

by the commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the commissioner has no credible evidence to the contrary.

Where it appears that any particular insurance risk which is eligible for export, but insurance coverage thereon, in whole or in part, is not procurable from the eligible surplus lines insurers, then the surplus lines agent may file a supplemental affidavit stating such facts and advising the commissioner that such part of the risk as shall be unprocurable, as aforesaid, is being placed with named unauthorized insurers, in the amounts and percentages set forth in the affidavit. Such named unauthorized insurer shall, however, before accepting any risk in this State, deposit with the commissioner United States government bonds in an amount acceptable to the commissioner, which shall be held by said commissioner for the benefit of New Jersey policyholders only and the surplus lines agent shall procure from such unauthorized insurer and file with the commissioner a certified copy of its current annual statement of financial condition. If such deposit is made and the statement reveals, including both capital and surplus, net assets of at least \$5,000,000 consisting of at least \$1,500,000 liquid assets, then the surplus lines agent may proceed to consummate the contract of insurance. Whenever any insurance risk or any part thereof is placed with an unauthorized insurer, as provided herein, the policy, binder or cover note shall bear conspicuously on its face in boldface type the following notation:

"All or some of the insurers participating in this risk have not been admitted to transact business in the State of New Jersey, nor have they been approved as a surplus lines insurer by the insurance commissioner of this State. The placing of such insurance by a duly licensed surplus lines agent in this State shall not be construed as approval of such insurer by the insurance commissioner of the State of New Jersey. Such insurance is not covered by the New Jersey Property-Liability Insurance Guaranty Association or the New Jersey Surplus Lines Insurance Guaranty Fund." All other provisions of this Title, except the provisions of P.L.1984, c.101 (C.17:22-6.70 et seq.), shall apply to such placement the same as if such risks were placed with an eligible surplus lines insurer.

6. This act shall take effect on the 90th day after enactment but the commissioner may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved March 22, 2011.

## CHAPTER 40

AN ACT concerning employment discrimination and supplementing Title 34 of the Revised Statutes.

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

**C.34:8B-1 Provisions prohibited in advertisements for job vacancies.**

1. Unless otherwise permitted by the provisions of Title 11A of the New Jersey Statutes or any other law, rule or regulation, no employer or employer's agent, representative, or designee shall knowingly or purposefully publish, in print or on the Internet, an advertisement for any job vacancy in this State that contains one or more of the following:

- a. Any provision stating that the qualifications for a job include current employment;
- b. Any provision stating that the employer or employer's agent, representative, or designee will not consider or review an application for employment submitted by any job applicant currently unemployed; or
- c. Any provision stating that the employer or employer's agent, representative, or designee will only consider or review applications for employment submitted by job applicants who are currently employed.

Nothing set forth in this section shall be construed as prohibiting an employer or employer's agent, representative, or designee from publishing, in print or on the Internet, an advertisement for any job vacancy in this State that contains any provision setting forth any other qualifications for a job, as permitted by law, including, but not limited to, the holding of a current and valid professional or occupational license, certificate, registration, permit or other credential, or a minimum level of education, training or professional, occupational or field experience.

In addition, nothing set forth in this section shall be construed as prohibiting an employer or employer's agent, representative, or designee from publishing, in print or on the Internet, an advertisement for any job vacancy that contains any provision stating that only applicants who are currently employed by such employer will be considered.

**C.34:8B-2 Violations, penalties.**

2. a. Any employer who violates this act shall be subject to a civil penalty in an amount not to exceed \$1,000 for the first violation, \$5,000 for the second violation and \$10,000 for each subsequent violation, collectible by

the Commissioner of Labor and Workforce Development in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

b. Nothing set forth in this act shall be construed as creating, establishing or authorizing a private cause of action by an aggrieved person against an employer who has violated, or is alleged to have violated, the provisions of this act.

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

Approved March 29, 2011.

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## CHAPTER 41

AN ACT concerning the activity of downhill skiing and supplementing Title 5 of the Revised Statutes.

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

**C.5:13-12 Helmet required for downhill skiers, snowboarders; violations, penalties.**

1. a. A person under 18 years of age engaged in the activity of downhill skiing or operation of snowboards, including the use of ski tows, lifts and tramways, shall wear a securely fitted protective helmet. As used in this act, "helmet" means a type of molded headgear equipped with a neck or chin strap specifically designed by the manufacturer to be used while engaged in the activity of recreational downhill skiing.

b. The parent, legal guardian, or adult acting in a supervising position of a person under 18 years of age shall ensure that the person wears a protective helmet as required by subsection a. of this section. A parent, legal guardian or adult acting in a supervising position who does not comply with this requirement shall be fined a maximum of \$25 for the person's first offense and a maximum of \$100 for a subsequent offense. Local law enforcement agencies shall have exclusive authority to enforce this section and the penalty imposed shall be collected and enforced by summary proceedings under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. Nothing in this act shall be construed to extend liability to the ski area operator.

2. This act shall take effect on the first day of the seventh month after enactment.

Approved April 6, 2011.

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## CHAPTER 42

AN ACT concerning certain health care facility-associated infection reporting requirements and amending P.L.2007, c.196.

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

1. Section 3 of P.L.2007, c.196 (C.26:2H-12.41) is amended to read as follows:

**C.26:2H-12.41 Quarterly reports by general hospital to DHSS.**

3. A general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall be required to report quarterly to the Department of Health and Senior Services, in a form and manner prescribed by the Commissioner of Health and Senior Services:

a. process quality indicators of hospital infection control that have been identified by the federal Centers for Medicare and Medicaid Services, as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department; and

b. beginning 30 days after the adoption of regulations pursuant to this act, data on infection rates for the major site categories that define health care facility-associated infection locations, multiple infections, and device-related and non-device related infections, identified by the federal Centers for Disease Control and Prevention, as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department.

2. This act shall take effect immediately.

Approved April 6, 2011.

## CHAPTER 43

AN ACT concerning the performance of propane services and amending P.L.2007, c.150.

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

1. Section 3 of P.L.2007, c.150 (C.52:27D-511) is amended to read as follows:

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

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

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

(1) The supplier's or marketer's charges and pricing policies for propane and propane services that are disclosed in a format including a price conversion chart that will assist a customer to compare price offers from different propane suppliers or marketers on a uniform basis which an average person can understand and use to do comparative shopping for propane, propane services and for a supplier or marketer;

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

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

of normal weekday hours, and the cost of non-scheduled or irregular delivery if propane is provided outside of regular delivery, or if propane services are provided outside of normal weekday hours;

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

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

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

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

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

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

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

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

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

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

c. To ensure the safety of this State's propane customers, any customer who desires to cause propane services to be performed should ensure that any such propane services are performed only by persons certified by the department pursuant to the regulations to be adopted pursuant to paragraph (1) of this subsection or by: (1) a licensed master plumber, or journeyman plumber working under the supervision of a master plumber, who has had appropriate training in the performance of propane services as required by the State Board of Examiners of Master Plumbers; or (2) a licensed master HVACR contractor, or HVACR journeyman working under the supervision of a master HVACR contractor, who has had appropriate training in the performance of propane services as required by the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors.

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

(2) Within 180 days of the effective date of P.L.2011, c.43, the State Board of Examiners of Master Plumbers, in consultation with and upon the advice and recommendation of the Liquefied Petroleum Gas Education and Safety Board, shall promulgate rules and regulations for the certification and competency testing of all licensed master plumbers engaged in performing propane services.

(3) Within 180 days of the effective date of P.L.2011, c.43, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, in consultation with and upon the advice and recom-

mendation of the Liquefied Petroleum Gas Education and Safety Board, shall promulgate rules and regulations for the certification and competency testing of all licensed master HVACR contractors engaged in performing propane services.

(4) All persons who are certified by the department, a master HVACR contractor or HVACR journeyman working under the supervision of a master HVACR contractor, or a master plumber or a journeyman plumber working under the supervision of a master plumber shall be legally responsible for the propane services they perform.

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

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

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

2. This act shall take effect immediately.

Approved April 6, 2011.

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## CHAPTER 44

AN ACT concerning restraining orders and amending P.L.1999, c.334 and P.L.2001, c. 365.

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

1. Section 4 of P.L.1999, c.334 (C.2C:35-5.7) is amended to read as follows:

**C.2C:35-5.7 Issuance of order by court.**

4. a. When a person is charged with a criminal offense on a warrant and the person is released from custody before trial on bail or personal recognizance, the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall as a condition of release issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section. With regard to an applicant who is not physically present at the same location as the court, the applicant may make such application to the court through telephone, radio or other means of electronic communication. The court may consider and grant such application in accordance with the Rules of Court.

b. When a person is charged with a criminal offense on a summons, the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall, at the time of the defendant's first appearance, issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section.

c. When a person is charged with a criminal offense on a juvenile delinquency complaint and is released from custody at a detention hearing pursuant to section 19 of P.L.1982, c.77 (C.2A:4A-38), the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section.

d. When a person is charged with a criminal offense on a juvenile delinquency complaint and is released without being detained pursuant to section 15 or 16 of P.L.1982, c.77 (C.2A:4A-34 or C.2A:4A-35), the law enforcement officer or prosecuting attorney shall prepare an application pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) for filing on the next court day.

The law enforcement officer releasing the juvenile shall serve the juvenile and his parent or guardian with written notice that an order shall be issued by the Family Part of the Superior Court on the next court day pro-

hibiting the juvenile from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section.

The court shall issue such order on the first court day following the release of the juvenile. If the restraints contained in the court order differ from the restraints contained in the notice, the order shall not be effective until the third court day following the issuance of the order. The juvenile may apply to the court to stay or modify the order on the grounds set forth in subsection e. of this section.

e. The court may forego issuing a restraining order for which application has been made pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) only if the defendant establishes by clear and convincing evidence that:

(1) the defendant lawfully resides at or has legitimate business on or near the place, or otherwise legitimately needs to enter the place. In such an event, the court shall not issue an order pursuant to this section unless the court is clearly convinced that the need to bar the person from the place in order to protect the public safety and the rights, safety and health of the residents and persons working in the place outweighs the person's interest in returning to the place. If the balance of the interests of the person and the public so warrants, the court may issue an order imposing conditions upon the person's entry at, upon or near the place; or

(2) the issuance of an order would cause undue hardship to innocent persons and would constitute a serious injustice which overrides the need to protect the rights, safety and health of persons residing in or having business in the place.

f. A restraining order issued pursuant to subsection a., b., c., d. or h. of this section shall describe the place from which the person has been barred and any conditions upon the person's entry into the place, with sufficient specificity to enable the person to guide his conduct accordingly and to enable a law enforcement officer to enforce the order. The order shall also prohibit the person from entering an area of up to 500 feet surrounding the place, unless the court rules that a different buffer zone would better effectuate the purposes of this act. In the discretion of the court, the order may contain modifications to permit the person to enter the area during specified times for specified purposes, such as attending school during regular school hours. When appropriate, the court may append to the order a map depicting the place. The person shall be given a copy of the restraining order and any appended map and shall acknowledge in writing the receipt thereof.

g. (1) The court shall provide notice of the restraining order to the local law enforcement agency where the arrest occurred and to the county prosecutor.

(2) Notwithstanding the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60), prior to the person's conviction or adjudication of delinquency for a criminal offense, the local law enforcement agency may post a copy of any orders issued pursuant to this section, or an equivalent notice containing the terms of the order, upon one or more of the principal entrances of the place or in any other conspicuous location. Such posting shall be for the purpose of informing the public, and the failure to post a copy of the order shall in no way excuse any violation of the order.

(3) Notwithstanding the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60), prior to the person's conviction or adjudication of delinquency for a criminal offense, any law enforcement agency may publish a copy of any orders issued pursuant to this section, or an equivalent notice containing the terms of the order, in a newspaper circulating in the area of the restraining order. Such publication shall be for the purpose of informing the public, and the failure to publish a copy of the order shall in no way excuse any violation of the order.

(4) Notwithstanding the provisions of section 1 of P.L.1982, c.79 (C.2A:4A-60), prior to the person's conviction or adjudication of delinquency for a criminal offense, any law enforcement agency may distribute copies of any orders issued pursuant to this section, or an equivalent notice containing the terms of the order, to residents or businesses located within the area delineated in the order or, in the case of a school or any government-owned property, to the appropriate administrator, or to any tenant association representing the residents of the affected area. Such distribution shall be for the purpose of informing the public, and the failure to publish a copy of the order shall in no way excuse any violation of the order.

h. When a person is convicted of or adjudicated delinquent for any criminal offense, the court, upon application of a law enforcement officer or prosecuting attorney pursuant to section 3 of P.L.2001, c.365 (C.2C:35-5.9) and except as provided in subsection e. of this section, shall, by separate order or within the judgment of conviction, issue an order prohibiting the person from entering any place defined by subsection b. of section 3 of P.L.1999, c.334 (C.2C:35-5.6), including a buffer zone surrounding the place or modifications as provided by subsection f. of this section. Upon the person's conviction or adjudication of delinquency for a criminal offense, a law enforcement agency, in addition to posting, publishing, and distributing the order or an equivalent notice pursuant to paragraphs (2), (3)

and (4) of subsection g. of this section, may also post, publish and distribute a photograph of the person.

i. When a juvenile has been adjudicated delinquent for an act which, if committed by an adult, would be a criminal offense, in addition to an order required by subsection h. of this section or any other disposition authorized by law, the court may order the juvenile and any parent, guardian or any family member over whom the court has jurisdiction to take such actions or obey such restraints as may be necessary to facilitate the rehabilitation of the juvenile or to protect public safety or to safeguard or enforce the rights of residents of the place. The court may commit the juvenile to the care and responsibility of the Department of Children and Families until such time as the juvenile reaches the age of 18 or until the order of removal and restraint expires, whichever first occurs, or to such alternative residential placement as is practicable.

j. An order issued pursuant to subsection a., b., c. or d. of this section shall remain in effect until the case has been adjudicated or dismissed, or for not less than two years, whichever is less. An order issued pursuant to subsection h. of this section shall remain in effect for such period of time as shall be fixed by the court but not longer than the maximum term of imprisonment or incarceration allowed by law for the underlying offense or offenses. When the court issues a restraining order pursuant to subsection h. of this section and the person is also sentenced to any form of probationary supervision or participation in the Intensive Supervision Program, the court shall make continuing compliance with the order an express condition of probation or the Intensive Supervision Program. When the person has been sentenced to a term of incarceration, continuing compliance with the terms and conditions of the order shall be made an express condition of the person's release from confinement or incarceration on parole. At the time of sentencing or, in the case of a juvenile, at the time of disposition of the juvenile case, the court shall advise the defendant that the restraining order shall include a fixed time period in accordance with this subsection and shall include that provision in the judgment of conviction, dispositional order, separate order or order vacating an existing restraining order, to the law enforcement agency that made the arrest and to the county prosecutor.

k. All applications to stay or modify an order issued pursuant to this act, including an order originally issued in municipal court, shall be made in the Superior Court. The court shall immediately notify the county prosecutor in writing whenever an application is made to stay or modify an order issued pursuant to this act. If the court does not issue a restraining order, the sentence imposed by the court for a criminal offense as defined in sub-

section b. of this section shall not become final for ten days in order to permit the appeal of the court's findings by the prosecution.

1. Nothing in this section shall be construed in any way to limit the authority of the court to take such other actions or to issue such orders as may be necessary to protect the public safety or to safeguard or enforce the rights of others with respect to the place.

m. Notwithstanding any other provision of this section, the court may permit the person to return to the place to obtain personal belongings and effects and, by court order, may restrict the time and duration and provide for police supervision of such a visit.

2. Section 3 of P.L.2001, c.365 (C.2C:35-5.9) is amended to read as follows:

**C.2C:35-5.9 Certification of offense location.**

3. Certification of Offense Location.

The court shall issue a restraining order pursuant to P.L.1999, c.334 (C.2C:35-5.4 et seq.) only upon request by a law enforcement officer or prosecuting attorney and either: (1) submission of a certification describing the location of the offense; or (2) in matters where the applicant is not physically present at the same location as the court, an oral statement describing the location of the offense followed by submission within a reasonable time of a certification describing the location of the offense in accordance with the Rules of Court.

3. This act shall take effect immediately and shall apply to matters in which a criminal complaint is filed on or after the effective date of this act.

Approved April 6, 2011.

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CHAPTER 45

AN ACT concerning State agency rule-making and amending P.L.2001, c.5.

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

1. Section 10 of P.L.2001, c.5 (C.52:14B-5.1) is amended to read as follows:

**C.52:14B-5.1 Expiration of rules; continuation.**

10. a. (Deleted by amendment, P.L.2011, c.45)

b. Every rule adopted on or after the effective date of P.L.2001, c.5 (C.52:14B-4.1a et al.) shall expire seven years following the effective date of the rule unless a sooner expiration date has been established for the rule. The expiration date shall be included in the adoption notice of the rule in the New Jersey Register and noted in the New Jersey Administrative Code.

c. (1) Notwithstanding any other provision of P.L.1968, c.410 (C.52:14B-1 et seq.), or rule adopted pursuant thereto, to the contrary, in the case of a proposed readoption without changes to the existing rule, or a proposed readoption with technical changes as approved by the Office of Administrative Law, an agency may continue in effect an expiring rule for a seven-year period by filing a public notice with the Office of Administrative Law for publication in the New Jersey Register at least 30 days prior to the expiration date of the rule. The notice pursuant to this paragraph shall include the citation for the rule, a general description of the rule, the specific legal authority under which the rule is authorized, and the new expiration date of the rule. The notice pursuant to this paragraph shall be effective upon filing with the Office of Administrative Law.

Upon the receipt of a public notice pursuant to this paragraph, the Office of Administrative Law shall publish the notice in the New Jersey Register. The new expiration date of the rule shall be noted in the New Jersey Administrative Code.

As used in this paragraph, “technical changes” means changes to: correct spelling, grammar and punctuation; correct codification; update contact information; or correct cross-references.

(2) In the case of a proposed readoption of an expiring rule with substantive changes, an agency may continue the expiring rule for a seven-year period by duly proposing the readoption with substantive changes and re-adopting the rule prior to its expiration. Upon the filing of a notice of proposed readoption with substantive changes, the expiration date of the rule shall be extended for 180 days, if such notice is filed prior to the expiration of the rule.

As used in this paragraph, “substantive changes” means any changes that are not technical changes as defined in paragraph (1) of this subsection.

d. (1) The Governor may, upon the request of an agency head, and prior to the expiration date of the rule, continue in effect an expiring rule for a period to be specified by the Governor.

(2) The Governor may, upon the request of an agency head within five days after the expiration of a rule, restore the effectiveness of an expired

rule as of its expiration date, for a period to be specified by the Governor, in order to effect the readoption of the rule in accordance with subsection c. of this section.

e. This section shall not apply to any rule repealing a rule or any rule prescribed by federal law or whose expiration would violate any other federal or State law, in which case the federal or State law shall be cited in the publication of the rule.

2. This act shall take effect immediately.

Approved April 6, 2011.

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## CHAPTER 46

AN ACT permitting the Department of Transportation to enter into certain agreements with local governments and amending P.L.2007, c.17.

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

1. Section 1 of P.L.2007, c.17 (C.27:7-21.13) is amended to read as follows:

**C.27:7-21.13 DOT, agreements with certain local governments, authority clarified, rates established.**

1. a. Notwithstanding the provisions of R.S.27:7-11, R.S.27:7-21, R.S.27:7-29, P.L.1966, c.185 (C.27:7-35.1 et seq.), and any other law, rule, or regulation to the contrary, the Commissioner of Transportation may enter into a contract or agreement with a county or municipality for snow removal, grass mowing, tree pruning, landscaping, repair, or routine maintenance of State highways and adjacent shoulders, berms, right of ways, and other areas without advertisement for bids therefor, if the scope of the work required does not contemplate the award of a contract by the county or municipality to an outside contractor, or if the Commissioner of Transportation determines the work to be performed is immediately necessary for the prevention of a public hazard. This authorization shall not apply if approval by the Federal Highway Administration of the repair or maintenance is required.

b. The Commissioner of Transportation shall establish reasonable rates for work performed by a county or municipality without a contract or

agreement, for work that is immediately necessary for the prevention of a public hazard.

2. This act shall take effect immediately.

Approved April 6, 2011.

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## CHAPTER 47

AN ACT concerning motor vehicle safety, designated as Sara's Law, supplementing Title 39 of the Revised Statutes, and amending P.L.1980, c.47.

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

**C.39:4-134.2 "Next-of-Kin Registry."**

1. a. The Chief Administrator of the New Jersey Motor Vehicle Commission shall develop an Internet emergency contact information registry program. Under the program, the chief administrator shall establish and maintain an automated Statewide Internet registry to be known as the "Next-of-Kin Registry," which shall be capable of storing emergency contact information to be accessible by law enforcement officials for the purposes established in section 2 of P.L.2011, c.47 (C.39:4-134.3). Under the program, the holder of any New Jersey State validated permit, probationary or basic driver's license, or non-driver identification card may voluntarily submit, via the Internet, the name and telephone number of two emergency contacts to the "Next-of-Kin Registry," accessible through the Motor Vehicle Commission's website.

b. In implementing this program, the chief administrator shall establish a process whereby the holder of any validated permit, probationary or basic driver's license, or non-driver identification card may electronically sign onto the Motor Vehicle Commission web site using the holder's validated permit, probationary or basic driver's license number or non-driver identification card number. The permit holder, licensee, or card holder may then submit the name and telephone number of up to two emergency contacts to be stored in the "Next-of-Kin Registry". A permit holder, licensee, or non-driver identification card holder who submits the name and tele-

phone number of an emergency contact shall have the opportunity to revise or update the emergency contact information at any time.

c. Information in the “Next-of-Kin Registry” shall be available for the exclusive use of law enforcement officials, and employees of the commission who are designated by the chief administrator, for the purposes of discharging their duties pursuant to P.L.2011, c.47 (C.39:4-134.2 et al.). Any emergency contact information submitted to the commission shall not be considered a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to public records and shall not be discoverable as a public record by any person, entity, or governmental agency, except upon a subpoena issued by a grand jury or a court order in a criminal matter.

d. The chief administrator and employees of the commission who are designated by the chief administrator, for the purposes of discharging their duties pursuant to P.L.2011, c.47 (C.39:4-134.2 et al.), shall not be liable to any person for civil damages, or subject to criminal prosecution resulting from or caused by: (1) any disruption or failure in Internet service caused by any accident, malfunction, act of sabotage or God, or any other condition or circumstance that the commission has not, directly or indirectly, caused and which results in, or prevents, the holder of any New Jersey State validated permit, probationary or basic driver’s license, or non-driver identification card from accessing, or inputting information into, the “Next-of-Kin Registry” or which results in, or prevents, the chief administrator and designated commission employees and law enforcement officers from accessing, establishing, or maintaining the “Next-of-Kin Registry”; (2) any misuse of, or the failure or omission to input accurate information, or the inputting of inaccurate or outdated information into the “Next-of-Kin Registry” by any holder of any New Jersey State validated permit, probationary or basic driver’s license, or non-driver identification card; or (3) the inability of any law enforcement officer to make contact, in good faith, with any designated emergency contact person. This limitation of liability is inapplicable if such failure resulted from a malicious purpose or a wanton and willful disregard for the safety of persons or property.

e. For the purposes of P.L.2011, c.47 (C.39:4-134.2 et al.), “emergency contact person” or “emergency contact” means a person, eighteen years of age or older, whom the holder of any New Jersey State validated permit, probationary or basic driver’s license, or non-driver identification card has designated to be contacted by law enforcement personnel when the permit holder, licensee, or non-driver identification card holder is rendered unable to communicate due to a motor vehicle accident resulting in the se-

rious bodily injury, death, or incapacitation of the permit holder, licensee, or non-driver identification card holder. An “emergency contact person” or “emergency contact” may or may not be the next-of-kin of the permit holder, licensee, or non-driver identification card holder; except that if the permit holder, licensee, or card holder is under the age of eighteen and is not emancipated, the emergency contact person shall be the parent or guardian of that permit holder, licensee, or card holder.

**C.39:4-134.3 Use of “Next-of-Kin Registry.”**

2. a. When a motor vehicle accident results in the serious bodily injury, death, or incapacitation of a driver or any passenger, the law enforcement officer investigating the motor vehicle accident shall attempt to locate an emergency contact person by accessing the “Next-of-Kin Registry,” established pursuant to section 1 of P.L.2011, c.47 (C.39:4-134.2). The law enforcement officer shall, when practicable, expeditiously notify the emergency contact of each person involved in the motor vehicle accident and inform the emergency contact of the hospital or other location at which the driver or passenger may be receiving medical treatment.

b. No law enforcement officer or law enforcement employee shall be liable to any person for civil damages, or subject to criminal prosecution resulting from or caused by: (1) any disruption or failure in Internet service caused by any accident, malfunction, act of sabotage or God, or any other condition or circumstance that the commission has not, directly or indirectly, caused and which results in, or prevents, the holder of any New Jersey State validated permit, probationary or basic driver’s license, or non-driver identification card from accessing, or inputting information into, the “Next-of-Kin Registry” or which results in, or prevents, the chief administrator and designated commission employees and law enforcement officers from accessing, establishing, or maintaining the “Next-of-Kin Registry”; (2) any misuse of, or the failure or omission to input accurate information, or the inputting of inaccurate or out-dated information into the “Next-of-Kin Registry” by any holder of any New Jersey State validated permit, probationary or basic driver’s license, or non-driver identification card; or (3) the inability of any law enforcement officer to make contact, in good faith, with any designated emergency contact person. This limitation of liability is inapplicable if such failure resulted from a malicious purpose or a wanton and willful disregard for the safety of persons or property.

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

**C.39:3-29.3 Identification cards, issuance; contents.**

2. The New Jersey Motor Vehicle Commission shall issue an identification card to any resident of the State who is 14 years of age or older and who is not the holder of a valid permit or basic driver's license. The identification card shall attest to the true name, correct age, and other identifying data as certified by the applicant for such identification card. Every application for an identification card shall be signed and verified by the applicant and shall be accompanied by the written consent of at least one parent or the person's legal guardian if the person is under 17 years of age and shall be supported by such documentary evidence of the age and identity, or blindness, disability, or handicap, of such person as the chief administrator may require. In addition to requiring an applicant for an identification card to submit satisfactory proof of identity and age, the chief administrator also shall require the applicant to provide, as a condition for obtaining the card, satisfactory proof that the applicant's presence in the United States is authorized under federal law. If the chief administrator has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the chief administrator shall refuse to grant the identification card until such time as the document may be verified by the issuing agency to the chief administrator's satisfaction.

**C.39:4-134.4 Rules, regulations.**

4. The chief administrator may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary for the implementation of this act.

5. This act shall take effect on the first day of the nineteenth month after enactment, but the chief administrator may take such anticipatory administrative action in advance as shall be necessary for the timely implementation of this act.

Approved April 6, 2011.

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**CHAPTER 48**

AN ACT concerning wagers on certain simulcast horse races and amending P.L.2006, c.19.

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

1. Section 1 of P.L.2006, c.19 (C.5:5-22.2) is amended to read as follows:

**C.5:5-22.2 Regulations relative to horse racing and certain wagering, commission authority.**

1. Notwithstanding the provisions of any other law to the contrary, the New Jersey Racing Commission, in effectuating its responsibilities under P.L.1940, c.17 (C.5:5-22 et seq.), the "Simulcasting Racing Act," P.L.1985, c.269 (C.5:5-110 et seq.), the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), and the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et seq.), and under such circumstances and for such races as the commission shall deem appropriate, shall:

a. at the request of a permitholder, allow a permitholder to offer a future wager consisting of wagering on prospective entrants for specific races, with wagering conducted in advance, one or more parimutuel pools formed and closed on dates prior to the date of the race, and all wagers considered final and no refunds paid even if, for any reason, an entrant fails to participate in the race;

b. provide that the minimum wager amount that may be placed on a horse race may be \$0.10 or greater;

c. provide that, after three years following the date of purchase, unclaimed cash vouchers shall be paid 50% to the permitholder at the location where purchased and 50% to the purse account at the location where purchased, provided that if the permitholder conducts both harness and thoroughbred races the purse amount shall be divided equally between the harness and thoroughbred purse accounts;

d. at the request of a permitholder or the operator of a casino simulcasting facility, allow the permitholder or the operator of a casino simulcasting facility to accept a wager in advance of a race at an in-State or out-of-State sending track under a simulcast agreement without receiving a simulcast transmission thereof or displaying live video thereof when: (1) the race is to be conducted between the hours of 11:00 PM and 11:00 AM local New Jersey time, or at such other times as the commission shall permit due to extenuating circumstances; or (2) at other times, as the commission shall permit, when a racetrack, off-track wagering facility, or casino simulcasting facility is temporarily closed due to the hosting of an event at that facility that warrants the closure of that facility for a period not to exceed 24 hours,

provided that a simulcast transmission of that race is received and displayed under a simulcast transmission agreement at any other racetrack, off-track wagering facility, or casino simulcasting facility in this State; and

e. allow a permitholder to pay an amount due a winning ticketholder, notwithstanding that the ticketholder is unable to produce the actual ticket, if the permitholder is able to verify independently through electronic or other means approved by the commission that the ticketholder purchased the ticket.

2. This act shall take effect immediately.

Approved April 8, 2011.

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## CHAPTER 49

AN ACT revising the sales and use tax to maintain compliance with certain terms and conditions of the Streamlined Sales and Use Tax Agreement, amending and supplementing P.L.1966, c.30 and amending P.L.1980, c.105, P.L.1993, c.373, and P.L.1983, c.303.

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

1. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

**C.54:32B-2 Definitions.**

2. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

(a) "Person" includes an individual, trust, partnership, limited partnership, limited liability company, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, fiduciary and any other legal entity.

(b) "Purchase at retail" means a purchase by any person at a retail sale.

(c) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(d) "Receipt" means the amount of the sales price of any tangible personal property, specified digital product or service taxable under this act.

(e) "Retail sale" means any sale, lease, or rental for any purpose, other than for resale, sublease, or subrent.

(1) For the purposes of this act a sale is for "resale, sublease, or subrent" if it is a sale (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, including the conversion of natural gas into another intermediate or end product, other than electricity or thermal energy, produced for sale by the purchaser, (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax, (C) of telecommunications service to a telecommunications service provider for use as a component part of telecommunications service provided to an ultimate customer, or (D) to a person who receives by contract a product transferred electronically for further commercial broadcast, re-broadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to another person, other than rights to redistribute based on statutory or common law doctrine such as fair use.

(2) For the purposes of this act, the term "retail sale" includes: sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others.

(3) (Deleted by amendment, P.L.2005, c.126).

(4) The term "retail sale" does not include:

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

(C) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(D) The distribution of property by a partnership to its partners in whole or partial liquidation.

(E) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(F) The contribution of property to a partnership in consideration for a partnership interest therein.

(G) The sale of tangible personal property where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the seller.

(f) "Sale, selling or purchase" means any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor.

(g) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software including prewritten computer software delivered electronically.

(h) "Use" means the exercise of any right or power over tangible personal property, specified digital products, services to property or products, or services by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any distribution, any installation, any affixation to real or personal property, or any consumption of such property or products. Use also includes the exercise of any right or power over intrastate or interstate telecommunications and prepaid calling services. Use also includes the exercise of any right or power over utility service. Use also includes the derivation of a direct or indirect benefit from a service.

(i) "Seller" means a person making sales, leases or rentals of personal property or services.

(1) The term "seller" includes:

(A) A person making sales, leases or rentals of tangible personal property, specified digital products or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State or having an agent maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons

within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act;

(D) Any other person making sales to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons;

(F) (Deleted by amendment, P.L.2005, c.126);

(G) A person who sells, stores, delivers or transports energy to users or customers in this State whether by mains, lines or pipes located within this State or by any other means of delivery;

(H) A person engaged in collecting charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and

(I) A person engaged in the business of parking, storing or garaging motor vehicles.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the seller, distributor, supervisor or employer under whom the agent operates or from whom the agent obtains tangible personal property or a specified digital product sold by the agent or for whom the agent solicits business, the director may, in the director's discretion, treat such agent as the seller jointly responsible with the agent's principal, distributor, supervisor or employer for the collection and payment over of the tax. A person is an agent of a seller in all cases, but not limited to such cases, that: (A) the person and the seller have the relationship of a "related person" described pursuant to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller and the person use an identical or substantially similar name, tradename, trademark, or goodwill, to develop, promote, or maintain sales, or the person and the seller pay for each other's services in whole or in part contingent upon the volume or value of sales, or the person and the seller share a common business plan or substantially coordinate their business plans, or the person provides services to, or that inure to the benefit of, the seller related to developing, promoting, or maintaining the seller's market.

(j) "Hotel" means a building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(k) "Occupancy" means the use or possession or the right to the use or possession, of any room in a hotel.

(l) "Occupant" means a person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) "Permanent resident" means any occupant of any room or rooms in a hotel for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) "Room" means any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(o) "Admission charge" means the amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) "Amusement charge" means any admission charge, dues or charge of a roof garden, cabaret or other similar place.

(q) "Charge of a roof garden, cabaret or other similar place" means any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) "Dramatic or musical arts admission charge" means any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) "Lessor" means any person who is the owner, licensee, or lessee of any premises, tangible personal property or a specified digital product which the person leases, subleases, or grants a license to use to other persons.

(t) "Place of amusement" means any place where any facilities for entertainment, amusement, or sports are provided.

(u) "Casual sale" means an isolated or occasional sale of an item of tangible personal property or a specified digital product by a person who is not regularly engaged in the business of making retail sales of such property or product where the item of tangible personal property or the specified digital product was obtained by the person making the sale, through purchase or otherwise, for the person's own use.

(v) "Motor vehicle" includes all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, house trailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" includes: every seller of tangible personal property, specified digital products or services; every recipient of amusement charges; every operator of a hotel; every seller of a telecommunications service; every recipient of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every recipient of charges for parking, storing or garaging a motor vehicle. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership.

(x) "Customer" includes: every purchaser of tangible personal property, specified digital products or services; every patron paying or liable for the payment of any amusement charge; every occupant of a room or rooms in a hotel; every person paying charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every purchaser of parking, storage or garaging a motor vehicle.

(y) "Property and services the use of which is subject to tax" includes: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property or a specified digital product the use of which is subject to tax under section 6 or will become subject to tax when such property or product is distributed within the State or is received by or comes into possession or control of such person within the State; (3) intrastate, interstate, or international telecommunications sourced to this State pursuant to section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; (6) utility service sold, exchanged or delivered in this State for use in this State; (7) mail processing services in connection with printed advertising material

distributed in this State; (8) (Deleted by amendment, P.L.2005, c.126); and (9) services the benefit of which are received in this State.

(z) "Director" means the Director of the Division of Taxation in the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

(aa) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

(1) "Lease or rental" does not include:

(A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or one percent of the total required payments; or

(C) Providing tangible personal property or a specified digital product along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set-up the tangible personal property or specified digital product.

(2) "Lease or rental" does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. s.7701(h)(1).

(3) The definition of "lease or rental" provided in this subsection shall be used for the purposes of this act regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the federal Internal Revenue Code or other provisions of federal, state or local law.

(bb) (Deleted by amendment, P.L.2005, c.126).

(cc) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

"Telecommunications service" shall include such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmis-

sion, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. "Telecommunications service" shall not include:

- (1) (Deleted by amendment, P.L.2008, c.123);
- (2) (Deleted by amendment, P.L.2008, c.123);
- (3) (Deleted by amendment, P.L.2008, c.123);
- (4) (Deleted by amendment, P.L.2008, c.123);
- (5) (Deleted by amendment, P.L.2008, c.123);
- (6) (Deleted by amendment, P.L.2008, c.123);
- (7) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;
- (8) installation or maintenance of wiring or equipment on a customer's premises;
- (9) tangible personal property;
- (10) advertising, including but not limited to directory advertising;
- (11) billing and collection services provided to third parties;
- (12) internet access service;
- (13) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in section 47 U.S.C. s.522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in section 47 C.F.R. 20.3;
- (14) ancillary services; or
- (15) digital products delivered electronically, including but not limited to software, music, video, reading materials, or ringtones.

For the purposes of this subsection:

"ancillary service" means a service that is associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, vertical service, and voice mail service;

"conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;

"detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement;

"directory assistance" means an ancillary service of providing telephone number information or address information or both;

"vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

"voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical service that a customer may be required to have to utilize the voice mail service.

(dd) (1) "Intrastate telecommunications" means a telecommunications service that originates in one United States state or a United States territory or possession or federal district, and terminates in the same United States state or United States territory or possession or federal district.

(2) "Interstate telecommunications" means a telecommunications service that originates in one United States state or a United States territory or possession or federal district, and terminates in a different United States state or United States territory or possession or federal district.

(3) "International telecommunications" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. "United States" includes the District of Columbia or a United States territory or possession.

(ee) (Deleted by amendment, P.L.2008, c.123)

(ff) "Natural gas" means any gaseous fuel distributed through a pipeline system.

(gg) "Energy" means natural gas or electricity.

(hh) "Utility service" means the transportation or transmission of natural gas or electricity by means of mains, wires, lines or pipes, to users or customers.

(ii) "Self-generation unit" means a facility located on the user's property, or on property purchased or leased from the user by the person owning the self-generation unit and such property is contiguous to the user's property, which generates electricity to be used only by that user on the user's property and is not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcates the user's or self-generation unit owner's otherwise contiguous property.

(jj) "Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617.

(kk) "Non-utility" means a company engaged in the sale, exchange or transfer of natural gas that was not subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

(ll) "Pre-paid calling service" means the right to access exclusively telecommunications services, which shall be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(mm) "Mobile telecommunications service" means the same as that term is defined in the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

(nn) (Deleted by amendment, P.L.2008, c.123)

(oo) (1) "Sales price" is the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(C) Charges by the seller for any services necessary to complete the sale;

(D) Delivery charges;

(E) (Deleted by amendment, P.L.2011, c.49); and

(F) (Deleted by amendment, P.L.2008, c.123).

(2) "Sales price" does not include:

(A) Discounts, including cash, term, or coupons that are not reimbursed by a third party, that are allowed by a seller and taken by a purchaser on a sale;

(B) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(C) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(D) The amount of sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

(E) Credit for any trade-in of property of the same kind accepted in part payment and intended for resale if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(3) "Sales price" includes consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) One of the following criteria is met:

(i) the purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(ii) the purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount; provided however, that a preferred customer card that is available to any patron does not constitute membership in such a group; or

(iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(4) In the case of a bundled transaction that includes a telecommunications service, an ancillary service, internet access, or an audio or video programming service, if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products is subject to tax unless the provider can identify by reasonable and verifiable standards such portion from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes.

(pp) "Purchase price" means the measure subject to use tax and has the same meaning as "sales price."

(qq) "Sales tax" means the tax imposed on certain transactions pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

(rr) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. If a shipment includes both exempt and taxable property, the seller should allocate the delivery charge by using: (1) a percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment; or (2) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment. The seller shall tax the percentage of the delivery charge allocated to the taxable property but is not required to tax the percentage allocated to the exempt property.

(ss) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser in cases in which the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(tt) "Streamlined Sales and Use Tax Agreement" means the agreement entered into as governed and authorized by the "Uniform Sales and Use Tax Administration Act," P.L.2001, c.431 (C.54:32B-44 et seq.).

(uu) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

(vv) (Deleted by amendment, P.L.2011, c.49)

(ww) "Landscaping services" means services that result in a capital improvement to land other than structures of any kind whatsoever, such as: seeding, sodding or grass plugging of new lawns; planting trees, shrubs, hedges, plants; and clearing and filling land.

(xx) "Investigation and security services" means:

(1) investigation and detective services, including detective agencies and private investigators, and fingerprint, polygraph, missing person tracing and skip tracing services;

(2) security guard and patrol services, including bodyguard and personal protection, guard dog, guard, patrol, and security services;

(3) armored car services; and

(4) security systems services, including security, burglar, and fire alarm installation, repair or monitoring services.

(yy) "Information services" means the furnishing of information of any kind, which has been collected, compiled, or analyzed by the seller, and provided through any means or method, other than personal or individual information which is not incorporated into reports furnished to other people.

(zz) "Specified digital product" means an electronically transferred digital audio-visual work, digital audio work, or digital book; provided however, that a digital code which provides a purchaser with a right to obtain the product shall be treated in the same manner as a specified digital product.

(aaa) "Digital audio-visual work" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(bbb) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including a ringtone.

(ccc) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(ddd) "Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

(eee) "Ringtone" means a digitized sound file that is downloaded onto a device and that may be used to alert the purchaser with respect to a communication.

2. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as follows:

**C.54:32B-3 Imposition of sales tax.**

3. There is imposed and there shall be paid a tax of 7% upon:

(a) The receipts from every retail sale of tangible personal property or a specified digital product for permanent use or less than permanent use, and regardless of whether continued payment is required, except as otherwise provided in this act.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property or a specified digital product, performed for a person who directly or indirectly furnishes the tangible personal property or specified digital product, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property or a specified digital product, or maintaining, servicing, repairing tangible personal property or a specified digital product not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property or specified digital product is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning, tailoring, weaving, or pressing clothing, and shoe repairing and shoeshining and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land, other than landscaping services and other than installing carpeting and other flooring.

(3) Storing all tangible personal property not held for sale in the regular course of business; the rental of safe deposit boxes or similar space; and the furnishing of space for storage of tangible personal property by a person engaged in the business of furnishing space for such storage.

"Space for storage" means secure areas, such as rooms, units, compartments or containers, whether accessible from outside or from within a building, that are designated for the use of a customer and wherein the customer has free access within reasonable business hours, or upon reasonable notice to the furnisher of space for storage, to store and retrieve property. Space for storage shall not include the lease or rental of an entire building, such as a warehouse or airplane hanger.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days.

(5) Mail processing services for printed advertising material, except for mail processing services in connection with distribution of printed advertising material to out-of-State recipients.

(6) (Deleted by amendment, P.L.1995, c.184).

(7) Utility service provided to persons in this State, any right or power over which is exercised in this State.

(8) Tanning services, including the application of a temporary tan provided by any means.

(9) Massage, bodywork or somatic services, except such services provided pursuant to a doctor's prescription.

(10) Tattooing, including all permanent body art and permanent cosmetic make-up applications.

(11) Investigation and security services.

(12) Information services.

(13) Transportation services originating in this State and provided by a limousine operator, as permitted by law, except such services provided in connection with funeral services.

(14) Telephone answering services.

(15) Radio subscription services.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection (b).

Services otherwise taxable under paragraph (1) or (2) of this subsection (b) are not subject to the taxes imposed under this subsection, where the tangible personal property or specified digital product upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) (1) Receipts from the sale of prepared food in or by restaurants, taverns, or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to disabled persons, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private, nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization; and

(2) Receipts from sales of food and beverages sold through vending machines, at the wholesale price of such sale, which shall be defined as 70% of the retail vending machine selling price, except sales of milk, which shall not be taxed. Nothing herein contained shall affect other sales through

coin-operated vending machines taxable pursuant to subsection (a) above or the exemption thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an airline for consumption while in flight.

(3) For the purposes of this subsection:

"Food and beverages sold through vending machines" means food and beverages dispensed from a machine or other mechanical device that accepts payment; and

"Prepared food" means:

(i) A. food sold in a heated state or heated by the seller; or

B. two or more food ingredients mixed or combined by the seller for sale as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, part 401.11 of its Food Code so as to prevent food borne illnesses; or

C. food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; provided however, that

(ii) "prepared food" does not include the following sold without eating utensils:

A. food sold by a seller whose proper primary NAICS classification is manufacturing in section 311, except subsector 3118 (bakeries);

B. food sold in an unheated state by weight or volume as a single item; or

C. bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon a permanent resident.

(e) (1) Any admission charge to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theaters, except charges for admission to boxing, wrestling, kick boxing or combative sports exhibitions, events, performances or contests which charges are taxed under any other law of this State or under section 20 of P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which such pa-

tron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

(f) (1) The receipts from every sale, except for resale, of intrastate, interstate, or international telecommunications services and ancillary services sourced to this State in accordance with section 29 of P.L.2005, c.126 (C.54:32B-3.4).

(2) (Deleted by amendment, P.L.2008, c.123)

(g) (Deleted by amendment, P.L.2008, c.123)

(h) Charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization in this State, except for: (1) membership in a club or organization whose members are predominantly age 18 or under; and (2) charges in the nature of membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization that is exempt from taxation pursuant to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that has complied with subsection (d) of section 9 of P.L.1966, c.30.

(i) The receipts from parking, storing or garaging a motor vehicle, excluding charges for the following: residential parking; employee parking, when provided by an employer or at a facility owned or operated by the employer; municipal parking, storing or garaging; receipts from charges or fees imposed pursuant to section 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement between the Casino Reinvestment Development Authority and a casino operator in effect on the date of enactment of P.L.2007, c.105; and receipts from parking, storing or garaging a motor vehicle subject to tax pursuant to any other law or ordinance.

For the purposes of this subsection, "municipal parking, storing or garaging" means any motor vehicle parking, storing or garaging provided by a municipality or county, or a parking authority thereof.

3. Section 5 of P.L.1966, c.30 (C.54:32B-5) is amended to read as follows:

**C.54:32B-5 Receipts subject to taxes.**

5. a. (1) Except as otherwise provided in this act, receipts received from all sales made and services rendered on and after January 3, 1983 but prior to July 1, 1990, are subject to the taxes imposed under subsections (a), (b), (c), and (f) of section 3 of this act at the rate, if any, in effect for such sales and services on June 30, 1990, except if the property so sold is delivered or the services so sold are rendered on or after July 1, 1990 but prior to July 1, 1992, in which case the tax shall be computed and paid at the rate of 7%; provided, however, that if a service or maintenance agreement taxable under this act covers any period commencing on or after January 3, 1983 and ending after June 30, 1990 but prior to July 1, 1992, the receipts from such agreement are subject to tax at the rate, if any, applicable to each period as set forth hereinabove and shall be apportioned on the basis of the ratio of the number of days falling within each of the said periods to the total number of days covered thereby.

(2) Except as otherwise provided in this act, receipts received from all sales made and services rendered on and after July 1, 1990 but prior to July 1, 1992, are subject to the taxes imposed under subsections (a), (b), (c) and (f) of section 3 of this act at the rate of 7%, except if the property so sold is delivered or the services so sold are rendered on or after July 1, 1992 but prior to July 15, 2006, in which case the tax shall be computed and paid at the rate of 6%, provided, however, that if a service or maintenance agreement taxable under this act covers any period commencing on or after July 1, 1990, and ending after July 1, 1992, the receipts from such agreement are subject to tax at the rate applicable to each period as set forth hereinabove and shall be apportioned on the basis of the ratio of the number of days falling within each of the said periods to the total number of days covered thereby.

(3) Except as otherwise provided in this act, receipts received from all sales made and services rendered on and after July 1, 1992 but prior to July 15, 2006, are subject to the taxes imposed under subsections (a), (b), (c), (f) and (g) of section 3 of P.L.1966, c.30 (C.54:32B-3) at the rate of 6%, except if the property so sold is delivered or the services so sold are rendered on or after July 15, 2006, in which case the tax shall be computed and paid at the rate of 7%, provided, however, that if a service or maintenance agreement taxable under this act covers any period commencing on or after July 1, 1992, and ending after July 15, 2006, the receipts from such agreement are subject to tax at the rate applicable to each period as set forth

hereinabove and shall be apportioned on the basis of the ratio of the number of days falling within each of the said periods to the total number of days covered thereby; provided however, if a service or maintenance agreement in effect on July 14, 2006 covers billing periods ending after July 15, 2006, the seller shall charge and collect from the purchaser a tax on such sales at the rate of 6%, unless the billing period starts on or after July 15, 2006 in which case the seller shall charge and collect a tax at the rate of 7%.

b. (1) The tax imposed under subsection (d) of section 3 shall be paid at the rate of 7% upon any occupancy on and after July 1, 1990 but prior to July 1, 1992, although such occupancy is pursuant to a prior contract, lease or other arrangement. If an occupancy, taxable under this act, covers any period on or after January 3, 1983 but prior to July 1, 1990, the rent for the period of occupancy prior to July 1, 1990 shall be taxed at the rate of 6%. If rent is paid on a weekly, monthly or other term basis, the rent applicable to each period as set forth hereinabove shall be apportioned on the basis of the ratio of the number of days falling within each of the said periods to the total number of days covered thereby.

(2) The tax imposed under subsection (d) of section 3 shall be paid at the rate of 6% upon any occupancy on and after July 1, 1992 but prior to July 15, 2006, although such occupancy is pursuant to a prior contract, lease or other arrangement. If an occupancy, taxable under this act, covers any period on or after July 1, 1990 but prior to July 1, 1992, the rent for the period of occupancy prior to July 1, 1992 shall be taxed at the rate of 7%. If rent is paid on a weekly, monthly or other term basis, the rent applicable to each period as set forth hereinabove shall be apportioned on the basis of the ratio of the number of days falling within each of the said periods to the total number of days covered thereby.

(3) The tax imposed under subsection (d) of section 3 shall be paid at the rate of 7% upon any occupancy on and after July 15, 2006, although such occupancy is pursuant to a prior contract, lease or other arrangement. If an occupancy, taxable under this act, covers any period on or after July 1, 1992 but prior to July 15, 2006, the rent for the period of occupancy prior to July 15, 2006 shall be taxed at the rate of 6%. If rent is paid on a weekly, monthly or other term basis, the rent applicable to each period as set forth hereinabove shall be apportioned on the basis of the ratio of the number of days falling within each of the said periods to the total number of days covered thereby.

c. (1) Except as otherwise hereinafter provided, the tax imposed under subsection (e) of section 3 shall be applicable at the rate of 7% to any admission to or for the use of facilities of a place of amusement occurring on or after July 1, 1990 but prior to July 1, 1992, whether or not the admission

charge has been paid prior to July 1, 1990, unless the tickets were actually sold and delivered, other than for resale, prior to July 1, 1990 and the tax imposed under this act during the period January 3, 1983 through June 30, 1990 shall have been paid.

(2) Except as otherwise hereinafter provided, the tax imposed under subsection (e) of section 3 shall be applicable at the rate of 6% to any admission to or for the use of facilities of a place of amusement occurring on or after July 1, 1992 but prior to July 15, 2006, whether or not the admission charge has been paid prior to July 1, 1992, unless the tickets were actually sold and delivered, other than for resale, prior to July 1, 1992 and the tax imposed under this act during the period July 1, 1990 through December 31, 1990 shall have been paid.

(3) Except as otherwise hereinafter provided, the tax imposed under subsection (e) of section 3 shall be applicable at the rate of 7% to any admission to or for the use of facilities of a place of amusement occurring on or after July 15, 2006, whether or not the admission charge has been paid prior to that date, unless the tickets were actually sold and delivered, other than for resale, prior to July 15, 2006 and the tax imposed under this act during the period July 1, 1992 through July 14, 2006 shall have been paid.

d. (1) Sales made on and after July 1, 1990 but prior to July 1, 1992 to contractors, subcontractors or repairmen of materials, supplies, or services for use in erecting structures for others, or building on, or otherwise improving, altering or repairing real property of others shall be subject to the taxes imposed by subsections (a) and (b) of section 3 and section 6 hereof at the rate of 7%; provided, however, that if such sales are made for use in performance of a contract which is either of a fixed price not subject to change or modification, or entered into pursuant to the obligation of a formal written bid which cannot be altered or withdrawn, and, in either case, such contract was entered into or such bid was made on or after January 3, 1983 but prior to July 1, 1990, such sales shall be subject to tax at the rate of 6%, but the vendor shall charge and collect from the purchaser a tax on such sales at the rate of 7%.

(2) Sales made on or after July 1, 1992 but prior to July 15, 2006 to contractors, subcontractors or repairmen of materials, supplies, or services for use in erecting structures for others, or building on, or otherwise improving, altering or repairing real property of others shall be subject to the taxes imposed by subsections (a) and (b) of section 3 and section 6 hereof at the rate of 6%; provided, however, that if such sales are made for use in performance of a contract which is either of a fixed price not subject to change or modification, or entered into pursuant to the obligation of a formal writ-

ten bid which cannot be altered or withdrawn, and, in either case, such contract was entered into or such bid was made on or after July 1, 1990, but prior to July 1, 1992, such sales shall be subject to tax at the rate of 7%.

(3) Sales made on or after July 15, 2006 to contractors, subcontractors or repairmen of materials, supplies, or services for use in erecting structures for others, or building on, or otherwise improving, altering or repairing real property of others shall be subject to the taxes imposed by subsections (a) and (b) of section 3 and section 6 hereof at the rate of 7%; provided, however, that if such sales are made for use in performance of a contract which is either of a fixed price not subject to change or modification, or entered into pursuant to the obligation of a formal written bid which cannot be altered or withdrawn, and, in either case, such contract was entered into or such bid was made on or after July 1, 1992, but prior to July 15, 2006, such sales shall be subject to tax at the rate of 6%, but the seller shall charge and collect from the purchaser a tax on such sales at the rate of 7%.

e. (1) As to sales other than those referred to in d. above, the taxes imposed under subsections (a) and (b) of section 3 and section 6 hereof, and the taxes imposed under subsection (f) of section 3 and section 6 hereof, upon receipts received on or after July 1, 1990 and on or before December 31, 1990, shall be at the rate in effect on June 30, 1990, in case of sales made or services rendered pursuant to a written contract entered on or after January 3, 1983 but prior to July 1, 1990, and accompanied by a deposit or partial payment of the contract price, except in the case of a contract which, in the usage of trade, is not customarily accompanied by a deposit or partial payment of the contract price, but the vendor shall charge and collect from the purchaser on such sales at the rate of 7%, which tax shall be reduced to the rate, if any, in effect on June 30, 1990, only by a claim for refund filed by the purchaser with the director within 90 days after receipt of said receipts and otherwise pursuant to the provisions of section 20 of P.L.1966, c.30 (C.54:32B-20). A claim for refund shall not be allowed if there has been no deposit or partial payment of the contract price unless the claimant shall establish by clear and convincing evidence that, in the usage of trade, such contracts are not customarily accompanied by a deposit or partial payment of the contract price.

(2) As to sales other than those referred to in d. above, the taxes imposed under subsections (a) and (b) of section 3 and section 6 hereof, and the taxes imposed under subsections (f) and (g) of section 3 and section 6 hereof, upon receipts received on or after July 15, 2006 and on or before December 31, 2006, shall be at the rate in effect on July 14, 2006, in case of sales made or services rendered pursuant to a written contract entered on or

after July 1, 1992 but prior to July 15, 2006, and accompanied by a deposit or partial payment of the contract price, except in the case of a contract which, in the usage of trade, is not customarily accompanied by a deposit or partial payment of the contract price, but the seller shall charge and collect from the purchaser on such sales at the rate of 7%, which tax shall be reduced to the rate, if any, in effect on July 14, 2006, only by a claim for refund filed by the purchaser with the director within 90 days after receipt of said receipts and otherwise pursuant to the provisions of section 20 of P.L.1966, c.30 (C.54:32B-20). A claim for refund shall not be allowed if there has been no deposit or partial payment of the contract price unless the claimant shall establish by clear and convincing evidence that, in the usage of trade, such contracts are not customarily accompanied by a deposit or partial payment of the contract price.

f. (1) The taxes imposed under subsections (a), (b), (c) and (f) of section 3 upon receipts received on or after July 1, 1990 but prior to July 1, 1992 shall be at the rate, if any, in effect on June 30, 1990 in the case of sales made or services rendered, if delivery of the property which was the subject matter of the sale has been completed or such services have been entirely rendered prior to July 1, 1990.

(2) The taxes imposed under subsections (a), (b), (c) and (f) of section 3 upon receipts received on or after July 1, 1992 but prior to July 15, 2006 shall be at the rate of 7% in the case of sales made or services rendered, where delivery of the property which was the subject matter of the sale has been completed or such services have been entirely rendered on or after July 1, 1990 but prior to July 1, 1992.

(3) The taxes imposed under subsections (a), (b), (c), (f) and (g) of section 3 upon receipts received on or after July 15, 2006 shall be at the rate of 6% in the case of sales made or services rendered, where delivery of the property which was the subject matter of the sale has been completed or such services have been entirely rendered on or after July 1, 1992 but prior to July 15, 2006.

g. The director is empowered to promulgate rules and regulations to implement the provisions of this section.

4. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read as follows:

**C.54:32B-6 Imposition of compensating use tax.**

6. Unless property or services have already been or will be subject to the sales tax under this act, there is hereby imposed on and there shall be

paid by every person a use tax for the use within this State of 7%, except as otherwise exempted under this act, (A) of any tangible personal property or specified digital product purchased at retail, including energy, provided however, that electricity consumed by the generating facility that produced it shall not be subject to tax, (B) of any tangible personal property or specified digital product manufactured, processed or assembled by the user, if items of the same kind of tangible personal property or specified digital products are offered for sale by him in the regular course of business, or if items of the same kind of tangible personal property are not offered for sale by him in the regular course of business and are used as such or incorporated into a structure, building or real property, (C) of any tangible personal property or specified digital product, however acquired, where not acquired for purposes of resale, upon which any taxable services described in paragraphs (1) and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of intrastate, interstate, or international telecommunications services described in subsection (f) of section 3 of P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184), (F) of utility service provided to persons in this State for use in this State, provided however, that utility service used by the facility that provides the service shall not be subject to tax, (G) of mail processing services described in paragraph (5) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), (H) (Deleted by amendment, P.L.2008, c.123), (I) of any services subject to tax pursuant to subsection (11), (12), (13), (14) or (15) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), and (J) of access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization in this State. For purposes of clause (A) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for such property or for the use of such property including delivery charges made by the seller, but excluding any credit for property of the same kind accepted in part payment and intended for resale. For the purposes of clause (B) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the price at which items of the same kind of tangible personal property or specified digital products are offered for sale by the user, or if items of the same kind of tangible personal property are not offered for sale by the user in the regular course of business and are used as such or incorporated into a structure, building or real property the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled by the user into the tangible personal property the use of which is subject to use

tax pursuant to this section, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property or specified digital products by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property or specified digital product transferred in conjunction with the performance of the service, including delivery charges made by the seller. For the purposes of clause (D) of this section, the tax shall be at the applicable rate on the charge made by the telecommunications service provider; provided however, that for prepaid calling services and prepaid wireless calling services the tax shall be at the applicable rate on the consideration given or contracted to be given for the prepaid calling service or prepaid wireless calling service or the recharge of the prepaid calling service or prepaid wireless calling service. For purposes of clause (F) of this section, the tax shall be at the applicable rate on the charge made by the utility service provider. For purposes of clause (G) of this section, the tax shall be at the applicable rate on that proportion of the amount of all processing costs charged by a mail processing service provider that is attributable to the service distributed in this State. For purposes of clause (I) of this section, the tax shall be at the applicable rate on the charge made by the service provider. For purposes of clause (J) of this section, the tax shall be at the applicable rate on the charges in the nature of initiation fees, membership fees or dues.

5. Section 7 of P.L.1966, c.30 (C.54:32B-7) is amended to read as follows:

**C.54:32B-7 Special rules for computing price and consideration.**

7. (a) The retail sales tax imposed under subsection (a) of section 3 and the compensating use tax imposed under section 6, when computed in respect to tangible personal property and specified digital products wherever manufactured, processed or assembled and used by such manufacturer, processor or assembler in the regular course of business within this State, shall be based on the price at which items of the same kind of tangible personal property or specified digital products are offered for sale by him.

(b) Tangible personal property or a specified digital product, which has been purchased by a resident of the State of New Jersey outside of this State for use outside of this State and subsequently becomes subject to the

compensating use tax imposed under this act, shall be taxed on the basis of the purchase price of such property or product, provided, however:

(1) That where a taxpayer affirmatively shows that the property or the product was used outside such State by him for more than six months prior to its use within this State, such property or product shall be taxed on the basis of current market value of the property or the product at the time of its first use within this State. The value of such property or product, for compensating use tax purposes, may not exceed its cost.

(2) That the compensating use tax on such tangible personal property or specified digital product brought into this State (other than for complete consumption or for incorporation into real property located in this State) and used in the performance of a contract or subcontract within this State by a purchaser or user for a period of less than six months may be based, at the option of the taxpayer, on the fair rental value of such property or product for the period of use within this State.

(c) Leased tangible personal property or specified digital product which has been purchased outside this State for lease outside of this State and subsequently becomes subject to the compensating use tax imposed under this act shall be taxed on the basis of the purchase price of such property or product, provided however, that the compensating use tax on such property or product brought into and used within this State may be based on the total of the lease payments attributable to the lease of that property or product attributable to the period of the lease remaining after first use in this State.

(d) Sales tax imposed on the lease or rental of tangible personal property or a specified digital product in New Jersey shall be based on either the total of the periodic payments required under the agreement or the original purchase price of the property or product. The full amount of sales tax due on the complete term of a lease or rental for more than six months shall be remitted with the monthly or quarterly sales and use tax return due for the period in which the leased personal property or product was delivered to the lessee in this State. However, if the tax is paid on a lease or rental based on the original purchase price of the tangible personal property or specified digital product, a subsequent lease or rental of the same property or product shall not be subject to the tax imposed under P.L.1966, c.30 (C.54:32B-1 et seq.).

If leased property or a product is subsequently removed on a permanent basis from this State, the lessee shall be entitled to a refund of the tax allocable to the portion of the lease or rental that remains in effect after the property or the product has been removed from this State, but only if the other state does not allow a credit for the sales or use tax paid to this State on the lease or rental transaction, and further, in the case of property or a

product removed to a state that imposes or computes tax on leases or rentals based on a lump sum or accelerated basis, only if the other state also allows a corresponding refund with respect to the lease of property or product upon which a sales or use tax is due and paid to this State.

(e) The purchase of energy shall be subject to the compensating use tax imposed under section 6 on the basis of the purchase price of the energy, including any charges for utility service.

6. Section 26 of P.L.1980, c.105 (C.54:32B-8.14) is amended to read as follows:

**C.54:32B-8.14 Sales of tangible personal property, specified digital products for use in R&D exempt; exceptions.**

26. Receipts from sales of tangible personal property, except energy, and specified digital products purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense are exempt from the tax imposed under the Sales and Use Tax Act. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

7. Section 1 of P.L.1993, c.373 (C.54:32B-8.45) is amended to read as follows:

**C.54:32B-8.45 Certain retail sales; lower tax rate.**

1. a. Receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages, of specified digital products, and cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), made by a seller from a place of business regularly operated by the seller for the purpose of making retail sales at which items are regularly exhibited and offered for retail sale and which is not utilized primarily for the purpose of catalogue or mail order sales, in which county is situated an entrance to an interstate bridge or tunnel connecting New Jersey with a state that does not impose a retail sales and use tax or imposes a retail sales and use tax at a rate at least five percentage points lower than the rate in this State, are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The exemption provided by subsection a. of this section shall apply unless a seller advises the director, in writing, that it intends to collect the tax at the full rate imposed under the "Sales and Use Tax Act".

**C.54:32B-8.61 Exemption for receipts from sale of video programming services.**

8. Receipts from sales of video programming services, including video on demand television services, and broadcasting services, including content to provide such services, are exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

**C.54:32B-8.62 Exemption for receipts from sale of specified digital product.**

9. a. Receipts from sales of a specified digital product that is accessed but not delivered electronically to the purchaser are exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. For purposes of this section, "delivered electronically" means delivered to the purchaser by means other than tangible storage media.

10. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read as follows:

**C.54:32B-9 Exempt organizations.**

9. (a) Except as to motor vehicles sold by any of the following, any sale, service or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and use taxes imposed under this act:

(1) The State of New Jersey, or any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions where it is the purchaser, user or consumer, or where it is a seller of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.

(b) Except as otherwise provided in this section any sale or amusement charge by or to any of the following or any use or occupancy by any of the following, where such sale, charge, use or occupancy is directly related to the purposes for which the following have been organized, shall not be subject to the sales and use taxes imposed under this act: a corporation, association, trust, or community chest, fund or foundation, organized and oper-

ated exclusively (1) for religious, charitable, scientific, testing for public safety, literary or educational purposes; or (2) for the prevention of cruelty to children or animals; or (3) as a volunteer fire company, rescue, ambulance, first aid or emergency company or squad; or (4) as a National Guard organization, post or association, or as a post or organization of war veterans, or the Marine Corps League, or as an auxiliary unit or society of any such post, organization or association; or (5) as an association of parents and teachers of an elementary or secondary public or private school exempt under the provisions of this section. Such a sale, charge, use or occupancy by, or a sale or charge to, an organization enumerated in this subsection, shall not be subject to the sales and use taxes only if no part of the net earnings of the organization inures to the benefit of any private shareholder or individual, no substantial part of the activities of the organization is carrying on propaganda, or otherwise attempting to influence legislation, and the organization does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(c) Nothing in this section shall exempt from the taxes imposed under the "Sales and Use Tax Act":

(1) the sale of a motor vehicle by an organization described in subsection (b) of this section, unless the purchaser is an organization exempt under this section;

(2) retail sales of tangible personal property or specified digital products by any shop or store operated by an organization described in subsection (b) of this section, unless the tangible personal property or specified digital product was received by the organization as a gift or contribution and the shop or store is one in which substantially all the work in carrying on the business of the shop or store is performed for the organization without compensation and substantially all of the shop's or store's merchandise has been received by the organization as gifts or contributions or unless the purchaser is an organization exempt under this section; or

(3) the sale or use of energy or utility service to or by an organization described in paragraph (1) of subsection (a) or subsection (b) of this section.

(d) Any organization enumerated in subsection (b) of this section shall not be entitled to an exemption granted pursuant to this section unless it has complied with such requirements for obtaining a tax immunity authorization as may be provided in this act.

(e) Where any organization described in subsection (b) of this subsection carries on its activities in furtherance of the purposes for which it was

organized, in premises in which, as part of those activities, it operates a hotel, occupancy of rooms in the premises and rents from those rooms received by the organization shall not be subject to tax under the "Sales and Use Tax Act."

(f) (1) Except as provided in paragraph (2) of this subsection, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

(A) an organization described in paragraph (1) of subsection (a) or subsection (b) of this section;

(B) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions; or

(C) (Deleted by amendment, P.L.1999, c.416).

(D) a police or fire department of a political subdivision of the State, or a volunteer fire company, ambulance, first aid, or emergency company or squad, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under paragraph (1) of this subsection shall not apply in the case of admissions to:

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in subsection (b) of this section;

(B) Carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation;

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

(A) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same; provided the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(B) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens; provided

no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(C) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

11. Section 12 of P.L.1966, c.30 (C.54:32B-12) is amended to read as follows:

**C.54:32B-12 Collection of tax from customer.**

12. (a) Every person required to collect the tax shall collect the tax from the customer when collecting the price, service charge, amusement charge or rent to which it applies. If the customer is given any sales slip, invoice, receipt or other statement or memorandum of the price, service charge, amusement charge or rent paid or payable, the tax shall be stated, charged and shown separately on the first of such documents given to him. The tax shall be paid to the person required to collect it as trustee for and on account of the State.

(b) For the purpose of the proper administration of this act and to prevent evasion of the tax hereby imposed, and subject to the rules regarding the administration of exemptions authorized by the Streamlined Sales and Use Tax Agreement, it shall be presumed that all receipts for property or services of any type mentioned in subsections (a), (b), (c), and (f) of section 3, all rents for occupancy of the type mentioned in subsection (d) of said section, all amusement charges of any type mentioned in subsection (e) of said section, all charges in the nature of initiation fees, membership fees or dues mentioned in subsection (h) of said section, and all receipts from parking, storing or garaging a motor vehicle mentioned in subsection (i) of said section are subject to tax until the contrary is established, and the burden of proving that any such receipt, charge or rent is not taxable hereunder shall be upon the person required to collect tax or the customer. Unless a seller shall have taken from the purchaser a certificate, signed by the purchaser if in paper form, and bearing the purchaser's name and address and the number of the purchaser's registration certificate, to the effect that the property or service was purchased for resale or was otherwise exempt pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or the purchaser, prior to taking delivery, furnishes to the seller any affidavit, statement or additional evidence, documentary or otherwise,

which the director may require demonstrating that the purchaser is an exempt organization described in section 9(b)(1), the sale shall be deemed a taxable retail sale. Provided however, the director may, in the director's discretion, authorize a purchaser, who acquires tangible personal property, specified digital products or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property, specified digital products or services will be used, to pay the tax directly to the director and waive the collection of the tax by the seller or provide for direct pay authority under rules adopted under the Streamlined Sales and Use Tax Agreement. Provided further, the director shall authorize any eligible person, as defined in section 34 of P.L.1997, c.162 (C.54:32B-14.1), who purchases natural gas from a non-utility on and after January 1, 1998 through December 31, 2002, to pay the tax on the commodity directly to the director and waive the collection of the tax by the seller. No such authority shall be granted or exercised except upon application to the director, and the issuance by the director of a direct payment permit. If a direct payment permit is granted, its use shall be subject to conditions specified by the director, and the payment of tax on all acquisitions pursuant to the permit shall be made directly to the director by the permit holder.

(c) The director may provide by regulation that the tax upon receipts from sales on the installment plan may be paid on the amount of each installment and upon the date when such installment is due. He may also provide by regulation for the exclusion from taxable receipts, amusement charges or rents of amounts subject, as applicable, to the provisions of section 30 of P.L.2005, c.126 (C.54:32B-12.1), representing sales where the contract of sale has been canceled, the property returned or the receipt, charge or rent has been ascertained to be uncollectible or, in the case the tax has been paid upon such receipt, charge or rent, for refund or credit of the tax so paid.

12. Section 14 of P.L.1966, c.30 (C.54:32B-14) is amended to read as follows:

**C.54:32B-14 Liability for tax.**

14. (a) Every person required to collect any tax imposed by this act shall be personally liable for the tax imposed, collected or required to be collected under this act. Any such person shall have the same right in respect to collecting the tax from that person's customer or in respect to non-payment of the tax by the customer as if the tax were a part of the purchase

price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided, however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

(b) Where any customer has failed to pay a tax imposed by this act to the person required to collect the same, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the customer directly to the director and it shall be the duty of the customer to file a return with the director and to pay the tax to the director within 20 days of the date the tax was required to be paid.

(c) The director may, whenever the director deems it necessary for the proper enforcement of this act, provide by regulation that customers shall file returns and pay directly to the director any tax herein imposed, at such times as returns are required to be filed and payment over made by persons required to collect the tax.

(d) No person required to collect any tax imposed by this act shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax is not considered as an element in the price, amusement charge or rent payable by the customer, or except as provided by subsection (f) of this section that the person required to collect the tax will pay the tax, that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer. Upon written application duly made and proof duly presented to the satisfaction of the director showing that in the particular business of the person required to collect the tax it would be impractical for the seller to separately charge the tax to the customer, the director may waive the application of the requirement herein as to such seller.

(e) All sellers of energy or utility service shall include the tax imposed by the "Sales and Use Tax Act" within the purchase price of the tangible personal property or service.

(f) A seller other than a seller subject to subsection (e) of this section making retail sales of tangible personal property or sales of services may advertise that the seller will pay the tax for the customer subject to the conditions of this subsection.

(1) The advertising shall indicate that the seller is, in fact, paying the tax for the customer and shall not indicate or imply that the sale or charge is exempt from taxation.

(2) Notwithstanding the provisions of section 12 of P.L.1966, c.30 (C.54:32B-12) to the contrary, any sales slip, invoice, receipt or other statement or memorandum of the price or service charge paid or payable given to the customer shall state that the tax will be paid by the seller; pro-

vided however that such record shall be otherwise subject to the provisions of section 12 of P.L.1966, c.30 (C.54:32B-12).

(3) The seller shall pay the amount of tax due on the retail sale or service receipt, as determined pursuant to section 4 of P.L.1966, c.30 (C.54:32B-4), as trustee for and on account of the State, and shall have the same liability for that amount of tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), as for an amount collected from a customer.

(g) No person required to collect any tax imposed by this act shall be held liable for having charged and collected the incorrect amount of sales and use tax by reason of reliance on erroneous data provided by the director with respect to tax rates, boundaries or taxing jurisdiction assignments or contained in the taxability matrix.

(h) In connection with a purchaser's request from a seller of over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller: (1) uses either a provider or a system, including a proprietary system, that is certified by the State; and (2) has remitted to the State all taxes collected less any deductions, credits, or collection allowances.

(i) No purchaser shall be held liable for any tax, interest or penalty for failure to pay the correct amount of tax by reason of:

(1) the reliance of the purchaser's seller or certified service provider on erroneous data provided by the director with respect to tax rates, boundaries or taxing jurisdiction assignments or contained in the taxability matrix;

(2) the reliance of the purchaser holding a direct pay permit on erroneous data provided by the director with respect to tax rates, boundaries or taxing jurisdiction assignments or contained in the taxability matrix;

(3) the reliance of the purchaser on erroneous data provided by the director with respect to the taxability matrix; or

(4) the reliance of a purchaser using databases of taxing jurisdiction assignments on erroneous data provided by the director with respect to tax rates, boundaries or taxing jurisdiction assignments, provided however that, to the extent that the director provides or certifies an address-based database for assigning tax rates and jurisdictions and upon appropriate notice, no relief from liability shall be allowed for errors resulting from reliance on a zip code database for assigning tax rates and jurisdictions.

Provided however, that as to the relief from liability for tax, the relief from liability for tax by reason of reliance on the taxability matrix shall be limited to the director's erroneous classification in the taxability matrix of terms "taxable" or "exempt," "included in sales price" or "excluded from

sales price" or "included in the definition" or "excluded from the definition."

(j) If the director provides less than 30 days between the date a rate change is enacted and the date that change takes effect, the director shall relieve the seller of liability for failing to collect tax at the new rate if: (1) the seller collected tax at the immediately preceding effective rate; and (2) the seller's failure to collect tax at the newly effective rate does not extend more than 30 days after the date of enactment of the new rate.

(k) Notwithstanding the provisions of subsection (j) of this section, if the director establishes that a seller fraudulently failed to collect tax due at the new rate or solicits purchasers based on the immediately preceding effective tax rate, this relief from liability shall not apply.

13. Section 15 of P.L.1966, c.30 (C.54:32B-15) is amended to read as follows:

**C.54:32B-15 Certificate of registration; streamlined methods.**

15. (a) On or before June 20, 1966, or in the case of persons commencing business or opening new places of business after such date, within three days after such commencement or opening, every person required to collect any tax imposed by this act and every person purchasing tangible personal property or a specified digital product for resale shall file with the director a certificate of registration in a form prescribed by the director. In the case of a person commencing business or opening a new place of business on or after the first day of the third month following the enactment of P.L.1993, c.274 (C.40:52-1.3 et al.), the certificate shall be filed at least 15 business days before the commencement or opening. The director shall within five days after such registration issue, without charge, to each registrant a certificate of authority empowering the registrant to collect the tax and a duplicate thereof for each additional place of business of such registrant. Each certificate or duplicate shall state the place of business to which it is applicable. Such certificate of authority shall be prominently displayed in the place of business of the registrant. A registrant who has no regular place of doing business shall attach such certificate to his cart, stand, truck or other merchandising device. Such certificates shall be nonassignable and non-transferable and shall be surrendered to the director immediately upon the registrant's ceasing to do business at the place named.

(b) Any person who is not otherwise required to collect any tax imposed by this act and who makes sales to persons within the State of tangible personal property, specified digital products or services, the use of

which is subject to tax under this act, may if he so elects file a certificate of registration with the director who may, in his discretion and subject to such conditions as he may impose, issue to him a certificate of authority to collect the compensating use tax imposed by this act.

(c) A seller that registers to pay or collect and remit sales or use tax in accordance with the terms of the Streamlined Sales and Use Tax Agreement may select one of the following methods of remittance or other method allowed by State law to remit the taxes collected, subject to the liabilities and conditions established pursuant to section 10 of P.L.2001, c.431 (C.54:32B-53):

(1) a model 1 seller, that selects a certified service provider as an agent to perform all the seller's sales or use tax functions, other than the seller's obligation to remit tax on its own purchases;

(2) a model 2 seller, that selects a certified automated system to use which calculates the amount of tax due on a transaction; or

(3) a model 3 seller, that uses its own proprietary automated sales tax system that has been certified as a certified automated system.

(d) A certified service provider in model 1 shall be allowed a monetary allowance in accordance with the terms of the contract that the states participating in the Streamlined Sales and Use Tax Agreement sign with the provider. The director shall prescribe the allowance in accordance with the terms of the contract, which shall be funded entirely from money collected in model 1.

A monetary allowance to a certified service provider may be based on one or more of the following incentives:

(1) A base rate that applies to taxable transactions processed by the provider.

(2) For a period not to exceed 24 months following a voluntary seller's registration through the Streamlined Sales and Use Tax Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

(e) A model 2 seller shall be allowed a monetary allowance which the director shall prescribe in accordance with the terms arrived at by the member states of the Streamlined Sales and Use Tax Agreement. The member states initially anticipate that they will provide a monetary allowance to sellers under model 2 based on the following:

(1) Each seller shall receive a base rate for a period not to exceed 24 months following the commencement of participation by the seller.

(2) For a period not to exceed 24 months following a voluntary seller's registration through the Streamlined Sales and Use Tax Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

(f) A model 3 seller and all other sellers that are not under model 1 or model 2 shall be allowed a monetary allowance which the director shall prescribe in accordance with the terms arrived at by the member states of the Streamlined Sales and Use Tax Agreement. The member states initially anticipate that they will provide a monetary allowance to sellers under model 3 and to all other sellers that are not under model 1 or 2 will be based on the following: for a period not to exceed 24 months following a voluntary seller's registration through the Streamlined Sales and Use Tax Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

14. Section 17 of P.L.1966, c.30 (C.54:32B-17) is amended to read as follows:

**C.54:32B-17 Returns; streamlined systems; amnesty.**

17. (a) Every person required to collect or pay tax under this act shall on or before August 28, 1966, and on or before the twentieth day of each month thereafter, make and file a return for the preceding month with the director. The return of a seller of tangible personal property, specified digital products or services shall show his receipts from sales and also the aggregate value of tangible personal property, specified digital products and services sold by him, the use of which is subject to tax under this act, and the amount of taxes required to be collected with respect to such sales and use. The return of a recipient of amusement charges shall show all such charges and the amount of tax thereon, and the return of a person required to collect tax on leases or rentals shall show all lease or rental payments received or charged and the amount of tax thereon. The return of a recipient of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization shall show all such charges and the amount of tax thereon. The return of the recipient of charges from parking, storing or garaging a motor vehicle shall show all such charges and the amount of tax thereon.

(b) The director may permit or require returns to be made covering other periods and upon such dates as he may specify. In addition, the direc-

tor may require payments of tax liability at such intervals and based upon such classifications as he may designate. In prescribing such other periods to be covered by the return or intervals or classifications for payment of tax liability, the director may take into account the dollar volume of tax involved as well as the need for insuring the prompt and orderly collection of the taxes imposed.

(c) The form of returns shall be prescribed by the director and shall contain such information as he may deem necessary for the proper administration of this act. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(d) Pursuant to the Streamlined Sales and Use Tax Agreement, the director is authorized to accept certified automated systems and certified service providers to aid in the administration of the collection of the tax imposed under the "Sales and Use Tax Act".

(e) Subject to the limitations of this subsection and other provisions of the "Sales and Use Tax Act":

(1) In addition to the powers of the director prescribed pursuant to section 24 of P.L.1966, c.30 (C.54:32B-24) and the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., and notwithstanding the provisions of any other law to the contrary, the director shall grant "amnesty" for uncollected or unpaid sales or use tax to a seller that registers to collect and remit applicable sales or use tax on sales made to purchasers in this State in accordance with the terms of the Streamlined Sales and Use Tax Agreement, provided that the seller was not so registered in this State in the twelve-month period preceding the commencement of this State's participation in the agreement.

(2) Under terms of the "amnesty" granted pursuant to paragraph (1) of this subsection, a seller that registers shall not be assessed for uncollected or unpaid sales or use tax and shall not be assessed penalties or interest for sales made during the period the seller was not registered in this State, provided that the seller registers pursuant to paragraph (1) of this subsection within twelve months of the effective date of this State's participation in the Streamlined Sales and Use Tax Agreement.

(3) The limitations on deficiency assessments, penalties and interest pursuant to paragraph (2) of this subsection shall not be available to a seller with respect to any matter for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes.

(4) The limitations on deficiency assessments, penalties and interest pursuant to paragraph (2) of this subsection shall not be available for sales or use taxes already paid or remitted to the State or to taxes already collected by the seller.

(5) The "amnesty" limitations on deficiency assessments, penalties and interest pursuant to paragraph (2) of this subsection shall be in full effect and the director shall not assess deficiencies for uncollected or unpaid sales or use tax and shall not assess penalties or interest for sales made during the period the seller was not registered in this State so long as the seller continues registration and continues collection and remittance of applicable sales or use taxes for a period of at least 36 months; provided however that the director may make such assessments by reason of the seller's fraud or intentional misrepresentation of a material fact. The statutes of limitations applicable to asserting tax liabilities, deficiencies, penalties and interest are tolled for this 36-month period.

(6) The "amnesty" granted pursuant to paragraph (1) of this subsection shall apply only to sales or use taxes due from a seller in its capacity as a seller and shall not apply to sales or use taxes due from a seller in its capacity as a buyer.

15. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to read as follows:

**C.52:27H-80 Sales tax exemption for retail sales.**

21. Receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages as defined in the "Alcoholic Beverage Tax Law," R.S.54:41-1 et seq., of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), of manufacturing machinery, equipment or apparatus, and of energy, made by a certified seller from a place of business owned or leased and regularly operated by the seller for the purpose of making retail sales, and located in a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2), are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

Any seller, which is a qualified business having a place of business located in a designated enterprise zone or in a designated UEZ-impacted business district, may apply to the Director of the Division of Taxation in the Department of the Treasury for certification pursuant to this section.

The director shall certify a seller if the director shall find that the seller owns or leases and regularly operates a place of business located in the designated enterprise zone or in the designated UEZ-impacted business district for the purpose of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue or mail order sales. The certification under this section shall remain in effect during the time the business retains its status as a qualified business meeting the eligibility criteria of section 27 of P.L.1983, c.303 (C.52:27H-86). However, the director may at any time revoke a certification granted pursuant to this section if the director shall determine that the seller no longer complies with the provisions of this section.

Notwithstanding the provisions of this act to the contrary, except as may otherwise be provided by section 7 of P.L.1983, c.303 (C.52:27H-66), the authority may, in its discretion, determine if the provisions of this section shall apply to any enterprise zone designated after the effective date of P.L.1985, c.142 (C.52:27H-66 et al.); provided, however, that the authority may make such a determination only where the authority finds that the award of an exemption of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any adverse economic impact upon any other urban enterprise zone.

Notwithstanding any other provisions of law to the contrary, except as provided in subsection b. of section 6 of P.L.1996, c.124 (C.13:1E-116.6), after first depositing 10 percent of the gross amount of all revenues received from the taxation of retail sales made by certified sellers from business locations in designated enterprise zones to which this exemption shall apply into the account created in the name of the authority in the enterprise zone assistance fund pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88), the remaining 90 percent shall be deposited immediately upon collection by the Department of the Treasury, as follows:

- a. In the first five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, all such revenues shall be deposited in the enterprise zone assistance fund created pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88);
- b. In the second five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 66 2/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 33 1/3% shall be deposited in the General Fund;
- c. In the third five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 33 1/3% of all those

revenues shall be deposited in the enterprise zone assistance fund, and 66 2/3% shall be deposited in the General Fund;

d. In the final five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, but not to exceed the life of the enterprise zone, all those revenues shall be deposited in the General Fund.

Commencing on the effective date of P.L.1993, c.144, all revenues in any enterprise zone to which the provisions of this section have been extended prior to the enactment of P.L.1993, c.144 shall be deposited into the enterprise zone assistance fund until there shall have been deposited all revenues into that fund for a total of five full years, as set forth in subsection a. of this section. The State Treasurer then shall proceed to deposit funds into the enterprise zone assistance fund according to the schedule set forth in subsections b. through d. of this section, beginning at the point where the enterprise zone was located on that schedule on the effective date of P.L.1993, c.144. No enterprise zone shall receive the deposit benefit granted by any one subsection of this section for more than five cumulative years.

The revenues required to be deposited in the enterprise zone assistance fund under this section shall be used for the purposes of that fund and for the uses prescribed in section 29 of P.L.1983, c.303 (C.52:27H-88), subject to annual appropriations being made for those purposes and uses.

16. This act shall take effect immediately; provided however, that sections 1 through 15 shall remain inoperative until the first day of the first month next following the date of enactment.

Approved April 8, 2011.

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## CHAPTER 50

AN ACT concerning standardbred horse racing and amending various parts of the statutory law.

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

1. Section 30 of P.L.2001, c.199 (C.5:5-156) is amended to read as follows:

**C.5:5-156 Scheduling of race dates, minimum required.**

30. a. The permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack together shall schedule (1) no fewer than 120 thoroughbred race dates in the aggregate in each of calendar years 2004 through 2007; (2) no fewer than 141 thoroughbred race dates in the aggregate in each of calendar years 2008 through 2016, except that in calendar year 2010 the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack may schedule no fewer than 71 race dates in the aggregate and all to take place at Monmouth Park; and (3) beginning in calendar year 2017 and in each calendar year thereafter, no fewer than 141 thoroughbred race dates in the aggregate, provided that in calendar year 2017 and in each calendar year thereafter the permit holders may schedule fewer than 141 thoroughbred race dates in the aggregate if the commission determines, upon application by the permit holders, that scheduling fewer dates in that calendar year is in the best interest of the racing industry and the State. In making its determination, the commission shall consider all factors, including, but not limited to, handle, number of starters, interstate competition, and export marketability. Notwithstanding the foregoing in (3), in no calendar year shall the permit holders schedule, in the aggregate, fewer than 120 thoroughbred race dates.

b. The standardbred permit holder at Meadowlands Racetrack shall schedule annually no fewer than 151 standardbred race dates, except that the standardbred permit holder may decrease the annual number of scheduled standardbred race dates to no fewer than 75 standardbred race dates upon written consent from the Standardbred Breeders' and Owners' Association of New Jersey.

c. The permit holders at Freehold Raceway shall schedule annually no fewer than 192 standardbred race dates, except that the permit holders may decrease the annual number of scheduled race dates to no fewer than 75 standardbred race dates upon written consent from the Standardbred Breeders' and Owners' Association of New Jersey.

d. Notwithstanding subsection a. of this section, the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack may schedule 120 thoroughbred race dates in the aggregate in each calendar year from 2004 through 2007 only if the thoroughbred permit holder at Meadowlands Racetrack or the permit holder at Monmouth Park guarantee in each calendar year from 2004 through 2007 at least \$4,200,000 in thoroughbred stakes at Meadowlands Racetrack and Monmouth Park, and guarantee the average daily overnight purses for thoroughbred race meetings at the following levels: (1) at least \$300,000 at

Meadowlands Racetrack in each calendar year from 2004 through 2007; (2) for the traditional meet at Monmouth Park, at least \$320,000 in calendar year 2004, at least \$325,000 in calendar year 2005, at least \$330,000 in calendar year 2006 and at least \$335,000 in calendar year 2007; and (3) for the 18-day supplemental meet at Monmouth Park, at least \$300,000 in each calendar year from 2004 through 2006. In any calendar year from 2004 through 2007 in which the permit holder at the Meadowlands Racetrack or the permit holder at Monmouth Park, as appropriate, fails to guarantee the required minimum for thoroughbred stakes or the required minimum in average in daily overnight purses pursuant to this subsection, the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack together shall schedule no fewer than 141 thoroughbred race dates in the aggregate in that calendar year.

2. Section 27 of P.L.2001, c.199 (C.5:5-153) is amended to read as follows:

**C.5:5-153 "New Jersey Racing Industry Special Fund."**

27. The commission shall establish and administer a separate fund to be known as the "New Jersey Racing Industry Special Fund" into which shall be deposited the sums dedicated to the fund by sections 19, 21 and 25 of this act. Money deposited in this special fund shall be disbursed monthly by the commission and used as follows:

a. 92% shall be distributed as follows:

(1) in the case of money deposited into the special fund from the off-track wagering facility located on the former site of the Atlantic City Race Course, or, if no off-track wagering facility exists on that former site, the off-track wagering facility located closest to that former site, 100% to permit holders conducting thoroughbred racing;

(2) except as provided in paragraph (1), 65% to permit holders conducting thoroughbred racing and 35% to permit holders conducting harness racing;

Of the allocations made pursuant to this subsection to permit holders conducting thoroughbred racing, specific distributions shall be made to the overnight thoroughbred purse account of each permit holder and for programs designed to aid the thoroughbred horsemen and the New Jersey Thoroughbred Horseman's Association. Expenditures for programs designed to aid the thoroughbred horsemen and the New Jersey Thoroughbred Horseman's Association shall not exceed 2.9% of such allocations. Distribution among thoroughbred permit holders shall be based on the following

formula: total overnight thoroughbred purse distribution for each permit holder in the prior calendar year divided by the total overnight thoroughbred purse distribution of all permit holders in the prior calendar year.

Of the allocations made pursuant to this subsection to permit holders conducting standardbred racing, specific distributions shall be made to the overnight standardbred purse account of each permit holder and for programs designed to aid the standardbred horsemen and the Standardbred Breeders' and Owners' Association of New Jersey. Expenditures for programs designed to aid the standardbred horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 5% of such allocations. Distribution among standardbred permit holders shall be based on the following formula: total overnight standardbred purse distribution for each permit holder in the prior calendar year divided by the total overnight standardbred purse distribution of all permit holders in the prior calendar year.

b. 8% shall be distributed as follows:

(1) in the case of money deposited into the special fund from the off-track wagering facility located on the former site of the Atlantic City Race Course, or, if no off-track wagering facility exists on that former site, the off-track wagering facility located closest to that former site, 100% to thoroughbred funds; and

(2) except as provided in paragraph (1), 65% to thoroughbred funds and 35% to harness funds.

Of the amounts distributed to thoroughbred funds pursuant to this subsection, the following distributions shall apply: 94% to Thoroughbred Breeders and Stallions; 3% to Backstretch Benevolency; and 3% to Breeding and Development.

Of the amount distributed to harness funds pursuant to this subsection, the following distributions shall apply: 75% to Sire Stakes; 8% to Breeders and Stallions; 3.5% to Backstretch Benevolency; 10% to Health and Welfare; and 3.5% to Breeding and Development.

3. Section 7 of P.L.1971, c.137 (C.5:10-7) is amended to read as follows:

**C.5:10-7 Application for permit.**

7. a. The authority or a lessee of the authority is hereby authorized, licensed and empowered to apply to the Racing Commission for a permit or permits to hold and conduct, at any of the projects set forth in paragraphs (1) and (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), horse

race meetings for stake, purse or reward, and to provide a place or places on the race meeting grounds or enclosure for wagering by patrons on the results of such horse races by the parimutuel system, and to receive charges and collect all revenues, receipts and other sums from the operation thereof and, in the case of the authority, the ownership thereof.

b. Except as otherwise provided in this section, such horse race meetings and parimutuel wagering shall be conducted by the authority or a lessee of the authority in the manner and subject to compliance with the standards set forth in P.L.1940, c.17 (C.5:5-22 et seq.) and the rules, regulations and conditions prescribed by the Racing Commission thereunder for the conduct of horse race meetings and for parimutuel betting at such meetings.

c. Application for said permit or permits shall be on such forms and shall include such accompanying data as the Racing Commission shall prescribe for other applicants. The Racing Commission shall proceed to review and act on any such application within 30 days after its filing and the Racing Commission is authorized in its sole discretion to determine whether a permit shall be granted to the authority or a lessee of the authority. If, after such review, the Racing Commission acts favorably on such application, a permit shall be granted to the authority or a lessee of the authority without any further approval and shall remain in force and effect so long as any bonds or notes of the authority remain outstanding, the provisions of any other law to the contrary notwithstanding. In granting a permit to the authority or a lessee of the authority to conduct a horse race meeting, the Racing Commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P.L.1940, c.17 (C.5:5-22 et seq.). Said permit shall set forth the dates to be allotted to the authority for its initial horse race meetings. Thereafter application for dates for horse race meetings by the authority or a lessee of the authority and the allotment thereof by the Racing Commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P.L.1940, c.17 (C.5:5-22 et seq.). Notwithstanding the provisions of any other law to the contrary, the Racing Commission shall allot annually to the authority or a lessee of the authority for the Meadowlands Complex, in the case of harness racing, not less than 100 racing days, and in the case of running racing, not less than 56 racing days, if and to the extent that application is made therefor.

d. No hearing, referendum or other election or proceeding, and no payment, surety or cash bond or other deposit, shall be required for the authority or a lessee of the authority to hold or conduct the horse race meetings with parimutuel wagering herein authorized.

e. The authority or a lessee of the authority shall determine the amount of the admission fee for the races and all matters relating to the collection thereof.

f. Distribution of sums deposited in parimutuel pools to winners thereof shall be in accordance with the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) pertaining thereto. The authority or a lessee of the authority shall make disposition of the deposits remaining undistributed as follows:

(1) In the case of harness races:

(a) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(i) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(ii) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(iii) 5 1/2% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(iv) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (iii) and (iv) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(b) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 5% of the sum available for distribution as purse

money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the authority or a lessee of the authority. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the authority or a lessee of the authority shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the authority or a lessee of the authority shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the authority or a lessee of the authority shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(c) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(2) In the case of running races:

(a) Hold and set aside in an account designated as a special trust account .05% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(b) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes

shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the authority or a lessee of the authority. Notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the authority or a lessee of the authority shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(c) Deduct and set aside in a special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66) for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .1% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .6%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (a) of this paragraph.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

Payment of the sums held and set aside pursuant to subparagraphs (a) and (c) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200

(C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), an amount equal to 1/2 of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after such distribution and payments shall constitute revenues of the authority or a lessee of the authority. Except as otherwise expressly provided in this section 7, the authority or a lessee of the authority shall not be required to make any payments to the Racing Commission or others in connection with contributions to parimutuel pools.

g. All sums held by the authority or a lessee of the authority for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within the time provided by law shall be paid upon the expiration of such time, without further obligation to such ticketholder, as follows:

(1) In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the Racing Commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

(2) In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46b.(1)(e) and section 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

(3) In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

h. No admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the authority or a lessee of the authority by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

i. Any horse race meeting and the parimutuel system of wagering upon the results of horse races held at such race meeting shall not under any circumstances, if conducted as provided in the act and in conformity thereto, be held or construed to be unlawful, other statutes of the State to the contrary notwithstanding.

j. Each employee of the authority or a lessee of the authority engaged in the conducting of horse race meetings shall obtain the appropriate license from the Racing Commission, subject to the same terms and conditions as is required of similar employees of other permitholders. The Racing Commission may suspend any member of the authority upon approval of the Governor and the license of any employee of the authority or a lessee of the

authority in connection with the conducting of horse race meetings, pending a hearing by the Racing Commission, for any violation of the New Jersey laws regulating horse racing or any rule or regulation of the commission. Such hearing shall be held and conducted in the manner provided in said laws.

4. This act shall take effect immediately.

Approved April 8, 2011.

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## CHAPTER 51

AN ACT concerning extended unemployment benefits and amending P.L.1970, c.324.

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

1. Section 5 of P.L.1970, c.324 (C.43:21-24.11) is amended to read as follows:

**C.43:21-24.11 Definitions.**

5. For the purposes of the extended benefit program and as used in this act, unless the context clearly requires otherwise:

a. "Extended benefit period" means a period which

(1) Begins with the third week after a week for which there is a state "on" indicator; and

(2) Ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is a state "off" indicator; or

(b) The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this State; and provided further, that no extended benefit period may become effective in this State prior to the effective date of this act.

b. (Deleted by amendment.)

c. (Deleted by amendment.)

d. There is a "state 'on' indicator" for this State for a week if:

(1) The division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of the respective week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the "unemployment compensation law" (R.S.43:21-1 et seq.):

(a) Equaled or exceeded 120% of the average of these rates for the corresponding 13-week period during each of the preceding 2 calendar years, and, for weeks beginning after September 25, 1982, equaled or exceeded 5%; or

(b) With respect to benefits for weeks of unemployment beginning after September 25, 1982, equaled or exceeded 6%; or

(2) With respect to any week of unemployment beginning after December 27, 2003 and before April 1, 2011 or after December 31, 2011, the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 6.5%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during either or both of the corresponding three-month periods ending in the two preceding calendar years; or

(3) With respect to any week of unemployment beginning after March 31, 2011 and ending before January 1, 2012, the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 6.5%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during any one of the corresponding three-month periods ending in the three preceding calendar years.

e. There is a "state 'off' indicator" for this State for a week if:

(1) The division determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of the respective week and the immediately preceding 12 weeks, paragraph (1) of subsection d. was not satisfied; and

(2) With respect to any week of unemployment beginning after December 27, 2003 and before April 1, 2011 or after December 31, 2011, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published, paragraph (2) of subsection d. was not satisfied.

f. "Rate of insured unemployment," for purposes of subsections d. and e. means the percentage derived by dividing

(1) The average weekly number of individuals filing claims for regular benefits in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the United States Secretary of Labor, by

(2) The average monthly covered employment for the specified period.

g. "Regular benefits" means benefits payable to an individual under the "unemployment compensation law" (R.S.43:21-1 et seq.) or under any other State law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. s.8501 et seq.) other than extended benefits.

h. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. s.8501 et seq.) payable to an individual under the provisions of this act for weeks of unemployment in his eligibility period.

i. "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within the extended benefit period, any weeks thereafter which begin in the period.

j. "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(1) Has received prior to the week, all of the regular benefits that were available to him under the "unemployment compensation law" (R.S. 43:21-1 et seq.) or any other State law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. s.8501 et seq.) in his current benefit year that includes such week, provided, that for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(2) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(3) (a) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(b) has not received and is not seeking unemployment benefits under the Unemployment Compensation Law of Canada; but if he is seeking these benefits and the appropriate agency finally determines that he is not entitled to benefits under that law he is considered an exhaustee if the other provisions of this definition are met.

k. "State law" means the unemployment insurance law of any state approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1986, 26 U.S.C. s.3304.

1. "High unemployment period" means:

(1) Any period beginning after December 27, 2003 and before April 1, 2011 or after December 31, 2011 during which the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 8%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during either or both of the corresponding three-month periods ending in the two preceding calendar years: or

(2) Any period beginning after March 31, 2011, and ending before January 1, 2012, during which the average seasonally adjusted rate of total unemployment in the State, as determined by the United States Secretary of Labor for the most recent three-month period for which data for all states are published:

(a) Equals or exceeds 8%; and

(b) Equals or exceeds 110% of the average seasonally adjusted rate of total unemployment in the State during any one of the corresponding three-month periods ending in the three preceding calendar years.

2. This act shall take effect immediately.

Approved April 20, 2011.

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## CHAPTER 52

AN ACT concerning compliance by public employers with the requirements for the State-administered retirement systems and supplementing chapter 3C of Title 43 of the Revised Statutes.

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

**C.43:3C-15 State-administered pension systems, requirements for employers.**

1. The boards of trustees of the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq., the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.), and the State Police Retirement System, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.), and the State House Commission in the case of the Judicial Retirement System, established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), shall require a certifying officer to complete training on eligibility for enrollment in the pension fund or retirement system in accordance with the provisions of the laws governing those funds or systems and the rules or regulations promulgated thereto. The Division of Pensions and Benefits shall develop, and the respective board or commission shall approve, the form and content of the training and each board or commission shall determine when a certifying officer shall complete the training. Each board or commission may require the training to include such additional pension fund or retirement system matters as it deems necessary to ensure compliance. The training shall be provided through the Internet and shall be accessible from the official Internet site of the State. A certifying officer required to complete the training shall submit to the division an acknowledgement of such completion in the manner required by the division.

Each board of trustees or commission shall require a certifying officer and the officer's immediate supervisor to certify in writing or electronically, at the time of an enrollment of a member and annually for each member of the retirement system, that the person enrolled is eligible for enrollment in the pension fund or retirement system in accordance with the relevant law and the rules or regulations promulgated thereto. The certification shall require the certifying officer and the officer's immediate supervisor to acknowledge that any person who knowingly makes a false statement, or falsifies or permits to be falsified any record, application, form, or report of a pension fund or retirement system, in an attempt to defraud the fund or system as a result of such act shall be guilty of a crime of the fourth degree. Each board or commission may require a similar certification for any other record, application, form, or report as it may deem necessary to ensure compliance.

As used in this section, "certifying officer" means an officer or employee of the State or an employer other than the State who is responsible for submitting to a pension fund or retirement system such information, and for performing the duties relating to matters concerning the pension fund or

retirement system with respect to each of the employees of the employer, as required of the employer by law and the rules or regulations promulgated thereto, and by the division and the board of trustees or the State House Commission, as appropriate.

2. This act shall take effect on the 60th day following enactment, but the boards of trustees of the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund, the Police and Firemen's Retirement System, the State Police Retirement System, and the State House Commission, and the Division of Pensions and Benefits in the Department of the Treasury may take such anticipatory administrative action as may be necessary to implement the provisions of this act.

Approved April 20, 2011.

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## CHAPTER 53

AN ACT concerning the reporting of certain wounds and injuries by hospitals, amending N.J.S.2C:58-8, and supplementing Title 2C of the New Jersey Statutes.

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

1. N.J.S.2C:58-8 is amended to read as follows:

**Certain wounds and injuries to be reported.**

2C:58-8. Certain Wounds and Injuries to be Reported. a. Every case of a wound, burn or any other injury arising from or caused by a firearm, destructive device, explosive or weapon shall be reported at once to the law enforcement agency of the municipality where the person reporting is located and to the Division of State Police by the physician consulted, attending or treating the case or the administrator or administrator's designee, whenever such case is presented for treatment or treated in a general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

This subsection shall not, however, apply to wounds, burns or injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

b. Every case which contains the criteria defined in this subsection shall be reported at once to the law enforcement agency of the municipality

where the person reporting is located, or to the Division of State Police, by the physician consulted, attending, or treating the injury, or by the administrator or administrator's designee, whenever such case is presented for treatment or treated in a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or an office where medical care is provided. This subsection shall not apply to injuries received by a member of the armed forces of the United States or the State of New Jersey while engaged in the actual performance of duty.

The defined criteria shall consist of a flame burn injury accompanied by one or more of the following factors:

(1) A fire accelerant was used in the incident causing the injury and the presence of an accelerant creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.

(2) Treatment for the injury was sought after an unreasonable delay of time.

(3) Changes or discrepancies in the account of the patient or accompanying person concerning the cause of the injury which creates a reasonable suspicion that the patient committed arson in violation of N.J.S.2C:17-1.

(4) Voluntary statement by the patient or accompanying person that the patient was injured during the commission of arson in violation of N.J.S.2C:17-1.

(5) Voluntary statement by the patient or accompanying person that the patient was injured during a suicide attempt or the commission of criminal homicide in violation of N.J.S.2C:11-1.

(6) Voluntary statement by the patient or accompanying person that the patient has exhibited fire setting behavior prior to the injury or has received counseling for such behavior.

(7) Any other factor determined by the bureau of fire safety in the Department of Community Affairs from information in the burn patient arson registry established under section 4 of P.L.1991, c.433 (C.52:27D-25d3) to typify a patient whose injuries were caused during the commission of arson in violation of N.J.S.2C:17-1.

**C.2C:58-8.1 Rules, regulations.**

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

3. This act shall take effect on the first day of the fifth month after enactment, except that the Commissioner of Health and Senior Services and the Attorney General may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved April 20, 2011.

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#### CHAPTER 54

AN ACT designating March 13 of each year as “K9 Veterans Day.”

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

**C.36:2-173 “K9 Veterans Day,” March 13; designated.**

1. March 13 of each year is designated as “K9 Veterans Day” in the State of New Jersey. The Governor is requested to annually issue a proclamation calling upon public officials and the citizens of this State to observe the day with appropriate activities and programs.

2. This act shall take effect immediately.

Approved April 20, 2011.

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#### CHAPTER 55

AN ACT concerning Municipal Consolidation Study Commissions and amending P.L.2007, c.63.

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

1. Section 25 of P.L.2007, c.63 (C.40A:65-25) is amended to read as follows:

**C.40A:65-25 Findings, declarations relative to municipal consolidation.**

25. a. The Legislature finds and declares that in order to encourage municipalities to increase efficiency through municipal consolidation for the purpose of reducing expenses borne by their property taxpayers, more flexible options need to be available to the elected municipal officials and

voters than are available through the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).

b. (1) In lieu of the procedures set forth in the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), the governing bodies from two or more contiguous municipalities may apply to the board for either:

(a) approval of a plan to consolidate their municipalities; or

(b) creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section.

(2) A representative committee of registered voters from two or more contiguous municipalities may petition the board for the creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section. The petition, to be sufficient, shall be signed by the registered and qualified voters of the municipalities in a number at least equal to 10% of the total votes cast in those municipalities at the last preceding general election at which members of the General Assembly were elected. The board shall also accept a combination of applications from local governing bodies, pursuant to subparagraph (b) of paragraph (1) of this subsection, and petitions from representative committees of registered voters, pursuant to this paragraph, from two or more contiguous municipalities, requesting the creation of a Municipal Consolidation Study Commission; however, if each municipality submits an application from its governing body, any proposed consolidation plan shall be approved by voter referendum in each of the municipalities.

(3) The board shall provide application forms and technical assistance to any governing bodies or voters desiring to apply to the board for approval of a consolidation plan or the creation of a Municipal Consolidation Study Commission.

(4) A consolidation commission established pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) may apply to the Local Finance Board for approval to use the provisions of sections 25 through 29 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29).

c. An application to create a Municipal Consolidation Study Commission shall propose a process to study the feasibility of consolidating the participating municipalities into a single new municipality or merging one into the other. The application shall include provisions for:

(1) the means of selection and qualifications of study commissioners;

(2) the timeframe for the study, which shall be no more than three years, along with key events and deadlines, including time for review of the report by State agencies, which review shall be no less than three months;

(3) whether a preliminary report shall be issued in addition to the final report;

(4) whether the development of a consolidation implementation plan will be a part of the study;

(5) the means for any proposed consolidation plan to be approved; either by voter referendum, by the governing bodies, or both; and

(6) if proposed by a representative group of voters, justification of that group's standing to serve as the community advocate for the consolidation proposal.

d. (1) An application to the board for consideration of a consolidation plan or to create a Municipal Consolidation Study Commission shall be subject to a public hearing within each municipality to be studied, and a joint public hearing in a place that is easily accessible to the residents of both or all of the municipalities.

(2) The public hearings shall be facilitated by the board and conducted in accordance with the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

(3) After approval of a plan by the board, it may be amended upon petition to the board by the applicant. Based on the nature of the amendment, the board may decide to hold a public hearing in any of the municipalities affected by the plan, or at a regular meeting, or both.

e. Every Municipal Consolidation Study Commission shall include a representative of the Department of Community Affairs as a non-voting representative on the commission. The representative shall not be a resident of a municipality participating in the study. The department shall prepare an objective fiscal study of the fiscal aspects of a consolidation and shall provide it to the commission in a timely manner.

f. If the consolidation would include the consolidation of boards of education, a person appointed by the Commissioner of Education shall serve as a non-voting member of that Municipal Consolidation Study Commission. The representative of the Commissioner of Education shall not be a resident of a community participating in the study. The county superintendent of schools shall conduct a study on the impact of consolidation on the educational system and its finances. The report shall be provided to the commission in a timely manner.

g. There shall be no more than one of either a consolidation plan study, a Municipal Consolidation Study Commission, or a joint municipal consolidation created under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active in a single municipality at the same time. In the event that more than one application is filed with the board or

is being considered by the governing bodies while another action affecting the same municipality or municipalities is under consideration, the board shall consider the applications and shall join any proposed creation of a joint municipal consolidation together and approve only one action as the board deems to be in the public interest. Prior to approving a single action, the board shall hold a public hearing permitting all parties to present testimony on the merits of their action in relation to the other proposals. Once an action is approved by the board, another action from the same combination of municipalities shall not be approved for at least five years.

h. In considering its decisions under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), the Local Finance Board and any other State agency shall take into account local conditions, the reasonableness of proposed decisions, and the facilitation of the consolidation process in making decisions concerning consolidation.

2. This act shall take effect immediately.

Approved April 20, 2011.

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## CHAPTER 56

AN ACT concerning Junior Firemen's Auxiliaries and amending N.J.S.40A:14-98.

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

1. N.J.S.40A:14-98 is amended to read as follows:

**Rules, regulations governing Junior Firemen's Auxiliary.**

40A:14-98. a. The governing body of the municipality or the board of commissioners of the fire district shall, before authorizing the establishment of any Junior Firemen's Auxiliary, formulate rules and regulations to govern the activities of the auxiliary. The rules and regulations shall provide for the training of the auxiliary for eventual membership in the volunteer fire department of the municipality or fire district or in any such volunteer fire company or companies affording fire protection therein, and shall further provide that no junior fireman shall be required to perform duties which would expose him to the same degree of hazard as a regular member of a volunteer fire company.

b. If the governing body or board of commissioners, as the case may be, so provide in the rules and regulations governing the auxiliary, a junior fireman 16 years of age or older may perform non-hazardous support duties at a fire site; provided: (1) the junior fireman has been appropriately and adequately trained to perform the support duties; (2) the junior fireman is appropriately and adequately supervised in performing those support duties at the fire site; (3) the junior fireman's parent or guardian has provided written permission allowing the junior fireman to perform those support duties; and (4) the governing body or board of commissioners, as the case may be, provides insurance coverage for the junior fireman that is identical to that provided for the regular members of the volunteer fire department or fire district.

c. Activities of junior firemen under 16 years of age shall be limited to (1) attending meetings of the Junior Firemen's Auxiliary; (2) receiving instruction; (3) participating in training that does not involve fire, smoke, toxic or noxious gas, or hazardous materials or substances; and (4) observing firefighting activities, while under supervision.

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

Approved April 20, 2011.

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## CHAPTER 57

AN ACT concerning voluntary contributions through gross income tax returns to support the Boys and Girls Clubs in New Jersey, supplementing chapter 9 of Title 54A of the New Jersey Statutes.

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

**C.54A:9-25.28 "Boys and Girls Clubs in New Jersey Fund."**

1. a. There is established in the Department of the Treasury a special fund to be known as the "Boys and Girls Clubs in New Jersey Fund."

b. A taxpayer shall have the opportunity to indicate on the taxpayer's New Jersey gross income tax return that a portion of the taxpayer's tax refund or an enclosed contribution shall be deposited in the "Boys and Girls Clubs in New Jersey Fund."

c. Any costs incurred by the Division of Taxation for collection or administration attributable to this section may be deducted from receipts collected pursuant to this section, as determined by the Director of the Division of Budget and Accounting in the Department of the Treasury. The State Treasurer shall deposit net contributions collected pursuant to this section to the “Boys and Girls Clubs in New Jersey Fund.”

d. The Legislature shall annually appropriate all monies deposited in the “Boys and Girls Clubs in New Jersey Fund” established pursuant to this section to the Boys and Girls Clubs in New Jersey, Inc. for the purposes of supporting programs and services.

2. This act shall take effect immediately and apply to taxable years beginning on or after the January 1 following the date of enactment.

Approved April 20, 2011.

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## CHAPTER 58

AN ACT concerning the rights of residents of assisted living facilities and comprehensive personal care homes, and supplementing Title 26 of the Revised Statutes.

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

**C.26:2H-128 Rights of residents of assisted living facilities, comprehensive personal care homes.**

1. a. Each assisted living facility and comprehensive personal care home provider licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall distribute to each resident and post in a conspicuous, public place in the facility or home, as applicable, a statement of resident rights. The statement of rights shall include, at a minimum, the rights set forth in subsection b. of this section. Each resident, resident family member, and legally appointed guardian, as applicable, shall be informed of the resident rights, and provided with explanations if needed. The provider shall ensure that each resident, or the resident’s legally appointed guardian, as applicable, signs a copy of the statement of rights.

b. Every resident of an assisted living facility or comprehensive personal care home that is licensed in the State shall have the right to:

- (1) receive personalized services and care in accordance with the resident's individualized general service or health service plan;
- (2) receive a level of care and services that address the resident's changing physical and psychosocial status;
- (3) have his or her independence and individuality;
- (4) be treated with respect, courtesy, consideration and dignity;
- (5) make choices with respect to services and lifestyle;
- (6) privacy;
- (7) have or not to have families' and friends' participation in resident service planning and implementation;
- (8) receive pain management as needed, in accordance with Department of Health and Senior Services regulations;
- (9) choose a physician, advanced practice nurse, or physician assistant;
- (10) appeal an involuntary discharge as specified in department regulations;
- (11) receive written documentation that fee increases based on a higher level of care are based on reassessment of the resident and in accordance with department regulations;
- (12) receive a written explanation of fee increases that are not related to increased services, upon request by the resident;
- (13) participate, to the fullest extent that the resident is able, in planning his or her own medical treatment and care;
- (14) refuse medication and treatment after the resident has been informed, in language that the resident understands, of the possible consequences of this decision;
- (15) refuse to participate in experimental research, including the investigations of new drugs and medical devices, and to be included in experimental research only when the resident gives informed, written consent to such participation;
- (16) be free from physical and mental abuse and neglect;
- (17) be free from chemical and physical restraints, unless a physician, advanced practice nurse, or physician assistant authorizes the use for a limited period of time to protect the resident or others from injury. Under no circumstances shall a resident be confined in a locked room, or restrained, including with the use of excessive drugs, for punishment or for the convenience of staff;
- (18) manage the resident's own finances, and to delegate that responsibility to a family member, assigned guardian, facility administrator, or some other individual with power of attorney. The resident's authorization delegating such authority shall be witnessed and in writing;

(19) receive prior to or at the time of admission, and afterwards through addenda, an admission agreement that complies with all applicable State and federal laws, describes the services provided and the related charges, and includes the policies for payment of fees, deposits, and refunds;

(20) receive a quarterly written account of the resident's funds, the itemized property deposited with the facility for the resident's use and safe-keeping, and all financial transactions with the resident, next-of-kin, or guardian, which account shall show the amount of property in the account at the beginning and end of the accounting period, as well as a list of all deposits and withdrawals, substantiated by receipts given to the resident or the resident's guardian;

(21) have daily access during specified hours to the money and property that the resident has deposited with the facility, and to delegate, in writing, this right of access to a representative;

(22) live in safe and clean conditions that do not admit more residents than can safely be accommodated;

(23) not be arbitrarily and capriciously moved to a different bed or room;

(24) wear the resident's own clothes;

(25) keep and use the resident's personal property, unless doing so would be unsafe, impractical, or an infringement on the rights of other residents;

(26) reasonable opportunities for private and intimate physical and social interaction with other people, including the opportunity to share a room with another individual unless it is medically inadvisable;

(27) confidential treatment with regard to information about the resident, subject to the requirements of law;

(28) receive and send mail in unopened envelopes, unless the resident requests otherwise, and the right to request and receive assistance in reading and writing correspondence unless medically contraindicated;

(29) have a private telephone in the resident's living quarters at the resident's own expense;

(30) meet with any visitors of the resident's choice, at any time, in accordance with facility policies and procedures;

(31) take part in activities, and to meet with and participate in the activities of any social, religious, and community groups, as long as these activities do not disrupt the lives of other residents;

(32) refuse to perform services for the facility;

(33) request visits at any time by representatives of the religion of the resident's choice and, upon the resident's request, to attend outside religious services at the resident's own expense;

(34) participate in meals, recreation, and social activities without being subjected to discrimination based on age, race, religion, sex, marital status, nationality, or disability;

(35) organize and participate in a resident council that presents residents' concerns to the administrator of the facility;

(36) be transferred or discharged only in accordance with the terms of the admission agreement and with N.J.A.C.8:36-5.1(d);

(37) receive written notice at least 30 days in advance when the facility requests the resident's transfer or discharge, except in an emergency, which notice shall include the name and contact information for the New Jersey Office of the Ombudsman for the Institutionalized Elderly;

(38) receive a written statement of resident rights and any regulations established by the facility involving resident rights and responsibilities;

(39) retain and exercise all constitutional, civil and legal rights to which the resident is entitled by law;

(40) voice complaints without fear of interference, discharge, reprisal, and obtain contact information respecting government agencies to which residents can complain and ask questions, which information also shall be posted in a conspicuous place in the facility;

(41) hire a private caregiver or companion at the resident's expense and responsibility, as long as the caregiver or companion complies with the facility's policies and procedures; and

(42) obtain medications from a pharmacy of the resident's choosing, as long as the pharmacy complies with the facility's medication administration system, if applicable.

2. This act shall take effect on the 30th day after enactment.

Approved April 20, 2011.

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## CHAPTER 59

AN ACT modifying the allocation of the entire net income of corporation business taxpayers, amending and supplementing P.L.1945, c.162.

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

1. Section 6 of P.L.1945, c.162 (C.54:10A-6) is amended to read as follows:

**C.54:10A-6 Allocation factor.**

6. The portion of a taxpayer's entire net worth to be used as a measure of the tax imposed by subsection (a) of section 5 of P.L.1945, c.162 (C.54:10A-5), and the portion of its entire net income to be used as a measure of the tax imposed by subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5), shall be determined by multiplying such entire net worth and entire net income, respectively, by an allocation factor which is the property fraction, plus twice the sales fraction plus the payroll fraction and the denominator of which is four, and which, for privilege periods beginning on or after January 1, 2012, is the sum of the portions of the property fraction, the sales fraction, and the payroll fraction determined in accordance with the following schedule:

for privilege periods beginning on or after January 1, 2012 but before January 1, 2013, 15% of the property fraction plus 70% of the sales fraction plus 15% of the payroll fraction,

for privilege periods beginning on or after January 1, 2013 but before January 1, 2014, 5% of the property fraction plus 90% of the sales fraction plus 5% of the payroll fraction, and

for privilege periods beginning on or after January 1, 2014, 100% of the sales fraction,

except as the director may determine pursuant to section 8 of P.L.1945, c.162 (C.54:10A-8), that is:

(A) The property fraction is the average value of the taxpayer's real and tangible personal property within the State during the period covered by its report divided by the average value of all the taxpayer's real and tangible personal property wherever situated during such period; provided, however, that for the purpose of determining average value, the provisions with respect to depreciation as set forth in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving at such value.

(B) The sales fraction is the receipts of the taxpayer, computed on the cash or accrual basis according to the method of accounting used in the computation of its net income for federal tax purposes, arising during such period from

(1) sales of its tangible personal property located within this State at the time of the receipt of or appropriation to the orders where shipments are made to points within this State,

(2) sales of tangible personal property located without the State at the time of the receipt of or appropriation to the orders where shipment is made to points within the State,

(3) (Deleted by amendment.)

(4) services performed within the State,

(5) rentals from property situated, and royalties from the use of patents or copyrights, within the State,

(6) all other business receipts (excluding dividends excluded from entire net income by paragraph (1) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4)) earned within the State,

divided by the total amount of the taxpayer's receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties and all other business receipts, whether within or without the State.

(C) The payroll fraction is the total wages, salaries and other personal service compensation, similarly computed, during such period of officers and employees within the State divided by the total wages, salaries and other personal service compensation, similarly computed, during such period of all the taxpayer's officers and employees within and without the State.

In the case of a banking corporation which maintains a regular place of business outside this State other than a statutory office, and which elects to take the exclusion from net worth provided in subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the deduction from entire net income provided in paragraph (4) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), the allocation factor shall be computed and applied in accordance with section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that the numerators and the denominators of the fractions described in (A), (B) or (C) above shall include all amounts attributable, directly or indirectly, to the production of the eligible net income of an international banking facility as defined in paragraph (4) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), whether or not such amounts are otherwise attributable to this State.

**C.54:10A-6.3 Determination of sales fraction for airline.**

2. Notwithstanding the provisions of section 6 of P.L.1945, c.162 (C.54:10A-6), the sales fraction for the transportation revenues of a taxpayer that is an airline shall be determined as the ratio of revenue miles in this State divided by total revenue miles; provided however, that if a taxpayer that is an airline is engaged in the transportation of passengers, the transportation of freight, or the rental of aircraft, the ratio under this section shall be determined by means of an average of a passenger revenue mile fraction, freight revenue mile fraction, and rental revenue mile fraction

weighted to reflect the taxpayer's relative gross receipts from passenger transportation, freight transportation, and rentals.

3. This act shall take effect immediately; provided however, that section 2 shall apply to privilege periods beginning on or after January 1, 2012.

Approved April 28, 2011.

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## CHAPTER 60

AN ACT establishing the alternative business calculation under the gross income tax to permit the consolidation and carryforward of certain business-related losses, supplementing Title 54A of the New Jersey Statutes.

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

**C.54A:3-9 Alternative business calculation established.**

1. a. Notwithstanding the provisions of N.J.S.54A:5-1, for the purposes of the alternative business calculation pursuant to this section a taxpayer who sustains a net loss in one or more of the net categories of gross income determined pursuant to subsections b., d., k., and p. of N.J.S.54A:5-1 shall net that loss against any other gains or losses sustained in those categories of gross income and any loss carryforward allowed pursuant to subsection b. of this section to determine alternative business income or loss.

b. Notwithstanding the provisions of N.J.S.54A:5-2, a taxpayer who sustains an alternative business loss pursuant to the provisions of subsection a. of this section may carry that loss forward, if necessary and in accordance with the terms and conditions prescribed by the director, for application pursuant to the provisions of subsection a. of this section during each of the 20 taxable years following the alternative business loss' taxable year.

c. (1) A taxpayer shall calculate regular business income as the total of the subsection b., d., k., and p. categories of gross income determined pursuant to N.J.S.54A:5-1 in accordance with N.J.S.54A:5-2.

(2) A taxpayer shall subtract alternative business income from regular business income determined pursuant to paragraph (1) of this subsection to determine the business increment.

(3) For purposes of calculating a taxpayer's liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., a taxpayer shall adjust the taxpayer's taxable income pursuant to the following schedule:

For taxable years beginning in 2012, the taxpayer shall subtract from taxable income 10% of the business increment;

For taxable years beginning in 2013, the taxpayer shall subtract from taxable income 20% of the business increment;

For taxable years beginning in 2014, the taxpayer shall subtract from taxable income 30% of the business increment;

For taxable years beginning in 2015, the taxpayer shall subtract from taxable income 40% of the business increment.

For taxable years beginning in 2016 and thereafter, the taxpayer shall subtract from taxable income 50% of the business increment.

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2012.

Approved April 28, 2011.

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## CHAPTER 61

AN ACT providing for the study of high-volume, basic computing systems.

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

1. As used in this act:

"High-volume, basic computing system" or "HVBC system" means a designated network of computers, which in daily operation:

(1) supports or is capable of supporting more than ten million transactions per hour or is used to store more than one terabyte of State data; and

(2) is used for critical computing needs including, but not limited to, bulk data processing, resource planning, statistical generation, process monitoring and process modeling.

The term "HVBC system" also includes the applications, operating system and other support software, hardware add-ons, and maintenance services required by such a system.

"Office of Information Technology" or "office" means the office established by section 9 of P.L.2007, c.56 (C.52:18A-227).

"Overall value" with respect to an HVBC system, means and includes the total cost of ownership, the quality of hardware, the software or services to be delivered by contractors supporting the HVBC system, the respon-

siveness and account service record of contractors and contractors' willingness to share risk.

2. a. Notwithstanding any law, rule, regulation or order to the contrary, the Chief Technology Officer within the Office of Information Technology, shall conduct a study of high volume, basic computing ("HVBC") systems used by State departments and agencies to manage high-volume operations such as the processing of motor vehicle records, tax returns, employee benefits and similar categories of high volume account processing.

b. The study required pursuant to subsection a. of this section shall include, but not be limited to: (1) an examination by the Chief Technology Officer of the current use of, and reliance on, HVBC systems by State departments and agencies; (2) an analysis of the costs to the State of continuing to use and rely on such systems; and (3) an analysis of the potential savings from, and the potential consequences of, adopting other types of large scale computing systems that may be available in the marketplace as alternatives to continuing to employ the State's existing HVBC systems.

c. The study shall also include, but not be limited to, an analysis of:

(1) the nature of the operations currently supported by HVBC systems that are used by State departments and agencies and the need to conduct such operations in a reliable, secure, scalable and end-user friendly manner;

(2) the expenses associated with existing HVBC systems including employee costs, one-time charges, recurring charges and average maintenance charges attributable to the components of such systems;

(3) the extent of the State's reliance on non-State employees for system maintenance and support, and the feasibility of having those functions performed by either new or existing State employees;

(4) an assessment of the overall value of the existing HVBC systems to the State;

(5) the availability of alternative large scale computing systems in the marketplace that offer capacity and performance similar to the existing HVBC system used by the State;

(6) the costs of components for alternative large scale computing systems, based on good-faith cost estimates, similar to the components used in the State's existing HVBC system, if such components are generally available;

(7) the feasibility of having system maintenance and support functions performed by State employees for an alternative large scale computing system that is comparable to the State's existing HVBC system, if such a system is available; and

(8) whether alternative large scale computing systems that are available in the marketplace might provide the State with overall value comparable to, less than, or greater than the HVBC system currently used by the State.

d. After completing the study required by this section, the Chief Technology Officer shall submit a report of findings, recommendations and priorities to the Governor and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). In developing the report, the Chief Technology Officer shall: (1) solicit comment from those entities with an interest in either continuing to employ the existing HVBC system or switching to one or more of the alternative large scale computing systems that may be available; (2) incorporate into the report relevant, publicly available case studies; (3) compare the cost of operating alternative systems described in those case studies to the cost of supporting the State's existing HVBC system; (4) describe any limitations the State may be subject to in hiring, as State employees, HVBC system support engineers and technicians; and (5) describe the overall value of alternative large scale computing systems studied. The report shall be completed pursuant to this section and delivered no later than six months following the effective date of this act.

3. This act shall take effect immediately.

Approved May 4, 2011.

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## CHAPTER 62

AN ACT concerning membership on the Domestic Security Preparedness Task Force and amending P.L.2001, c.246.

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

1. Section 4 of P.L.2001, c.246 (C.App.A:9-67) is amended to read as follows:

**C.App.A:9-67 Domestic Security Preparedness Task Force.**

4. a. There is established in, but not of, the Department of Law and Public Safety the Domestic Security Preparedness Task Force, which shall provide Statewide coordination and supervision of all activities related to domestic preparedness for a terrorist attack. The task force shall be composed of 10 members: the Superintendent of State Police or his designee, the Attorney General

or his designee, the Adjutant General of Military and Veterans' Affairs or his designee, the Commissioner of Transportation or his designee, the Commissioner of Health and Senior Services or his designee, the Coordinator of the Office of Recovery and Victim Assistance, the Commissioner of Banking and Insurance, all of whom shall serve ex officio, and three public members appointed by the Governor, with the advice and consent of the Senate. One of the public members shall have, by education or expertise, experience in chemical or biological agents that may be used in acts of terrorism. The public members shall serve for terms of three years and shall be subject to such security screening as may be necessary or appropriate. Of the public members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years. The Governor shall appoint a chairperson from among the members of the task force, who shall serve in that position at the pleasure of the Governor. The chairperson shall act as the State's liaison with the federal Homeland Security Council. In the event the Governor shall appoint a public member as chairperson, that appointee shall be accorded cabinet status for the purposes of effectuating the purposes of this act. The task force shall adopt a plan of operation for the carrying out of its duties, which shall be approved by the Governor in accordance with the provisions of section 5 of this act.

b. The task force may appoint, in accordance with its plan of operation, such personnel, including attorneys, professionals in the field of terrorism and terrorism preparedness, disaster response, mitigation and recovery, and such other special consultants and experts as may be deemed necessary to carry out its duties under this act, as well as such clerical and other personnel as may be appropriate and necessary. All employees appointed pursuant to this section shall be in the unclassified service of the civil service of the State and shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

2. This act shall take effect immediately.

Approved May 4, 2011.

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## CHAPTER 63

AN ACT concerning orders of the Board of Public Utilities and amending R.S.48:2-40.

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

1. R.S.48:2-40 is amended to read as follows:

**Issuance of order; effective dates; service; posting on Internet; rehearing.**

48:2-40. a. A majority vote of the board shall be necessary to the issuance of an order.

b. After the effective date of P.L.2011, c.63, the board shall issue every order in written form. If a matter is an emergency that affects public health and safety, the board may issue a temporary order on the matter orally, but shall within 14 days thereafter issue the order as a written order that does not differ substantively from the oral order. Any board order issued orally may be made effective immediately, but, regardless of its effective date, if that order is not issued in written form within 14 calendar days thereafter, or the written order is substantively different from the oral order, the oral order shall be void and of no effect as of the 15th calendar day after its issuance.

c. The board shall issue any written order by filing a copy thereof with the board secretary. Every written order issued by the board shall be:

(1) served upon the person or public utility affected thereby within ten days from its filing by personally delivering or by mailing a certified copy thereof in a sealed package with postage prepaid to the person affected or to an officer or agent of the public utility upon whom a summons may be served; and

(2) posted upon the Internet website of the board.

d. All written orders of the board shall become effective upon service thereof or upon such dates after the service thereof as may be specified therein.

e. The board at any time may order a rehearing and extend, revoke or modify an order made by it.

2. This act shall take effect on the 30th day after the date of enactment, but the Board of Public Utilities may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved May 4, 2011.

## CHAPTER 64

AN ACT concerning dating violence policy and education in public school districts and supplementing chapter 35 and chapter 37 of Title 18A of the New Jersey Statutes.

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

**C.18A:37-33 Findings, declarations relative to dating violence policy and education.**

1. The Legislature finds and declares that: a safe and civil environment in school is necessary for students to learn and achieve high academic standards; a student who is a victim of dating violence suffers academically, and the student's safety at school is jeopardized; and since all students have a right to learn and study in a safe, supportive environment that is free from violence, each school district should have a policy to prevent, and for responding to, incidents of dating violence, and should provide dating violence education to students in order to prevent dating violence and address incidents involving dating violence.

**C.18A:37-34 Definitions relative to dating violence policy and education.**

2. As used in this act:

"At school" means in a classroom or anywhere on school property, on a school bus or other school-related vehicle, at an official school bus stop, or at any school-sponsored activity or event whether or not it is on school grounds.

"Dating partner" means any person involved in an intimate association with another individual that is primarily characterized by the expectation of affectionate involvement, whether casual, serious, or long-term.

"Dating violence" means a pattern of behavior where one person threatens to use, or actually uses physical, sexual, verbal, or emotional abuse to control a dating partner.

**C.18A:37-35 Task force to develop policy.**

3. a. The Department of Education shall establish a task force to develop a policy to address incidents of dating violence involving students at school. The task force shall include members who have expertise in issues relating to dating violence. The policy shall contain, at a minimum, the following components:

- (1) a statement that dating violence will not be tolerated;
- (2) dating violence reporting procedures;

- (3) guidelines for responding to at-school incidents of dating violence;
- (4) discipline procedures specific to at-school incidents of dating violence;
- (5) warning signs of dating violence; and
- (6) information on safe, appropriate school, family, peer, and community resources available to address dating violence.

b. Each school district shall implement either the policy developed by the department or a dating violence policy developed by the district. In the event that a district determines to develop its policy, the policy shall contain, at a minimum, the components required pursuant to paragraphs (1) through (6) of subsection a. of this section.

c. Notice of the policy implemented by the school district shall appear in any publication of the district that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the district, and in any student handbook.

**C.18A:37-36 Educational resources, recommendation, posting on website.**

4. The Department of Education shall recommend educational resources on dating violence and shall post these materials on its website.

**C.18A:37-37 Interpretation.**

5. The provisions of P.L.2011, c.64 (C.18A:37-33 et al.) shall not be interpreted to prevent a victim from seeking redress under any other available law, either civil or criminal, and does not create or alter any tort liability.

**C.18A:35-4.23a Dating violence education incorporated into health education curriculum.**

6. a. Beginning with the 2011-2012 school year, each school district shall incorporate dating violence education that is age appropriate into the health education curriculum as part of the district's implementation of the Core Curriculum Content Standards in Comprehensive Health and Physical Education for students in grades 7 through 12.

b. The dating violence education shall include, but not be limited to, information on the definition of dating violence, recognizing dating violence warning signs, and the characteristics of healthy relationships.

c. To assist school districts in developing a dating violence education program, the Department of Education shall recommend educational resources on dating violence.

d. Upon written request to the school principal, a parent or legal guardian of a student less than 18 years of age, shall be permitted within a reasonable period of time after the request is made, to examine the dating

violence education program instruction materials developed by the school district.

e. As used in this section:

“Dating partner” means any person involved in an intimate association with another individual that is primarily characterized by the expectation of affectionate involvement, whether casual, serious, or long-term.

“Dating violence” means a pattern of behavior where one person threatens to use, or actually uses physical, sexual, verbal, or emotional abuse to control a dating partner.

7. This act shall take effect immediately.

Approved May 4, 2011.

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## CHAPTER 65

AN ACT concerning municipal land use planning, and amending the "Municipal Land Use Law," P.L.1975, c.291.

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

1. Section 76 of P.L.1975, c.291 (C.40:55D-89) is amended to read as follows:

**C.40:55D-89 Periodic examination.**

76. Periodic examination. The governing body shall, at least every 10 years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination, a copy of which report and resolution shall be sent to the county planning board. A notice that the report and resolution have been prepared shall be sent to the municipal clerk of each adjoining municipality, who may, on behalf of the governing body of the municipality, request a copy of the report and resolution. A reexamination shall be completed at least once every 10 years from the previous reexamination.

The reexamination report shall state:

a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.

b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.

c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.

d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

2. This act shall take effect immediately.

Approved May 4, 2011.

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## CHAPTER 66

AN ACT concerning motor vehicle franchises and amending various parts of the statutory law and supplementing P.L.1971, c.356 (C.56:10-1 et seq.).

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

1. Section 2 of P.L.1989, c.24 (C.56:10-7.3) is amended to read as follows:

**C.56:10-7.3 Prohibited conditions, terms of franchise.**

2. a. It shall be a violation of the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.) for a motor vehicle franchisor to require a motor vehicle franchisee to agree to a term or condition in a franchise, or in any lease or agreement ancillary or collateral to a franchise, which:

(1) Requires the motor vehicle franchisee to waive trial by jury in actions involving the motor vehicle franchisor; or

(2) Specifies the jurisdictions, venues or tribunals in which disputes arising with respect to the franchise, lease or agreement shall or shall not be submitted for resolution or otherwise prohibits a motor vehicle franchisee from bringing an action in a particular forum otherwise available under the law of this State; or

(3) Requires that disputes between the motor vehicle franchisor and motor vehicle franchisee be submitted to arbitration or to any other binding alternate dispute resolution procedure; provided, however, that any franchise, lease or agreement may authorize the submission of a dispute to arbitration or to binding alternate dispute resolution if the motor vehicle franchisor and motor vehicle franchisee voluntarily agree to submit the dispute to arbitration or binding alternate dispute resolution at the time the dispute arises.

b. For the purposes of this section, it shall be presumed that a motor vehicle franchisee has been required to agree to a term or condition in violation of this section as a condition of the offer, grant or renewal of a franchise or of any lease or agreement ancillary or collateral to a franchise, if the motor vehicle franchisee, at the time of the offer, grant or renewal of the franchise, lease or agreement is not offered the option of an identical franchise, lease or agreement without the term or condition proscribed by this section.

c. In addition to any remedy provided in the "Franchise Practices Act," any term or condition included in a franchise, or in any lease or agreement ancillary or collateral to a franchise, in violation of this section may be revoked by the motor vehicle franchisee by written notice to the motor vehicle franchisor within 60 days of the motor vehicle franchisee's receipt of the fully executed franchise, lease or agreement. This revocation shall not otherwise affect the validity, effectiveness or enforceability of the franchise, lease or agreement.

2. Section 5 of P.L.1999, c.45 (C.56:10-7.4) is amended to read as follows:

**C.56:10-7.4 Additional practices prohibited.**

5. It shall be a violation of P.L.1971, c.356 (C.56:10-1 et seq.) for any motor vehicle franchisor, directly or indirectly, through any officer, agent or employee, to engage in any of the following practices:

a. To impose unreasonable standards of performance or unreasonable facilities, financial, operating or other requirements upon a motor vehicle franchisee.

b. To base the disapproval of the transfer, sale or assignment of a motor vehicle franchise, or any interest therein, on the ground that the proposed transferee is not a natural person.

c. To fail to compensate a motor vehicle franchisee for all reasonable costs incurred by the franchisee in complying with the requirements imposed on the franchisee by the franchisor relating to a product recall.

d. To utilize an arbitrary or unreasonable formula or other calculation or process intended to gauge performance as a basis for making any decision or taking any action governed by P.L.1971, c.356 (C.56:10-1 et seq.).

e. To own or operate or enter into an agreement with a person, other than an existing motor vehicle franchisee, to operate a retail facility for the servicing of motor vehicles, which is authorized to perform warranty service on motor vehicles manufactured or distributed by the motor vehicle franchisor. The establishment, relocation, reopening or reactivation of such a facility pursuant to an agreement with a motor vehicle franchisee shall be subject to the provisions of P.L.1982, c.156 (C.56:10-16 et seq.), except that paragraph (3) of subsection b. of section 8 of that act (C.56:10-23) shall not be applicable. Notice shall be given to motor vehicle franchisees in the same line make or makes within six miles of the proposed retail facility for the servicing of motor vehicles which is authorized to perform warranty service on motor vehicles manufactured or distributed by the motor vehicle franchisor.

f. To require an unconditional release from a motor vehicle franchisee without permitting the franchisee to except from the release any claims for outstanding financial obligations of the motor vehicle franchisor to the motor vehicle franchisee for which payment will not be made at or before the giving of the release.

g. (1) To require or attempt to require a motor vehicle franchisee to order or purchase a new or used motor vehicle, or any accessory or equipment thereof not required by law; or (2) to require or attempt to require a motor vehicle franchisee to accept delivery of any motor vehicle, or any accessory or equipment thereof not required by law, which is not as ordered by the motor vehicle franchisee; or (3) to take or withhold or threaten to take or withhold any action, impose or threaten to impose any penalty, or deny or threaten to deny any benefit, as a result of the motor vehicle franchisee's failure or refusal to purchase, order or accept delivery of any such motor vehicle, accessory or equipment. This subsection shall not prevent a motor vehicle franchisor from requiring that a motor vehicle franchisee carry a representative inventory of models offered for sale by the motor vehicle franchisor.

h. To fail or refuse to sell or offer to sell to all motor vehicle franchisees in a line make every motor vehicle sold or offered for sale to any motor vehicle franchisee of the same line make, or to fail or refuse to sell or offer to sell such motor vehicles to all motor vehicle franchisees at the same price for a comparably equipped motor vehicle, on the same terms, with no differential in discount, allowance, credit or bonus, and on reasonable, good faith and non-discriminatory allocation and availability terms. However, the failure to deliver any such motor vehicle shall not be considered a violation of this section if the failure is not arbitrary and is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause over which the franchisor has no control. A motor vehicle franchisor shall not require a motor vehicle franchisee to purchase unreasonable quantities of advertising materials, purchase special tools not required to properly service a motor vehicle or undertake sales person or service person training unrelated to the motor vehicle or meet unreasonable display requirements as a condition of receiving a motor vehicle.

i. Unless compelled by law or legal process, (1) if the customer has objected thereto in writing, to require a motor vehicle franchisee to publish, release, convey or otherwise provide information obtained with respect to any customers, contracts, products, services or other transactions of the motor vehicle franchisee which is not necessary for the motor vehicle franchisor to meet its obligations to consumers or the motor vehicle franchisee, including vehicle recalls or other requirements imposed by State or federal law, or for complying with the duties or obligations of the respective parties under the franchise; or (2) to release such information which has been provided to it by the motor vehicle franchisees to any third party.

j. To impose or attempt to impose any requirement, limitation or regulation on, or interfere or attempt to interfere with, the manner in which a motor vehicle franchisee utilizes the facilities at which a motor vehicle franchise is operated, including, but not limited to, requirements, limitations or regulations as to the line makes of motor vehicles that may be sold or offered for sale at the facility, or to take or withhold or threaten to take or withhold any action, impose or threaten to impose any penalty, or deny or threaten to deny any benefit, as a result of the manner in which the motor vehicle franchisee utilizes his facilities, except that the motor vehicle franchisor may require that the portion of the facilities allocated to or used for the motor vehicle franchise meets the motor vehicle franchisor's reasonable, written space and volume requirements as uniformly applied by the motor vehicle franchisor. The provisions of this subsection shall not apply

if the motor vehicle franchisor and the motor vehicle franchisee voluntarily agree to the requirement and separate and valuable consideration therefor is paid.

k. To require or attempt to require a motor vehicle franchisee, or the owner or landlord of property on which a motor vehicle franchise is operated, to give a motor vehicle franchisor or any person under the control of the motor vehicle franchisor an interest in or option with respect to the real property on which the motor vehicle franchise is operated, to restrict the uses to which the facility at which the motor vehicle franchise is operated may be put during or after the term of the franchise, or to take or withhold or threaten to take or withhold any action, impose or threaten to impose any penalty, or deny or threaten to deny any benefit, as a result of the failure or refusal of a motor vehicle franchisee, property owner, or landlord to agree to or comply with any such demand or restriction. Nothing in this subsection shall be deemed to bar a voluntary agreement between a motor vehicle franchisor and a motor vehicle franchisee, or the owner or landlord of property on which a motor vehicle franchise is operated, to give the motor vehicle franchisor or the person under the control of the motor vehicle franchisor an interest in or option with respect to the real property on which a motor vehicle franchise is operated, or to restrict the uses to which the facility at which the motor vehicle franchise is operated is put, provided that separate and valuable consideration is paid for such interest, option or restriction.

l. To require or attempt to require a motor vehicle franchisee to relocate his franchise or to implement any facility or operational modification or to take or withhold or threaten to take or withhold any action, impose or threaten to impose any penalty, or deny or threaten to deny any benefit as a result of the failure or refusal of such motor vehicle franchisee to agree to any such relocation or modification, unless the motor vehicle franchisor can demonstrate that: (1) funds are generally available to the franchisee for the relocation or modification on reasonable terms; and (2) the motor vehicle franchisee will be able, in the ordinary course of business as conducted by such motor vehicle franchisee, to earn a reasonable return on his total investment in such facility or from such operational modification, and the full return of his total investment in such facility or from such operational modifications within 10 years; or (3) the modification is required so that the motor vehicle franchisee can effectively sell and service a motor vehicle offered by the motor vehicle franchisor based on the specific technology of the motor vehicle. This subsection shall not be construed as requiring a motor vehicle franchisor to guarantee that the return as provided in paragraph (2) of this subsection will be realized.

m. Directly, or through any financial institution having any commonality of ownership with the motor vehicle franchisor, to require or attempt to require, or to take or withhold or threaten to take or withhold any action, impose or threaten to impose any penalty, or deny or threaten to deny any benefit, as a result of the failure or refusal of a motor vehicle franchisee to maintain working capital, equity, floor plan financing or other indications of financial condition, greater than the lesser of (1) the minimum required to operate the motor vehicle franchise based on the operations of the franchise over the prior 12-month period; or (2) an increase of no more than 5% over the prior calendar year, unless the motor vehicle franchisor, or the financial institution having any commonality of ownership with a motor vehicle franchisor, can establish that such failure or refusal prevents the franchisee from operating the franchise in the ordinary course of business. This subsection shall not apply if the working capital, equity, floor plan financing or other indication of financial condition is the result of an accommodation by the motor vehicle franchisor, or financial institution with a commonality of ownership with the motor vehicle franchisor, to the motor vehicle franchisee, containing specific terms and deadlines for the restoration of the motor vehicle franchisee's working capital, inventory, floor plan financing or other indication of financial condition, which accommodation is agreed to in writing by the motor vehicle franchisee.

n. To impose or attempt to impose any conditions on the approval of the transfer of a motor vehicle franchise, except as provided in section 6 of P.L.1971, c.356 (C.56:10-6).

o. To amend or modify the franchise of a motor vehicle franchisee, or any lease or agreement ancillary or collateral to such franchise, including in connection with the renewal of a franchise, if such amendment or modification is not in good faith, is not for good cause, or would adversely and substantially alter the rights, obligations, investment or return on investment of the motor vehicle franchisee.

p. To take or withhold or threaten to take or withhold any action, impose or threaten to impose any penalty, or deny or threaten to deny any benefit, because the motor vehicle franchisee sold or leased a motor vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, unless the motor vehicle franchisor can establish that the motor vehicle franchisee knew or reasonably should have known, prior to the sale or lease, that the customer intended to export or resell the motor vehicle; provided, however, that it shall be presumed that the motor vehicle franchisee did not know or should not have reasonably known that the vehicle

would be exported if the vehicle is titled or registered in any state or the District of Columbia.

q. To require a motor vehicle franchisee, at the time of entering into a franchise arrangement, any lease or agreement ancillary or collateral to a motor vehicle franchise, or any amendment, modification, renewal or termination thereof, to assent to a release, assignment, novation, waiver or estoppel, which would relieve any person from liability imposed by P.L.1971, c.356 (C.56:10-1 et seq.); provided that nothing in this subsection shall be deemed to prohibit a voluntary agreement between the motor vehicle franchisor and the motor vehicle franchisee which contains a release, assignment, novation, waiver or estoppel for which separate and valuable consideration is paid by the motor vehicle franchisor to the motor vehicle franchisee.

r. To provide any term or condition in any motor vehicle franchise, in any lease or other agreement ancillary or collateral to a motor vehicle franchise or in any renewal, amendment or modification thereof, which term or condition directly or indirectly violates P.L.1971, c.356 (C.56:10-1 et seq.).

s. To allocate vehicles to or evaluate the performance of a motor vehicle franchise based on, or offer any discount, incentive, bonus, program, allowance or credit that differentiates between vehicle sales by a motor vehicle franchisee within a territory or geographic area assigned to the motor vehicle franchisee and vehicle sales outside of such territory or geographic area.

3. Section 3 of P.L.1991, c.459 (C.56:10-13.2) is amended to read as follows:

**C.56:10-13.2 Repurchase of certain vehicles and equipment on termination, cancellation or nonrenewal.**

3. Within 90 days of the termination, cancellation or nonrenewal of a motor vehicle franchise as provided for in section 5 of P.L.1971, c.356 (C.56:10-5), or the termination, cancellation or nonrenewal of a motor vehicle franchise by the motor vehicle franchisee or by mutual agreement of the motor vehicle franchisee and motor vehicle franchisor, the motor vehicle franchisor shall repurchase from the motor vehicle franchisee:

a. any unused, undamaged and unsold vehicles from current and all prior year inventories with 500 miles or less registered on the odometer, or recreational vehicles that were acquired from the motor vehicle franchisor within 12 months before the effective date of the termination, and any unused, undamaged and unsold parts, supplies and accessories, listed in the

franchisor's current price catalog and acquired from the franchisor or a source approved or recommended by the franchisor at the franchisee's net acquisition cost therefor, including transportation, delivery and similar charges paid by the franchisee, plus the franchisee's cost of handling, packing, loading and transporting the vehicle inventory, parts, supplies and accessories for return to the franchisor. For the purposes of this subsection, vehicle inventory, parts, supplies and accessories used by the franchisee or its employees for display, demonstration or other marketing purposes shall be deemed to be unused or unsold.

b. any special tools and signs which were required by the franchisor, at:

(1) the franchisee's net acquisition cost if the item was acquired in the 12 months immediately preceding the effective date of the termination, cancellation or nonrenewal;

(2) the greater of the fair market value or 75% of the franchisee's net acquisition cost if the item was acquired more than 12 but less than 24 months immediately preceding the effective date of the termination, cancellation or nonrenewal;

(3) the greater of the fair market value or 50% of the franchisee's net acquisition cost if the item was acquired more than 24 but less than 36 months immediately preceding the effective date of the termination, cancellation or nonrenewal;

(4) the greater of the fair market value or 25% of the franchisee's net acquisition cost if the item was acquired more than 36 but less than 60 months immediately preceding the effective date of the termination, cancellation or nonrenewal; or

(5) the fair market value if the item was acquired more than 60 months immediately preceding the effective date of the termination, cancellation or nonrenewal; plus the franchisee's cost of handling, packing, loading and transporting the item for return to the franchisor.

Payment shall be made by the motor vehicle franchisor within 30 days after the date on which the motor vehicle franchisee notifies the motor vehicle franchisor in writing that the property is available for repurchase.

Nothing in this section shall prohibit the franchise from containing provisions in addition to, but not inconsistent with, those required by this section.

4. Section 4 of P.L.1991, c.459 (C.56:10-13.3) is amended to read as follows:

**C.56:10-13.3 Violations related to termination, cancellation or nonrenewal.**

4. a. It shall be a violation of the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.) for any motor vehicle franchisor, directly or indirectly, through any officer, agent or employee, to terminate, cancel or fail to renew a motor vehicle franchise as the result of:

(1) any change in the ownership, operation or control of all or any part of the franchisor's business, whether by sale or transfer of the assets, corporate stock or other equity interest; assignment; merger; consolidation; combination; reorganization; restructuring; redemption; operation of law or otherwise; or

(2) the termination, suspension or cessation of all or any part of the franchisor's business operations due to the discontinuance of a line make or otherwise, unless the franchisor complies with the provisions of subsections b., c., d. and e. of this section or unless the franchisor, or another motor vehicle franchisor, pursuant to an agreement with the franchisor, offers the franchisee a replacement motor vehicle franchise which takes effect no later than the date of the termination, cancellation or nonrenewal of the franchisee's existing motor vehicle franchise.

b. Within 90 days of the effective date of the termination, cancellation or nonrenewal, the motor vehicle franchisor shall compensate the motor vehicle franchisee in an amount at least equivalent to the fair market value of the motor vehicle franchise on

(1) the day before the date the franchisor announces the action which results in the termination, cancellation or nonrenewal; or

(2) the date on which the notice of termination, cancellation or nonrenewal is issued, whichever amount is higher.

c. The franchisor shall authorize the franchisee to continue servicing and supplying parts, including service and parts pursuant to a warranty issued by the franchisor, for any goods or services marketed by the franchisee pursuant to the motor vehicle franchise for a period of not less than five years from the effective date of the termination, cancellation or nonrenewal and shall continue to reimburse the franchisee for warranty parts and service in an amount and on terms no less favorable than those in effect prior to the termination, cancellation or nonrenewal and in accordance with section 3 of P.L.1977, c.84 (C.56:10-15).

d. The franchisor shall continue to supply the franchisee with replacement parts for any goods or services marketed by the franchisee pursuant to the motor vehicle franchise for a period of not less than five years from the effective date of the termination, cancellation or nonrenewal, at the same price and terms as the franchisor supplied them to the remaining

franchisees of the franchisor, or if there are no such remaining franchisees, at a price and on terms no less favorable than those in effect prior to the termination, cancellation or nonrenewal.

e. If the franchisee continues to service motor vehicles and sell parts after the termination, cancellation or nonrenewal, as provided for in subsections c. and d. of this section, the compensation paid to the franchisee pursuant to subsection b. of this section shall be reduced to the extent, if any, of the fair market value of such rights as of the effective date of the termination, cancellation or nonrenewal.

5. Section 3 of P.L.1977, c.84 (C.56:10-15) is amended to read as follows:

**C.56:10-15 Reimbursement for services or parts under warranty or law.**

3. If any motor vehicle franchise shall require or permit motor vehicle franchisees to perform services or provide parts in satisfaction of a warranty issued by the motor vehicle franchisor:

a. The motor vehicle franchisor shall reimburse each motor vehicle franchisee for such services as are rendered and for such parts as are supplied, in an amount equal to the prevailing retail price charged by such motor vehicle franchisee for such services and parts in circumstances where such services are rendered or such parts supplied other than pursuant to warranty; provided that such motor vehicle franchisee's prevailing retail price is not unreasonable when compared with that of the holders of motor vehicle franchises from the same motor vehicle franchisor for identical merchandise or services in the geographic area in which the motor vehicle franchisee is engaged in business.

b. The motor vehicle franchisor shall not by agreement, by restrictions upon reimbursement, or otherwise, restrict the nature and extent of services to be rendered or parts to be provided so that such restriction prevents the motor vehicle franchisee from satisfying the warranty by rendering services in a good and workmanlike manner and providing parts which are required in accordance with generally accepted standards. Any such restriction shall constitute a prohibited practice hereunder.

c. The motor vehicle franchisor shall reimburse the motor vehicle franchisee pursuant to subsection a. of this section, without deduction, for services performed on, and parts supplied for, a motor vehicle by the motor vehicle franchisee in good faith and in accordance with generally accepted standards, notwithstanding any requirement that the motor vehicle franchisor accept the return of the motor vehicle or make payment to a consumer

with respect to the motor vehicle pursuant to the provisions of P.L.1988, c.123 (C.56:12-29 et seq.).

d. For the purposes of this section, the "prevailing retail price" charged by: (1) a motor vehicle franchisee for parts means the price paid by the motor vehicle franchisee for those parts, including all shipping and other charges, multiplied by the sum of 1.0 and the franchisee's average percentage markup over the price paid by the motor vehicle franchisee for parts purchased by the motor vehicle franchisee from the motor vehicle franchisor and sold at retail. The motor vehicle franchisee may establish average percentage markup under this section by submitting to the motor vehicle franchisor 100 sequential customer paid service repair orders or 90 days of customer paid service repair orders, whichever is less, covering repairs made no more than 180 days before the submission, and declaring what the average percentage markup is. The average percentage markup so declared shall go into effect 30 days following the declaration subject to audit of the submitted repair orders by the motor vehicle franchisor and adjustment of the average percentage markup based on that audit. Only retail sales not involving warranty repairs, parts covered by subsection e. of this section, or parts supplied for routine vehicle maintenance, shall be considered in calculating average percentage markup. No motor vehicle franchisor shall require a motor vehicle franchisee to establish average percentage markup by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, part by part or transaction by transaction calculations. A motor vehicle franchisee shall not request a change in the average percentage markup more than twice in one calendar year; and (2) a recreational motor vehicle franchisee for parts means actual wholesale cost, plus a minimum 30% handling charge and any freight costs incurred to return the removed parts to the motor vehicle franchisor.

e. If a motor vehicle franchisor supplies a part or parts for use in a repair rendered under a warranty other than by sale of that part or parts to the motor vehicle franchisee, the motor vehicle franchisee shall be entitled to compensation equivalent to the motor vehicle franchisee's average percentage markup on the part or parts, as if the part or parts had been sold to the motor vehicle franchisee by the motor vehicle franchisor. The requirements of this section shall not apply to entire engine assemblies and entire transmission assemblies. In the case of those assemblies, the motor vehicle franchisor shall reimburse the motor vehicle franchisee in the amount of 30% of what the motor vehicle franchisee would have paid the motor vehicle franchisor for the assembly if the assembly had not been supplied by the

franchisor other than by the sale of that assembly to the motor vehicle franchisee.

f. The motor vehicle franchisor shall reimburse the motor vehicle franchisee for parts supplied and services rendered under a warranty within 30 days after approval of a claim for reimbursement. All claims for reimbursement shall be approved or disapproved within 30 days after receipt of the claim by the motor vehicle franchisor. When a claim is disapproved, the motor vehicle franchisee shall be notified in writing of the grounds for the disapproval. No claim that has been approved and paid shall be charged back to the motor vehicle franchisee unless it can be shown that the claim was false or fraudulent, that the services were not properly performed, that the parts or services were unnecessary to correct the defective condition, or that the motor vehicle franchisee failed to reasonably substantiate the claim in accordance with reasonable written requirements of the motor vehicle franchisor, provided that the motor vehicle franchisee had been notified of the requirements prior to the time the claim arose and the requirements were in effect at the time the claim arose. A motor vehicle franchisor shall not audit a claim after the expiration of 12 months following the payment of the claim unless the motor vehicle franchisor has reasonable grounds to believe that the claim was fraudulent.

g. The obligations imposed on motor vehicle franchisors by this section shall apply to any parent, subsidiary, affiliate or agent of the motor vehicle franchisor, any person under common ownership or control, any employee of the motor vehicle franchisor and any person holding 1% or more of the shares of any class of securities or other ownership interest in the motor vehicle franchisor, if a warranty or service or repair plan is issued by that person instead of or in addition to one issued by the motor vehicle franchisor.

h. The provisions of this section shall also apply to franchisor administered service and repair plans:

(1) if the motor vehicle franchisee offers for sale only the franchisor administered service or repair plan; or

(2) if the motor vehicle franchisee is paid its prevailing retail price for all service or repair plans the motor vehicle franchisee offers for sale to purchasers of new motor vehicles; or

(3) for the first 36,000 miles of coverage under the franchisor administered service or repair plan, if the warranty offered by the motor vehicle franchisor on the motor vehicle provides coverage for less than 36,000 miles; or

(4) for motor vehicles covered by a franchisor administered service or repair plan, if the motor vehicle franchisee does not offer for sale the franchisor administered service or repair plan.

With respect to franchisor administered service or repair plans covering only routine maintenance service, this section applies only to those plans sold to customers on or after the effective date of P.L.1999, c.45.

i. A motor vehicle franchisor shall make payment to a motor vehicle franchisee pursuant to incentive, bonus, sales, performance or other programs within 30 days after receipt of a claim from the motor vehicle franchisee. When a claim is disapproved, the motor vehicle franchisee shall be notified in writing of the grounds for disapproval. No claim shall be disapproved unless it can be shown that the claim was false or fraudulent, or that the motor vehicle franchisee failed to reasonably substantiate the claim in accordance with reasonable written requirements of the motor vehicle franchisor, provided that the motor vehicle franchisee had been notified of the requirements prior to the time the claim arose and the requirements were in effect at the time the claim arose. A motor vehicle franchisor shall not audit a claim after the expiration of 12 months following the payment of the claim.

6. Section 1 of P.L.1982, c.156 (C.56:10-16) is amended to read as follows:

**C.56:10-16 Definitions.**

1. a. "Committee" means the Motor Vehicle Franchise Committee established in section 2 of this act;

b. "Franchise" means a written arrangement for a definite or indefinite period in which a motor vehicle franchisor grants a right or license to use a trade name, trademark, service mark or related characteristics and in which there is a community of interest in the marketing of new motor vehicles at retail, by lease agreement or otherwise;

c. "Franchisee" means a natural person, corporation, partnership or entity to whom a franchise is granted by a motor vehicle franchisor;

d. "Motor vehicle" or "new motor vehicle" means only a newly manufactured motor vehicle, except a nonconventional type of motor vehicle, and includes all such vehicles propelled otherwise than by muscular power, and motorcycles, trailers and tractors, excepting such vehicles as run only upon rails or tracks and motorized bicycles; a "nonconventional type of motor vehicle" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway;

e. "Motor vehicle franchisor" means a natural person, corporation, partnership or entity engaged in the business of manufacturing, assembling or distributing new motor vehicles, who will under normal business condi-

tions during the year, manufacture, assemble or distribute at least 10 new motor vehicles;

f. "Relevant market area" means a geographic area 14 miles in radius from a proposed franchise or business as it relates to the grant, reopening or reactivation of a franchise or the establishment, reopening or reactivation of a business; and a geographic area 8 miles in radius from a relocated franchise or business, but if there are no existing franchisees in the same line make within an 8-mile radius of the relocated franchise or business, then the relevant market area includes the next closest existing franchisee in the same line make within a 14-mile radius. Determining whether an existing franchisee is within the relevant market area of a proposed or relocated franchise or business, and ascertaining any other measurement of distance, shall be made by measuring the distance between the nearest surveyed boundary line of the existing franchise and the nearest surveyed boundary line of the proposed or relocated franchise or business.

7. Section 3 of P.L.1982, c.156 (C.56:10-18) is amended to read as follows:

**C.56:10-18 Conditions for franchise.**

3. A motor vehicle franchisor may grant, relocate, reopen or reactivate a franchise or establish, relocate, reopen or reactivate a business, for the purpose of doing business on the retail level, only if the franchise or business will not be injurious as determined pursuant to section 8 of P.L.1982, c.156 (C.56:10-23).

8. Section 4 of P.L.1982, c.156 (C.56:10-19) is amended to read as follows:

**C.56:10-19 Notice to existing franchisee, protest, appeal.**

4. A motor vehicle franchisor shall give its existing franchisees in the same line make within 20 miles of the proposed location for the proposed franchise or business as calculated using the methodology set forth in subsection f. of section 1 of P.L.1982, c.156 (C.56:10-16) not less than 90 days' advance written notice of its intention to grant, relocate, reopen or reactivate a franchise of the same line make or establish, relocate, reopen or reactivate a business. Any franchisee in the relevant market area of the proposed franchise or business may file with the committee a protest to the granting, relocating, reopening or reactivation of the franchise or the establishment, relocation, reopening or reactivation of the business within 30

days of receipt of the notice or 30 days after the end of any appeal procedure provided by the motor vehicle franchisor, whichever is later. Any motor vehicle franchisee entitled to file a protest that does not receive the written notice from the motor vehicle franchisor and consequently does not file a protest may file an action in the Superior Court against the motor vehicle franchisor and the court shall enjoin and nullify the grant, relocation, reopening or reactivation of the franchise or the establishment, relocation, reopening or reactivation of the business, regardless of whether a protest by such motor vehicle franchisee would have been successful. In any such action, a successful motor vehicle franchisee shall be entitled to an award of reasonable attorneys' fees, court costs and expenses. A protest shall set forth all reasons for objecting to the granting, reopening, or reactivation of a franchise and shall be accompanied by a concise statement of the facts and supporting affidavits for all issues raised in the protest. When a protest is filed, the chairman of the committee shall notify the motor vehicle franchisor and the franchisee in writing that it has been filed and shall forthwith determine either to transmit the protests to the Office of Administrative Law for hearing or to conduct a hearing directly.

9. Section 5 of P.L.1982, c.156 (C.56:10-20) is amended to read as follows:

**C.56:10-20 Rights of franchisor.**

5. The provisions of sections 3 and 4 of P.L.1982, c.156 (C.56:10-18 and 56:10-19) notwithstanding, a motor vehicle franchisor may:

a. Permit an existing franchisee to relocate his franchise within two miles of the franchisee's existing franchise location, except that a franchise may not be relocated pursuant to this subsection unless at least five years have elapsed since any previous relocation pursuant to this subsection;

b. Reopen or reactivate a franchise or business which has not been in operation for a period of two years or less at a site within two miles of the prior site, provided that the rights accorded to the franchisor herein shall not apply to a successor or assignee of the franchisor of the franchise or business at the time the franchise or business was closed or deactivated; or

c. Permit the purchaser of a controlling interest in the shares or substantially all of the operating assets of an existing franchise to relocate the place of business of the franchise within two miles of the previously approved franchise location within 180 days of the date of purchase.

10. Section 6 of P.L.1982, c.156 (C.56:10-21) is amended to read as follows:

**C.56:10-21 Hearing on protest.**

6. The hearing referred to in section 4 of P.L.1982, c.156 (C.56:10-19) shall be conducted as a contested case in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) and P.L.1978, c.67 (C.52:14F-1 et seq.). The franchisor shall have the burden of proving by a preponderance of the evidence that the proposed franchise or business will not be injurious. The testimony taken at the hearing shall be under oath and recorded verbatim, but the parties shall not be bound by the rules of evidence. True copies of any transcript and of any other record made of or at the hearing shall be furnished to any party upon request and at that party's expense. The committee may subpoena witnesses and compel their attendance, administer oaths and require the production for examination of any books or papers relating to any matter involved in the hearing. The committee, at the request of any party, may subpoena and compel the attendance of such witnesses as the party may designate and require the production for examination of any books or papers relating to any matter involved in the hearing.

11. Section 8 of P.L.1982, c.156 (C.56:10-23) is amended to read as follows:

**C.56:10-23 Factors for consideration if proposed franchise will harm public interest.**

8. a. The grant, reopening or reactivation of a franchise or establishment, or the reopening or reactivation of a business shall be deemed injurious to existing franchisees or to the public interest unless the franchisor proves, by a preponderance of the evidence, that:

(1) The proposed franchise or business would materially enhance the availability of stable, adequate and reliable sales and service to purchasers of vehicles in the same line make in the market area served by the franchisees entitled to notice;

(2) The proposed franchise or business would not affect the stability of existing franchisees in the same line make;

(3) The existing franchisees in the same line make have not provided adequate representation of the line make in their market areas for a period of at least two years based on the availability of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts and qualified service personnel;

(4) The franchisor's action is in good faith.

b. In determining whether the grant, relocation, reopening or reactivation of a franchise or establishment, relocation, reopening or reactivation of a business will be injurious to existing franchisees or to the public interest, it shall be conclusively presumed that the proposed grant, relocation, reopening or reactivation of the franchise or establishment, relocation, reopening or reactivation of the business will be injurious to existing franchisees or to the public interest if:

(1) for the 24-month period prior to notice pursuant to section 4 of P.L.1982, c.156 (C.56:10-19), the average market penetration of the franchisees given notice pursuant to section 4 of P.L.1982, c.156 (C.56:10-19), in the area of primary responsibility or territory assigned to such franchises, is at least equal to the average market penetration of all franchisees in the same line make in this State;

(2) the proposed franchise or business is likely to cause not less than a 25% reduction in new vehicle sales or not less than a 25% reduction in gross income for the protesting franchisee;

(3) the proposed franchise or business will not operate a full service franchise or business at the proposed location; or

(4) an owner or operator of the proposed franchise or business has engaged in materially unfair or deceptive business practices with respect to a motor vehicle franchise or business.

c. The presumption in subsection b. of this section shall not apply to the grant, reopening or reactivation of a franchise or to the establishment, reopening or reactivation of a business if the proposed franchisee is a minority or a woman. For the purposes of this subsection, "minority" means a person who is:

(1) Black, which is a person having origins in any of the black racial groups in Africa; or

(2) Hispanic, which is a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race; or

(3) Asian American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent, Hawaii, or the Pacific Islands; or

(4) American Indian or Alaskan native, which is a person having origins in any of the original peoples of North America.

d. In determining whether the relocation of an existing franchise or business will be injurious to existing franchisees or the public interest, the

committee shall consider in making its determination, whether the franchisor has proven, by a preponderance of the evidence, that:

(1) The relocation would materially enhance the availability of stable, adequate and reliable sales and service to purchasers of vehicles in the same line make in the market areas served by the franchisees entitled to notice;

(2) The relocation would not affect the stability of the existing franchises in the same line make;

(3) The existing franchisees in the same line make have not provided adequate representation of the line make in their market areas for a period of at least two years based on the availability of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts and qualified service personnel;

(4) The relocation is in good faith; and

(5) The effect on the relocating dealer of the denial of its relocation outweighs the injury to an existing franchisee.

**C.56:10-30 Actions, alternate dispute resolution proceedings relative to franchise termination.**

12. a. Upon timely institution of an action or alternate dispute resolution proceeding to enjoin the termination of a motor vehicle franchise on the ground that such termination would be in violation of the "Franchise Practices Act," P.L.1971, c.356 (C.56:10-1 et seq.), the termination shall be automatically stayed pending the final disposition of such action or proceeding, and the motor vehicle franchisor shall accord the motor vehicle franchisee all rights and privileges of a franchisee as if notice of termination had not been given.

b. A successful motor vehicle franchisee in an action or alternate dispute resolution proceeding to enjoin the termination of a motor vehicle franchise shall be entitled to an injunction barring termination of the motor vehicle franchise in addition to any other relief provided for in section 10 of P.L.1971, c.356 (C.56:10-10).

c. In any action or alternate dispute resolution proceeding with respect to the termination of a motor vehicle franchise, the motor vehicle franchisor shall have the burden of proving that termination of the motor vehicle franchise does not violate section 5 of P.L.1971, c.356 (C.56:10-5). In proving good cause for termination in any such action, the motor vehicle franchisor shall be limited to the grounds for termination set forth in the written notice provided for in section 5 of P.L.1971, c.356 (C.56:10-5).

d. Notwithstanding the giving of notice of termination of a motor vehicle franchise pursuant to section 5 of P.L.1971, c.356 (C.56:10-5), at any

time prior to the date on which the termination becomes effective, the motor vehicle franchisee may enter into an agreement for, and submit to the motor vehicle franchisor, notice of the transfer, assignment or sale of the motor vehicle franchise to another person. Thereupon, the motor vehicle franchisor shall proceed as provided for in section 6 of P.L.1971, c.356 (C.56:10-6). Upon approval of the transfer, assignment or sale by the motor vehicle franchisor and upon consummation of same, the notice of termination of the motor vehicle franchise shall be deemed withdrawn, and the transferee shall receive the motor vehicle franchise free and clear of all grounds for termination. Notwithstanding the terms of any notice, any court order or any other provision of law, a motor vehicle franchise termination shall not become effective while a notice of transfer, assignment or sale is pending with a motor vehicle franchisor.

**C.56:10-31 Request for additional information by franchisor.**

13. If a motor vehicle franchisor desires information about a transaction or a proposed transferee, in addition to that provided with the notice of intent pursuant to section 6 of P.L.1971, c.356 (C.56:10-6), the motor vehicle franchisor shall request all such additional information in writing within 15 days of receipt of the notice of intent. A request for additional information shall not extend the time within which the motor vehicle franchisor must approve or disapprove the transfer, provided that the additional information is submitted to the motor vehicle franchisor within 30 days after the additional information is requested by the motor vehicle franchisor. If the additional information is submitted to the motor vehicle franchisor more than 30 days after the request for that information, the time period for the motor vehicle franchisor to approve or disapprove the transfer shall be extended so that the motor vehicle franchisor has 30 days to approve or disapprove the transfer after receipt of the additional information.

14. This act shall take effect immediately.

Approved May 4, 2011.

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CHAPTER 67

AN ACT concerning parole release, amending P.L.1979, c.441, and repealing section 8 of P.L.2009, c.330.

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

1. Section 12 of P.L.1979, c.441 (C.30:4-123.56) is amended to read as follows:

**C.30:4-123.56 Schedule of future parole eligibility date; statement of denial.**

12. a. The board shall develop a schedule of future parole eligibility dates for adult inmates denied release at their eligibility date. In developing such schedule, particular emphasis shall be placed on the severity of the offense for which he was denied parole and on the characteristics of the offender, such as, but not limited to, the prior criminal record of the inmate and the need for continued incapacitation of the inmate.

b. If the release on the eligibility date is denied, the board panel which conducted the hearing shall refer to the schedule published pursuant to subsection a., and include in its statement denying parole notice of the date of future parole consideration. If such date differs from the date otherwise established by the schedule, the board panel shall include particular reasons therefor. The future parole eligibility date shall not be altered to take into account remissions of sentence for good behavior and diligent application to work and other assignments; provided however, the future parole eligibility date may be altered pursuant to section 8 of P.L.1979, c.441 (C.30:4-123.52).

c. An inmate shall be released on parole on the new parole eligibility date unless information filed pursuant to a procedure identical to that set forth in section 10 of P.L.1979, c.441 (C.30:4-123.54) indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) if released on parole at that time. The determination of whether the inmate shall be released on the new parole eligibility date shall be made pursuant to the procedure set forth in section 11 of P.L.1979, c.441 (C.30:4-123.55) and this section.

For the purposes of this subsection, "failed to cooperate in his or her own rehabilitation" shall include, in the case of an inmate who suffers from mental illness as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) that does not require institutionalization, that the inmate failed to fully participate in or cooperate with all prescribed treatment offered during incarceration.

2. Section 8 of P.L.2009, c.330 (C.30:4-123.51d) is repealed.

3. This act shall take effect immediately.

Approved May 9, 2011.

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## CHAPTER 68

AN ACT concerning disclosure requirements for the licensing of solid waste and hazardous waste operations, and amending P.L.1983, c.392.

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

1. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to read as follows:

**C.13:1E-127 Definitions.**

2. As used in the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

- a. "Applicant" means any business concern which has filed a disclosure statement with the department and the Attorney General and is seeking an initial license, provided that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.).

- b. "Application" means the forms and accompanying documents filed in connection with an applicant's or permittee's request for a license.

- c. "Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization.

- d. "Department" means the Department of Environmental Protection.

- e. "Disclosure statement" means a statement submitted to the department and the Attorney General by an applicant or a permittee, which statement shall include:

- (1) The full name, business address and social security number of the applicant or the permittee, as the case may be, and of any officers, directors, partners, or key employees thereof and all persons holding any equity in or debt liability of the applicant or permittee, or, if the applicant or permittee is a publicly traded corporation, all persons holding more than 5% of the equity in or the debt liability of the applicant or permittee, except that (a) where the equity in or debt liability of the applicant or permittee is held

by an institutional investor, the applicant or permittee need only supply the name, business address and the basis upon which the institutional investor qualifies as an institutional investor, and (b) where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution;

(2) The full name, business address and social security number of all officers, directors, or partners of any business concern disclosed in the disclosure statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed, except that (a) where the business concern is a publicly traded corporation, the applicant or permittee need only supply the name and business address of the publicly traded corporation and copies of its annual filings with the Securities and Exchange Commission, or its foreign equivalent, (b) where the equity in or debt liability of that business concern is held by an institutional investor, the applicant or permittee need only supply the name, business address and the basis upon which the institutional investor qualifies as an institutional investor, and (c) where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution;

(3) The full name and business address of any business concern which collects, transports, treats, stores, transfers or disposes of solid waste or hazardous waste in which the applicant or the permittee holds an equity interest;

(4) A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste possessed by the applicant or the permittee, as the case may be, and by the key employees, officers, directors, or partners thereof;

(5) A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by this State or any other state or federal authority, in the 10 years immediately preceding the filing of the application or disclosure statement, whichever is later, which are pending or have resulted in a finding or a settlement of a violation of any law or rule and regulation relating to the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste by the applicant or the permittee, as the case may be, or by any key employee, officer, director, or partner thereof;

(6) A listing and explanation of any judgment of liability or conviction which was rendered, pursuant to the laws of this State, or any other state or federal statute or local ordinance, against the applicant or the permittee, as

the case may be, or against any key employee, officer, director, or partner thereof, except for any violation of Title 39 of the Revised Statutes other than a violation of the provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983, c.401 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

(7) A listing of all labor unions and trade and business associations in which the applicant or the permittee was a member or with which the applicant or the permittee had a collective bargaining agreement during the 10 years preceding the date of the filing of the application or disclosure statement, whichever is later;

(8) A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant or the permittee, as the case may be, in connection with the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste; and

(9) Any other information the Attorney General or the department may require that relates to the competency, reliability or integrity of the applicant or the permittee.

The provisions of paragraphs (1) through (9) of this subsection to the contrary notwithstanding, if an applicant or a permittee is a secondary business activity corporation, "disclosure statement" means a statement submitted to the department and the Attorney General by an applicant or a permittee, which statement shall include:

(a) The full name, primary business activity, office or position held, business address, home address, date of birth and federal employer identification number of the applicant or the permittee, as the case may be, and of all officers, directors, partners, or key employees of the business concern; and of all persons holding more than 5% of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution. The Attorney General or the department may request the social security number of any individual identified pursuant to this paragraph;

(b) The full name, business address and federal employer identification number of any business concern in any state, territory or district of the United States, which collects, transports, treats, stores, recycles, brokers, transfers or disposes of solid waste or hazardous waste on a commercial basis, in which the applicant or the permittee holds an equity interest of 25% or more, and the type, amount and dates of the equity held in such business concern;

(c) A listing of every license, registration, permit, certificate of public convenience and necessity, uniform tariff approval or equivalent operating

authorization held by the applicant or permittee within the last five years under any name for the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste on a commercial basis in any state, territory or district of the United States, and the name of every agency issuing such operating authorization;

(d) If the applicant or the permittee is a subsidiary of a parent corporation, or is the parent corporation of one or more subsidiaries, or is part of a group of companies in common ownership, as the case may be, a chart, or, if impractical or burdensome, a list showing the names, federal employer identification numbers and relationships of all parent, sister, subsidiary and affiliate corporations, or members of the group;

(e) A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by this State or any other state or federal authority to the applicant or permittee in the 10 years immediately preceding the filing of the application or disclosure statement, whichever is later, which are pending or have resulted in a finding or a settlement of a violation of any law or rule or regulation relating to the collection, transportation, treatment, storage, recycling, processing, transfer or disposal of solid waste or hazardous waste by the applicant or permittee;

(f) A listing and explanation of any judgment, decree or order, whether by consent or not, issued against the applicant or permittee in the 10 years immediately preceding the filing of the application, and of any pending civil complaints against the applicant or permittee pertaining to a violation or alleged violation of federal or state antitrust laws, trade regulations or securities regulations;

(g) A listing and explanation of any conviction issued against the applicant or permittee for a felony resulting in a plea of nolo contendere, or any conviction in the 10 years immediately preceding the filing of the application, and of any pending indictment, accusation, complaint or information for any felony issued to the applicant or the permittee pursuant to any state or federal statute; and

(h) A completed personal history disclosure form shall be submitted to the department and the Attorney General by every person required to be listed in this disclosure statement, except for those individuals who are exempt from the personal history disclosure requirements pursuant to paragraph (5) of subsection a. of section 3 of P.L.1983, c.392 (C.13:1E-128).

f. "Key employee" means any individual employed by the applicant, the permittee or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the business concern but shall not include employees

exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste.

g. "License" means the initial approval and first renewal by the department of any registration statement or engineering design pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.), for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste in this State.

A "license" shall not include any registration statement or engineering design approved for:

(1) Any State department, division, agency, commission or authority, or county, municipality or agency thereof;

(2) Any person solely for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste generated by that person;

(3) Any person for the operation of a hazardous waste facility, if at least 75% of the total design capacity of that facility is utilized to treat, store or dispose of hazardous waste generated by that person;

(4) Any person for the operation of a hazardous waste facility which is considered as such solely as the result of the reclamation, recycling or refining of hazardous wastes which are or contain any of the following precious metals: gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper;

(5) Any person solely for the transportation of hazardous wastes which are or contain precious metals to a hazardous waste facility described in paragraph (4) of this subsection for the purposes of reclamation.

A "license" shall include any registration statement approved for any person who transports any other hazardous waste in addition to hazardous wastes which are or contain precious metals;

(6) Any person solely for the collection, transportation, treatment, storage or disposal of granular activated carbon used in the adsorption of hazardous waste; or

(7) Any regulated medical waste generator for the treatment or disposal of regulated medical waste at any noncommercial incinerator or non-commercial facility in this State that accepts regulated medical waste for disposal.

h. "Licensee" means any business concern which has completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for the issuance or renewal of a license has been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133).

i. "Permittee" means and shall include:

(1) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has been given by the department prior to June 14, 1984;

(2) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a temporary license has been approved, issued or renewed by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135), but which has not otherwise completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for a license has not been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the temporary license remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.);

(3) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a valid registration statement or engineering design approval for the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has been given by the department between February 20, 1985 and January 23, 1986, inclusive, provided that the registration statement or engineering design approval remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.); or

(4) Any business concern to which a temporary approval of registration has been given by the department at any time after January 23, 1986 pursuant to statute or rule and regulation, provided that such temporary approval of registration, statute, or rule and regulation remains valid, and provided further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.) and filed a disclosure statement with the department and the Attorney General.

j. "Person" means any individual or business concern.

k. "Secondary business activity corporation" means any business concern which has derived less than 5% of its annual gross revenues in each of the three years immediately preceding the one in which the application for a license is being made from the collection, transportation, treatment, storage,

recycling, processing, transfer or disposal of solid waste or hazardous waste, whether directly or through other business concerns partially or wholly owned or controlled by the applicant or the permittee, as the case may be, and which (1) has one or more classes of security registered pursuant to section 12 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78l), or (2) is an issuer subject to subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o).

l. "Institutional investor" means a retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees; government or government-owned entity; investment company registered under the "Investment Company Act of 1940" (15 U.S.C. s.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 or other chartered or licensed lending institution; partnerships, funds or trusts managed by or directed in conjunction with an investment adviser registered under the "Investment Advisers Act of 1940" (15 U.S.C. s.80b-1 et seq.) or an institutional investment manager required to make filings under subsection (f) of section 13 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78m); institutional buyer, as defined pursuant to section 2 of the "Uniform Securities Law (1997)," P.L.1967, c.93 (C.49:3-49); small business investment company licensed by the United States Small Business Administration under subsection (c) of section 301 of the "Small Business Investment Act of 1958," as amended (15 U.S.C. s.681); private equity or venture capital entity having or managing aggregate capital commitments in excess of \$25,000,000; and other persons as the department may determine for reasons consistent with the policies of P.L.1983, c.392 (C.13:1E-126 et seq.).

m. "Publicly traded corporation" means a corporation or other legal entity, except a natural person, which:

(1) has one or more classes of security registered pursuant to section 12 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78l);

(2) is an issuer subject to subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o); or

(3) has one or more classes of securities traded in an open market in any foreign jurisdiction, provided that the department determines that the foreign exchange provides openness, integrity and oversight in its operations sufficient to meet the intent of P.L.1983, c.392 (C.13:1E-126 et seq.), or that the securities traded on the foreign exchange are regulated pursuant to a statute of a foreign jurisdiction that is substantially similar, both in

form and effect, to section 12 or subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended.

2. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to read as follows:

**C.13:1E-128 Disclosure.**

3. In addition to any other procedure, condition or information required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1981, c.279 (C.13:1E-49 et seq.) or any other law:

a. (1) Every applicant and permittee shall file a disclosure statement with the department and the Attorney General;

(2) Except as otherwise provided in this subsection, any person required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance with procedures therefor established by the Attorney General;

(3) The Attorney General shall, upon the receipt of the disclosure statement from an applicant for an initial license or from a permittee, prepare and transmit to the department an investigative report on the applicant or the permittee, as the case may be, based in part upon the disclosure statement. In preparing this report, the Attorney General may request and receive criminal history information from the State Commission of Investigation or the Federal Bureau of Investigation;

(4) In conducting a review of the application, the department shall include a review of the disclosure statement and investigative report;

(5) An applicant or permittee may file a limited disclosure statement pursuant to the provisions of paragraphs (a) through (h) of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and a person required to be listed in the disclosure statement is exempt from the fingerprint and personal history disclosure requirements; if:

(a) The applicant or permittee is a secondary business activity corporation; and

(b) The person required to be listed in the disclosure statement is (i) a director or chief executive officer; or (ii) an individual who does not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations of the applicant, permittee or licensee conducted in New Jersey, and who will not exercise any such responsibility or control upon the issuance of a license by the department;

(6) (a) A person who is a director or chief executive officer of a business concern that is a secondary business activity corporation, a publicly

traded corporation or an institutional investor, including limited partnership interests, that is not the applicant or permittee but which is listed in a disclosure statement pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from the fingerprint and personal history disclosure requirements;

(b) An individual who is an officer or partner of, or who holds any equity in or debt liability of, a business concern that is a secondary business activity corporation, a publicly traded corporation or an institutional investor, including limited partnership interests, that is not the applicant or permittee but which is listed in a disclosure statement pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from the fingerprint and personal history disclosure requirements, provided that the person or secondary business activity corporation or publicly traded corporation or institutional investor is not and will not be engaged in active management of the commercial solid waste or hazardous waste operations of the applicant or permittee conducted in New Jersey;

(c) A business concern that is a secondary business activity corporation or an institutional investor, including limited partnership interests, that is not the applicant, licensee, or permittee but which is listed in a disclosure statement pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from disclosure requirements established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) provided that the secondary business activity corporation or institutional investor is not and will not be engaged in active management of the commercial solid waste or hazardous waste operations of the applicant, licensee, or permittee conducted in New Jersey;

(d) A business concern that is a publicly traded corporation that is not the applicant, licensee, or permittee but which is listed in a disclosure statement pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from disclosure requirements established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) provided that the name and business address of the publicly traded corporation and copies of its annual filings with the Securities and Exchange Commission, or its foreign equivalent, are filed with the disclosure forms of the applicant, licensee, or permittee. Subsidiaries intervening in the chain of equity between the publicly traded corporation and the applicant, licensee, or permittee, and the officers and directors of those intervening subsidiaries, shall also be exempt from the disclosure requirements established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) provided that the intervening subsidiary is not and will not be engaged in active management of the

commercial solid waste or hazardous waste operations of the applicant, licensee, or permittee conducted in New Jersey;

(e) An individual exempt from disclosure requirements under subparagraph (b) of this paragraph, a secondary business activity corporation or institutional investor exempt from disclosure requirements under subparagraph (c) of this paragraph, and a publicly traded corporation exempt from disclosure requirements under subparagraph (d) of this paragraph, may be required by the Attorney General to file disclosure forms and be fingerprinted in the circumstances described in subsection d. of this section; and

(f) A person that holds equity in, or debt liability of, a business concern that is exempt from the disclosure requirements established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall also be exempt from the disclosure requirements established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127).

b. All applicants, permittees and licensees shall have the continuing duty to provide any assistance or information requested by the department or the Attorney General, and to cooperate in any inquiry or investigation conducted by the Attorney General or the State Commission of Investigation and any inquiry, investigation, or hearing conducted by the department. Except as otherwise determined by the Superior Court pursuant to subsection d. of this section, if, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any applicant, permittee or licensee refuses to comply, the application of the business concern for a license may be denied, or the license of that business concern may be revoked by the department.

c. If any of the information required to be included in the disclosure statement changes, or if any information provided concerning the applicability of an exemption under subsection d. of this section changes, or if any additional information should be added to the disclosure statement after it has been filed, the applicant, permittee or licensee shall provide that information to the department and the Attorney General, in writing, within 30 days of the change or addition.

d. The provisions of paragraphs (5) and (6) of subsection a. of this section to the contrary notwithstanding, the Attorney General may at any time require any person required to be listed in the disclosure statement to file a completed personal history disclosure form and a full disclosure statement with the department and the Attorney General pursuant to paragraphs (1) through (9) of subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), or to be fingerprinted for identification and investigation purposes pursuant to paragraph (2) of subsection a. of this section, if the

Attorney General determines that there exists a reasonable suspicion that the additional information is likely to lead to information relevant to a determination regarding the approval of a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a disqualifying person pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135).

If the Attorney General requires any or all of this information, a written request for the additional information shall be served upon the applicant, permittee or licensee. Within 60 days of receipt of a written request for additional information, the applicant, permittee or licensee may seek review of the Attorney General's determination in the Superior Court. If the applicant, permittee or licensee fails to provide the additional information to the Attorney General within 60 days of receipt of the written request, the Attorney General may file with the Superior Court a petition for an order requiring the applicant, permittee or licensee to provide the additional information. In a proceeding brought by either party, the applicant, permittee or licensee shall demonstrate that the additional information requested is not likely to lead to information relevant to a determination regarding the approval of a license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a disqualifying person pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court may review in camera the submission of the Attorney General or the applicant, permittee or licensee, or any part thereof.

3. This act shall take effect immediately.

Approved May 9, 2011.

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## CHAPTER 69

AN ACT concerning employee assistance programs for certain public employees and supplementing P.L.1941, c.100 (C.34:13A-1 et seq.).

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

**C.34:13A-40 Definitions relative to employee assistance programs for certain public employees.**

1. For the purposes of this act:

"Civil union" means a civil union as defined in section 2 of P.L.2006, c.103 (C.37:1-29).

"Employee assistance program" means a program in which a public employer provides or contracts with a service provider to provide assistance to the employer's employees and their dependents to resolve problems which may affect employee work performance, irrespective of whether the problems originate on the job, including, but not limited to, marital and family problems, emotional problems, substance abuse, compulsive gambling, financial problems, and medical problems.

"Dependent" means an employee's spouse, civil union partner, or domestic partner, an unmarried child of the employee who is less than 31 years of age and lives with the employee in a regular parent-child relationship, or an unmarried child of the employee who is not less than 31 years of age and is not capable of self support. "Child of the employee" includes any child, stepchild, legally adopted child, or foster child of the employee, or of a domestic partner or civil union partner of the employee, who is reported for coverage and dependent upon the employee for support and maintenance.

"Domestic partner" means a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3).

"Employee" means an employee of a public employer.

"Public employer" means the State of New Jersey, or the counties and municipalities thereof, or any other political subdivision of the State, or a school district, or any special district, or any authority, including a bi-state authority, or any commission, or board, or any branch or agency of the public service.

**C.34:13A-41 Employee assistance programs; licensure, establishment.**

2. Employee assistance programs may provide advice, counseling, treatment, referral and other assistance, except that nothing in this act shall be construed to authorize a person to provide any service in connection with an employee assistance program without holding the license required by law to provide the service. An employee assistance program may be established through a negotiated agreement between the majority representative of the employees in an appropriate bargaining unit and a public employer, or established by a public employer through the adoption of a policy which conforms to the requirements of this act.

**C.34:13A-42 Prohibited actions by public employer.**

3. No public employer shall take any action against an employee of the employer, including termination, because the employee or a dependent

of the employee has obtained counseling, referrals or other services from an employee assistance program or has obtained treatment or other services from any program to which the employee assistance program refers the employee or dependent, unless the employee was referred by the employer to the employee assistance program due to issues related to job performance and fails to make a good faith effort to comply with the recommendations made by the employee assistance program. The provisions of this section shall not be construed as preventing the public employer from taking any action which the employer is otherwise authorized to take for workplace misconduct of the employee or poor work performance, even if the misconduct or poor performance is related to a problem for which the employee is obtaining services provided by an employee assistance program or other program to which the employee assistance program refers the employee.

**C.34:13A-43 Confidentiality; waivers.**

4. a. Except as provided in subsection b. of this section, each request by an employee or dependent for assistance from, referral to, participation in, or referral by, an employee assistance program shall be confidential, and no public employer, service provider or other person shall divulge to any person that an employee or dependent has requested assistance from, been referred to, or participated in, an employee assistance program or any treatment program to which the employee assistance program refers the employee or dependent. The requirement of confidentiality shall apply to all information related to an employee assistance program, including but not limited to any statements, materials, documents, evaluations, impressions, conclusions, findings, or acts taken in the course of, or in connection with, the program. If, however, a public employer documents to the employee assistance program that the employee has accepted a referral by a public employer for assistance during normal working hours with sick leave or other paid leave, the public employer shall be entitled to know whether the employee has kept his appointment and the amount of time of the appointment.

b. The requirements for confidentiality provided for in subsection a. of this section may be waived only if:

(1) the employee or dependent to whom the information applies has requested and authorized a waiver; the waiver is in writing and specifies the information to be released and the persons to whom the information may be provided; and the information released is the information authorized for release by the employee or dependent and is released only to the persons designated by the employee or dependent, provided that a public employer

may not require an employee to authorize a waiver pursuant to this subsection or take any action against an employee for not authorizing the waiver;

(2) the employee assistance program advisor reasonably believes that the employee is at substantial risk of imminent death or serious bodily injury to self or others; or

(3) the advisor is reporting suspected child abuse or neglect.

c. The provisions of this act shall not be construed to affect other evidentiary privileges and recognized exceptions.

5. This act shall take effect immediately.

Approved May 9, 2011.

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## CHAPTER 70

AN ACT concerning residency requirements for public officers and employees and amending R.S.52:14-7.

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

1. This act shall be known and may be cited as the “New Jersey First Act.”

2. R.S.52:14-7 is amended to read as follows:

**Residency requirement for State officers, employees; exceptions.**

52:14-7. a. Every person holding an office, employment, or position

(1) in the Executive, Legislative, or Judicial Branch of this State, or

(2) with an authority, board, body, agency, commission, or instrumentality of the State including any State college, university, or other higher educational institution, and, to the extent consistent with law, any interstate agency to which New Jersey is a party, or

(3) with a county, municipality, or other political subdivision of the State or an authority, board, body, agency, district, commission, or instrumentality of the county, municipality, or subdivision, or

(4) with a school district or an authority, board, body, agency, commission, or instrumentality of the district,  
shall have his or her principal residence in this State and shall execute such office, employment, or position.

This residency requirement shall not apply to any person (a) who is employed on a temporary or per-semester basis as a visiting professor, teacher, lecturer, or researcher by any State college, university, or other higher educational institution, or county or community college, or in a full or part-time position as a member of the faculty, the research staff, or the administrative staff by any State college, university, or other higher educational institution, or county or community college, that the college, university, or institution has included in the report required to be filed pursuant to this subsection, or (b) who is employed full-time by the State who serves in an office, employment, or position that requires the person to spend the majority of his or her working hours in a location outside of this State.

For the purposes of this subsection, a person may have at most one principal residence, and the state of a person's principal residence means the state (1) where the person spends the majority of his or her nonworking time, and (2) which is most clearly the center of his or her domestic life, and (3) which is designated as his or her legal address and legal residence for voting. The fact that a person is domiciled in this State shall not by itself satisfy the requirement of principal residency hereunder.

A person, regardless of the office, employment, or position, who holds an office, employment, or position in this State on the effective date of P.L.2011, c.70 but does not have his or her principal residence in this State on that effective date shall not be subject to the residency requirement of this subsection while the person continues to hold office, employment, or position without a break in public service of greater than seven days.

Any person may request an exemption from the provisions of this subsection on the basis of critical need or hardship from a five-member committee hereby established to consider applications for such exemptions. The committee shall be composed of three persons appointed by the Governor, a person appointed by the Speaker of the General Assembly, and a person appointed by the President of the Senate, each of whom shall serve at the pleasure of the person making the appointment and shall have a term not to exceed five years. A vacancy on the committee shall be filled in the same manner as the original appointment was made. The Governor shall make provision to provide such clerical, secretarial and administrative support to the committee as may be necessary for it to conduct its responsibilities pursuant to this subsection.

The decision on whether to approve an application from any person shall be made by a majority vote of the members of the committee, and those voting in the affirmative shall so sign the approved application. If the committee fails to act on an application within 30 days after the receipt

thereof, no exemption shall be granted and the residency requirement of this subsection shall be operative. The head of a principal department of the Executive Branch of the State government, a Justice of the Supreme Court, judge of the Superior Court and judge of any inferior court established under the laws of this State shall not be eligible to request from the committee an exemption from the provisions of this subsection.

The exemption provided in this subsection for certain persons employed by a State college, university, or other higher educational institution, or a county or community college, other than those employed on a temporary or per-semester basis as a visiting professor, teacher, lecturer, or researcher, shall apply only to those persons holding positions that the college, university, or institution has included in a report of those full or part-time positions as a member of the faculty, the research staff, or the administrative staff requiring special expertise or extraordinary qualifications in an academic, scientific, technical, professional, or medical field or in administration, that, if not exempt from the residency requirement, would seriously impede the ability of the college, university, or institution to compete successfully with similar colleges, universities, or institutions in other states. The report shall be compiled annually and shall also contain the reasons why the positions were selected for inclusion in the report. The report shall be compiled and filed within 60 days following the effective date of P.L.2011, c.70. The report shall be reviewed, revised as necessary, and filed by January 1 of each year thereafter. Each report shall be filed with the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), with the Legislature, and a report may be revised at any time by filing an amendment to the report with the Governor and Legislature.

As used in this section, "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 jointure commission, county vocational school, county special services district, educational services commission, educational research and demonstration center, environmental education center, and educational information and resource center.

b. If any person holding any office, employment, or other position in this State shall attempt to let, farm out or transfer such office, employment, or position or any part thereof to any person, he shall forfeit the sum of fifteen hundred dollars (\$1,500.00), to be recovered with costs by any person who shall sue for the same, one-half to the prosecutor and the other half to the treasurer for the use of the State.

c. No person shall be appointed to or hold any position in this State who has not the requisite qualifications for personally performing the duties

of such position in cases where scientific engineering skill is necessary to the performance of the duties thereof.

d. Any person holding or attempting to hold an office, employment, or position in violation of this section shall be considered as illegally holding or attempting to hold the same; provided that a person holding an office, employment, or position in this State shall have one year from the time of taking the office, employment, or position to satisfy the requirement of principal residency, and if thereafter such person fails to satisfy the requirement of principal residency as defined herein with respect to any 365-day period, that person shall be deemed unqualified for holding the office, employment, or position. The Superior Court shall, in a civil action in lieu of prerogative writ, give judgment of ouster against such person, upon the complaint of any officer or citizen of the State, provided that any such complaint shall be brought within one year of the alleged 365-day period of failure to have his or her principal residence in this State.

3. This act shall take effect on the first day of the fourth month after enactment.

Approved May 17, 2011.

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## CHAPTER 71

AN ACT concerning the development of a searchable local public bidding database for procurement opportunities published by contracting units and boards of education and supplementing P.L.1971, c.198.

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

### **C.40A:11-23.4 "Bulletin NJ."**

1. a. The Division of Local Government Services in the Department of Community Affairs, in consultation with the Office of Information Technology, shall design, develop, and maintain a single, searchable Internet database, to be known as "Bulletin NJ," that contains and displays information on requests for proposals and other government procurement opportunities published by a contracting unit or a board of education, as defined by N.J.S.18A:18A-2.

b. Each entry in the Internet database shall include information as required pursuant to rules and regulations adopted by the Division of Local Government Services.

c. In addition to the requirements specified in subsection a. of this section, the Internet database shall:

(1) be accessible from the Division of Local Government Services Internet website;

(2) display all of the information required by subsection b. of this section;

(3) be searchable by the name of the contracting unit or board of education publishing the request for proposals;

(4) be reviewed and updated at least once per month or more frequently as new information becomes available or changes are necessary; and

(5) provide an opportunity for the public to submit input and feedback concerning the utility of the Internet database and recommendations for its improvement.

d. All contracting units and boards of education, as defined by N.J.S.18A:18A-2, are directed to submit information as required pursuant to rules and regulations adopted by the Division of Local Government Services.

e. Nothing in this section shall require the disclosure of information deemed confidential by State or federal law.

f. Nothing in this section shall be interpreted to invalidate or otherwise impact an otherwise valid contract entered in to pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) or the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

**C.40A:11-23.5 Rules, regulations.**

2. The Division of Local Government Services in the Department of Community Affairs shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to effectuate the purposes of this act.

3. This act shall take effect immediately, but section 1 shall remain inoperative until March 1, 2012. The Division of Local Government Services in the Department of Community Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved May 17, 2011.

## CHAPTER 72

AN ACT concerning the qualifications of a member of a board of education or a charter school board of trustees, and amending and supplementing various parts of the statutory law.

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

1. N.J.S.18A:12-1 is amended to read as follows:

**Qualifications.**

18A:12-1. Each member of any board of education shall be a citizen and resident of the district, or of such constituent district of a consolidated or regional district as may be required by law, and shall have been such for at least one year immediately preceding his appointment or election, he shall be able to read and write, shall be registered to vote in the district, and, notwithstanding the provisions of N.J.S.2C:51-1 or any other law to the contrary, he is not disqualified as a voter pursuant to R.S.19:4-1 and has not been convicted of:

any crime of the first or second degree;

an offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2;

an offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.;

a crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder;

a crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

|                                       |               |
|---------------------------------------|---------------|
| Recklessly endangering another person | N.J.S.2C:12-2 |
|---------------------------------------|---------------|

|                     |               |
|---------------------|---------------|
| Terroristic threats | N.J.S.2C:12-3 |
|---------------------|---------------|

|                    |               |
|--------------------|---------------|
| Criminal restraint | N.J.S.2C:13-2 |
|--------------------|---------------|

Luring, enticing child into motor vehicle,

|                            |                             |
|----------------------------|-----------------------------|
| structure or isolated area | P.L.1993, c.291 (C.2C:13-6) |
|----------------------------|-----------------------------|

Causing or risking widespread injury

|           |               |
|-----------|---------------|
| or damage | N.J.S.2C:17-2 |
|-----------|---------------|

|                                                                                                                                                |                |
|------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Criminal mischief                                                                                                                              | N.J.S.2C:17-3  |
| Burglary                                                                                                                                       | N.J.S.2C:18-2  |
| Usury                                                                                                                                          | N.J.S.2C:21-19 |
| Threats and other improper influence                                                                                                           | N.J.S.2C:27-3  |
| Perjury and false swearing                                                                                                                     | N.J.S.2C:28-3  |
| Resisting arrest                                                                                                                               | N.J.S.2C:29-2  |
| Escape                                                                                                                                         | N.J.S.2C:29-5  |
| Bias intimidation                                                                                                                              | N.J.S.2C:16-1; |
| any crime of the fourth degree involving a victim who is a minor; or conspiracy to commit or an attempt to commit any of the aforesaid crimes. |                |

For the purposes of this section, a conviction exists if the individual has been convicted, at any time, under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

2. N.J.S.18A:12-2.1 is amended to read as follows:

**Oaths.**

18A:12-2.1. Each member of a board of education shall, before entering upon the duties of his office, take and subscribe:

(1) An oath that he possesses the qualifications of membership prescribed by law, including a specific declaration that he is not disqualified as a voter pursuant to R.S.19:4-1 and a specific declaration that he is not disqualified due to conviction of a crime or offense listed in N.J.S.18A:12-1, and that he will faithfully discharge the duties of this office, and also

(2) The oath prescribed by R.S.41:1-3.

In the case of a Type I school district the oath shall be filed with the clerk of the municipality and in all other cases it shall be filed with the secretary of the board of education of the district.

3. Section 5 of P.L.1987, c.328 (C.18A:12-2.2) is amended to read as follows:

**C.18A:12-2.2 False affirmation, disqualification, fourth degree crime.**

5. Any member of a board of education who falsely affirms or declares that he is not disqualified as a voter pursuant to R.S.19:4-1, or that he is not disqualified from membership on the board due to conviction of a crime or offense listed in N.J.S.18A:12-1, is, in addition to immediate disqualification for office, guilty of a crime of the fourth degree.

4. N.J.S.18A:12-3 is amended to read as follows:

**Cessation of membership.**

18A:12-3. Whenever a member of a local or regional board of education shall cease to be a bona fide resident of the district, or of any constituent district of a consolidated or regional district which he represents, or shall become mayor or a member of the governing body of a municipality, his membership in the board shall immediately cease; and, any member who fails to attend three consecutive meetings of the board without good cause may be removed by it. Whenever a member of a county special service school district or a member of a county vocational school district shall cease to be a bona fide resident of the district, or shall hold office as a member of the governing body of a county, his membership on the board shall immediately cease.

Notwithstanding the provisions of N.J.S.2C:51-1 or any other law to the contrary, whenever a member of a board of education is disqualified as a voter pursuant to R.S.19:4-1, or is convicted of a crime or offense listed in N.J.S.18A:12-1, his membership on the board shall immediately cease.

**C.18A:12-1.2 Criminal history background investigation for board of education members.**

5. a. Each member of any board of education, within 30 days of election or appointment to that board, shall undergo a criminal history background investigation for the purpose of ensuring that the member is not disqualified from membership due to a conviction of a crime or offense listed in N.J.S.18A:12-1.

b. A member of a board of education shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The Commissioner of Education is hereby authorized to exchange fingerprint data with and receive criminal history record information from the federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. A member shall furnish his or her written consent to such a check as a condition of holding the office of school board member. The member shall bear the cost for the criminal history record check, including all costs for administering and processing the check, except that an elected member may use unexpended campaign funds to pay such costs. The board of education may reimburse the member for the cost of the criminal history record check, including all costs for administering and processing the check.

c. The Commissioner of Education is authorized to:  
receive all criminal history data necessary to complete the criminal history records check as required pursuant to this section;

receive all data in accordance with this section on charges pending against a member of a board of education who has previously undergone a criminal history records check; and

adjust the fees set by the Department of Education for the criminal history records checks.

d. Upon receipt of the criminal history record information for a member of a board of education from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the member, in writing, of the member's qualification or disqualification from holding the office of member of a board of education. If the member is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the member. The member shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the commissioner shall notify the member's board of education that the member has been disqualified from membership on the board.

e. The commissioner is authorized to share all criminal history record information of a member received from the Federal Bureau of Investigation or the State Bureau of Identification with the appropriate court in order to obtain copies of the judgment of conviction and such other documents as the commissioner deems necessary to confirm the completeness and accuracy of the record.

f. Following qualification for membership on a board of education pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against a member. If the charge is for one of the crimes or offenses enumerated in N.J.S.18A:12-1, the commissioner shall notify the member's board of education, and the board shall take appropriate action. If the pending charge results in conviction, the member shall be disqualified for continued membership.

g. The Commissioner of Education shall permanently maintain the criminal record and application documents on a member of a board of education. All documents submitted by a candidate and all criminal history record information shall be maintained by the commissioner in a confidential manner.

6. Each member of a board of education holding office on the effective date of this act shall comply with the criminal history background in-

vestigation requirements of section 5 of P.L.2011, c.72 (C.18A:12-1.2) within 30 days of that effective date.

**C.18A:36A-11.1 Requirements for member of board of trustees of a charter school.**

7. a. A person may not serve as a member of the board of trustees of a charter school if he or she has been convicted of a crime or offense listed in N.J.S.18A:12-1.

b. Each member of a charter school board of trustees, within 30 days of appointment to that board, shall undergo a criminal history background investigation for the purpose of ensuring that the member is not disqualified from membership due to a conviction of a crime or offense listed in N.J.S.18A:12-1.

c. A member of a charter school board of trustees shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The Commissioner of Education is hereby authorized to exchange fingerprint data with and receive criminal history record information from the federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. A member shall furnish his or her written consent to such a check as a condition of holding the office of charter school board of trustees member. The member shall bear the cost for the criminal history record check, including all costs for administering and processing the check. The charter school may reimburse the member for the cost of the criminal history record check, including all costs for administering and processing the check.

d. The Commissioner of Education is authorized to:

receive all criminal history data necessary to complete the criminal history records check as required pursuant to this section;

receive all data in accordance with this section on charges pending against a member who has previously undergone a criminal history records check; and

adjust the fees set by the Department of Education for the criminal history records checks.

e. Upon receipt of the criminal history record information for a member of a charter school board of trustees from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the member, in writing, of the member's qualification or disqualification from holding the office of member of a board. If the member is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the member. The member

shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the commissioner shall notify the member's board of trustees that the member has been disqualified from membership on the board.

f. The commissioner is authorized to share all criminal history record information of a member received from the Federal Bureau of Investigation or the State Bureau of Identification with the appropriate court in order to obtain copies of the judgment of conviction and such other documents as the commissioner deems necessary to confirm the completeness and accuracy of the record.

g. Following qualification for membership on a board of trustees pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against a member. If the charge is for one of the crimes or offenses enumerated in N.J.S.18A:12-1, the commissioner shall notify the member's board of trustees, and the board shall take appropriate action. If the pending charge results in conviction, the member shall be disqualified for continued membership.

h. The Commissioner of Education shall permanently maintain the criminal record and application documents on a member of a board of trustees. All documents submitted by a candidate and all criminal history record information shall be maintained by the commissioner in a confidential manner.

8. Each member of a board of trustees of a charter school holding office on the effective date of this act shall comply with the criminal history background investigation requirements of section 7 of P.L.2011, c.72 (C.18A:36A-11.1) within 30 days of that effective date.

9. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read as follows:

**C.18A:6-7.1 Criminal record check in public school employment, volunteer service.**

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician,

school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils. In the case of school districts involved in a sending-receiving relationship, the decision to require criminal history record checks for volunteers shall be made jointly by the boards of education of the sending and receiving districts.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

|                                       |               |
|---------------------------------------|---------------|
| Recklessly endangering another person | N.J.S.2C:12-2 |
| Terroristic threats                   | N.J.S.2C:12-3 |
| Criminal restraint                    | N.J.S.2C:13-2 |

|                                                                       |                             |
|-----------------------------------------------------------------------|-----------------------------|
| Luring, enticing child into motor vehicle, structure or isolated area | P.L.1993, c.291 (C.2C:13-6) |
| Causing or risking widespread injury or damage                        | N.J.S.2C:17-2               |
| Criminal mischief                                                     | N.J.S.2C:17-3               |
| Burglary                                                              | N.J.S.2C:18-2               |
| Usury                                                                 | N.J.S.2C:21-19              |
| Threats and other improper influence                                  | N.J.S.2C:27-3               |
| Perjury and false swearing                                            | N.J.S.2C:28-3               |
| Resisting arrest                                                      | N.J.S.2C:29-2               |
| Escape                                                                | N.J.S.2C:29-5               |
| Bias intimidation                                                     | N.J.S.2C:16-1;              |

or

(3) Any crime of the fourth degree involving a victim who is a minor; or

(4) Conspiracy to commit or an attempt to commit any of the crimes described in this act.

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

f. When charges are pending for a crime or any other offense enumerated in this section, the employing board of education shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

g. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

10. This act shall take effect immediately.

Approved May 26, 2011.

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## CHAPTER 73

AN ACT requiring State departments and agencies to provide information for nonprofit organizations and supplementing Title 52 of the Revised Statutes.

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

**C.52:16A-110 Information for nonprofit organizations provided on the Internet.**

1. a. The Department of State shall maintain in a single accessible location on its designated home website information for nonprofit organizations regarding various resources available to assist them in their daily operations. The information featured shall be updated at least monthly and include, but not be limited to, information regarding: (1) available funding sources offered by the Department of State; (2) relevant eligibility criteria applicable to such funding; (3) incorporation and, to the extent applicable, board development; (4) volunteer opportunities available with or through the Department of State; (5) links to the website pages of the various departments and State agencies that contain the information that such entities must maintain in accordance with this section; and (6) any other information the Secretary of State deems necessary. The website shall be accessible from the Department of State's designated home webpage.

b. Each State department or agency that provides resources to nonprofit organizations shall maintain in a single accessible location on its designated home website information regarding various resources available from or through that department or agency to assist those nonprofit organizations in their daily operations. The information featured shall be updated at least monthly and include, but not be limited to, information regarding: (1) available funding sources offered by the department or agency; (2) relevant eligi-

bility criteria applicable to such funding; (3) volunteer opportunities available with or through the department or agency; and (4) any other information the Secretary of State deems necessary. The website shall be accessible from the designated home website of each such department or agency.

**C.52:16A-111 Establishment of formats, icons.**

2. The Secretary of State, in consultation with the Chief Technology Officer, shall establish a standard format and icon for each department and agency to use to display the required information for nonprofit organizations.

**C.52:16A-112 Cooperation by State departments, agencies.**

3. All Executive Branch departments and State agencies are directed to cooperate fully with the Office of the Secretary of State to implement the provisions of this act.

4. This act shall take effect on the 180th day after the date of enactment.

Approved May 26, 2011.

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CHAPTER 74

AN ACT concerning newborn screening and supplementing Title 26 of the Revised Statutes.

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

**C.26:2-111.3 Findings, declarations relative to newborn screening for congenital heart defects.**

1. The Legislature finds and declares that:
  - a. Congenital heart defects (CHDs) are structural abnormalities of the heart that are present at birth; CHDs range in severity from simple problems such as holes between chambers of the heart, to severe malformations, such as the complete absence of one or more chambers or valves; some critical CHDs can cause severe and life-threatening symptoms which require intervention within the first days of life;
  - b. According to the United States Secretary of Health and Human Services' Advisory Committee on Heritable Disorders in Newborns and

Children, congenital heart disease affects approximately seven to nine of every 1,000 live births in the United States and Europe; the federal Centers for Disease Control and Prevention states that CHD is the leading cause of infant death due to birth defects;

c. Current methods for detecting CHDs generally include prenatal ultrasound screening and repeated clinical examinations; while prenatal ultrasound screenings can detect some major congenital heart defects, these screenings, alone, identify less than half of all CHD cases, and critical CHD cases are often missed during routine clinical exams performed prior to a newborn's discharge from a birthing facility;

d. Pulse oximetry is a non-invasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen; when performed on a newborn a minimum of 24 hours after birth, pulse oximetry screening is often more effective at detecting critical, life-threatening CHDs which otherwise go undetected by current screening methods; newborns with abnormal pulse oximetry results require immediate confirmatory testing and intervention; and

e. Many newborn lives could potentially be saved by earlier detection and treatment of CHDs if birthing facilities in the State were required to perform this simple, non-invasive newborn screening in conjunction with current CHD screening methods.

**C.26:2-111.4 Birthing facilities required to perform pulse oximetry screening; rules, regulations.**

2. a. The Commissioner of Health and Senior Services shall require each birthing facility licensed by the Department of Health and Senior Services to perform a pulse oximetry screening, a minimum of 24 hours after birth, on every newborn in its care.

b. As used in this section, "birthing facility" means an inpatient or ambulatory health care facility licensed by the Department of Health and Senior Services that provides birthing and newborn care services.

c. The commissioner shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the purposes of this act.

3. This act shall take effect on the 90th day after enactment, but the commissioner may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved June 2, 2011.

## CHAPTER 75

AN ACT concerning access to beaches and amending P.L.1955, c.49.

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

1. Section 1 of P.L.1955, c.49 (C.40:61-22.20) is amended to read as follows:

**C.40:61-22.20 Municipal control over beaches, etc.; fees.**

1. a. The governing body of any municipality bordering on the Atlantic Ocean, tidal water bays or rivers which owns or shall acquire, by any deed of dedication or otherwise, lands bordering on the ocean, tidal water bays or rivers, or easement rights therein, for a place of resort for public health and recreation and for other public purposes shall have the exclusive control, government and care thereof and of any boardwalk, bathing and recreational facilities, safeguards and equipment, now or hereafter constructed or provided thereon, and may, by ordinance, make and enforce rules and regulations for the government and policing of such lands, boardwalk, bathing facilities, safeguards and equipment; provided, that such power of control, government, care and policing shall not be construed in any manner to exclude or interfere with the operation of any State law or authority with respect to such lands, property and facilities. Any such municipality may, in order to provide funds to improve, maintain and police the same and to protect the same from erosion, encroachment and damage by sea or otherwise, and to provide facilities and safeguards for public bathing and recreation, including the employment of lifeguards, by ordinance, make and enforce rules and regulations for the government, use, maintenance and policing thereof and provide for the charging and collecting of reasonable fees for the registration of persons using said lands and bathing facilities, for access to the beach and bathing and recreational grounds so provided and for the use of the bathing and recreational facilities, but no such fees shall be charged or collected from children under the age of 12 years.

b. A municipality may by ordinance provide that no fees, or reduced fees, shall be charged to:

- (1) persons 65 or more years of age;
- (2) persons who meet the disability criteria for disability benefits under Title II of the federal Social Security Act (42 U.S.C. s.401 et seq.);

(3) persons in active military service in any of the Armed Forces of the United States and to their spouse or dependent children over the age of 12 years; and

(4) persons who are active members of the New Jersey National Guard who have completed Initial Active Duty Training and to their spouse or dependent children over the age of 12 years. As used in this paragraph, "Initial Active Duty Training" means Basic Military Training, for members of the New Jersey Air National Guard, and Basic Combat Training and Advanced Individual Training, for members of the New Jersey Army National Guard.

c. A municipality providing for no fees or reduced fees pursuant to paragraph (3) or (4) of subsection b. of this section shall track, in a manner deemed appropriate by the governing body of the municipality, the number of persons who qualify under the provisions of those paragraphs.

2. This act shall take effect immediately.

Approved June 17, 2011.

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## CHAPTER 76

AN ACT establishing the New Jersey Alzheimer's Disease Study Commission and supplementing Title 26 of the Revised Statutes.

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

**C.26:2M-16 Findings, declarations relative to Alzheimer's Disease.**

1. The Legislature finds and declares that:

a. Alzheimer's disease is a progressive, degenerative, and irreversible neurological disease. It is one of a group of dementias referred to as Alzheimer's disease and related disorders that: develops over a period of years; is of undetermined origin; and is characterized by a progressive decline in intellectual or cognitive functioning that begins with gradual short-term memory loss and progresses to include a deterioration in all areas of cognition and executive functioning, such as analytical ability and reasoning, language and communication, perception and judgment, personality, and eventual inability to perform physical functions, including, but not limited to, activities of daily living such as ambulation, dressing, feeding, and bathing;

b. According to the report of the Alzheimer's Association, *2009 Alzheimer's Disease Facts and Figures*, it is estimated that 5.3 million persons in

the United States currently have Alzheimer's disease. Every 70 seconds someone develops Alzheimer's disease; by mid-century someone will develop Alzheimer's disease every 33 seconds. Men 55 years of age or older now have a one in eight chance of developing Alzheimer's disease; and women 55 years of age or older now have a one in five chance of developing Alzheimer's disease. By 2010, there will be nearly a half million new cases of Alzheimer's disease each year; and by 2050, there will be nearly a million new cases per year, and between 11 and 16 million persons with Alzheimer's disease;

c. Currently in New Jersey, by extrapolation based on age and demographics, the conservative estimate is that there are 150,000 residents with Alzheimer's disease. Because of the progressive deteriorative nature of the disease, it is necessary when considering its impact, to include a minimum of at least one primary caregiver for each person with Alzheimer's disease as also being directly impacted by the disease; accordingly, the current number of New Jersey residents directly impacted by Alzheimer's disease is 350,000;

d. Alzheimer's disease is the sixth leading cause of death in the United States. However, this ranking may be an underestimate due to both the failure to properly diagnose the patient's condition and the failure for the disease to be noted on the death certificate as the primary contributing factor to death;

e. Since a diagnosis of Alzheimer's disease cannot be determined definitively until an autopsy is performed, the disease is determined through a process of differential diagnosis that includes a comprehensive medical history and a physical examination and assessment, including blood testing, brain scans such as computerized axial tomography (CT), positron emission tomography (PET), and magnetic resonance imaging (MRI), and psychological and neurological testing;

f. Alzheimer's disease generally progresses over time in a gradual and insidious manner. Typically, persons with dementia (PWD) can live from eight to 10 years after receiving their diagnosis, but depending on the overall health status, some individuals live up to 20 years after receiving their diagnosis;

g. During this time, PWD and their families need continuous support, education, and assistance to help them identify and access proper care and support services. These specialized services can be difficult to find and very expensive, especially when the length of time the services are needed is taken into consideration. As the needs of the PWD intensify with the disease progression, there is a direct correlation to the associated burden and expense for the PWD and the person's family caregivers. Family caregivers become overwhelmed and emotionally and physically taxed by the

heavy demands associated with providing care 24 hours per day, seven days per week for their family member with Alzheimer's disease. Caregiver stress and associated health decline become of paramount consideration;

h. Frequently, family caregivers develop chronic and life impacting illnesses; older spouses may frequently pre-decease the PWD for whom they are caring. And, if caregivers are working outside the home, they may have difficulty managing family life and work responsibilities, and may lose time from work or become unable to perform their responsibilities at the level they were once able to, which can result in employment termination and loss of family income;

i. The direct and indirect costs of Alzheimer's disease and other dementias amount to more than \$148 billion annually. In 2004, total per-person payments from all sources for health and long-term care were three times higher for Medicare beneficiaries 65 years of age or older with Alzheimer's disease than for other Medicare beneficiaries in this age group; and

j. It is in the public interest for the State to establish a commission, similar to the one which was established under P.L.1983, c.352 but which has since expired, to study the current issues in the State associated with Alzheimer's disease in order to help raise awareness about one of this country's most significant health epidemics, to facilitate the continued development of integrated and responsive community-based services, and ease the burden of the disease on persons with Alzheimer's disease and their family members and caregivers through expanded support.

**C.26:2M-17 New Jersey Alzheimer's Disease Study Commission.**

2. a. There is established the New Jersey Alzheimer's Disease Study Commission in the Department of Health and Senior Services.

b. The commission shall consist of 15 members as follows:

(1) the Commissioners of Health and Senior Services and Human Services, or their designees, who shall serve ex officio;

(2) two members of the Senate, to be appointed by the President of the Senate, who shall not be of the same political party;

(3) two members of the General Assembly, to be appointed by the Speaker of the General Assembly, who shall not be of the same political party; and

(4) nine members appointed by the Governor, as follows: two persons recommended by the Alzheimer's Association, one of whom shall be a representative of the Greater New Jersey Chapter and one of whom shall be a representative of the Alzheimer's Association Delaware Valley Chapter; three health care professionals who are currently involved in the provision

of direct services, one of whom shall be a representative of an agency that provides home care services to persons with dementia, one of whom shall be a representative of an assisted living facility that provides specialized services to persons with dementia, and one of whom shall be a representative of a licensed nursing home that provides specialized services to persons with dementia; one representative from the clergy who has experience providing emotional and spiritual care and support for persons with Alzheimer's disease and their families; two persons who by reason of family relationship or legal guardianship bear or have borne responsibility in caring for a person with Alzheimer's disease; and one attorney who is currently licensed and practicing in New Jersey, has expertise in legal and financial planning and elder care issues, and has extensive community-based experience working with persons with Alzheimer's disease and their families.

c. Vacancies in the membership of the commission shall be filled in the same manner provided for the original appointments.

d. The commission shall organize as soon as practicable following the appointment of its members and shall select a chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the commission.

e. Members of the commission shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties as members of the commission, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

f. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes.

g. The Department of Health and Senior Service shall provide staff support to the commission, as necessary.

**C.26:2M-18 Duty of the commission.**

3. It shall be the duty of the commission to:

a. study the current impact and incidence of Alzheimer's disease among State residents, and make projections about the future impact and incidence among State residents;

b. study the State's role in long-term care, family caregiver support, and assistance to persons with early stage and early onset of Alzheimer's disease;

c. consider the capacity of public safety and law enforcement officials to respond to persons with Alzheimer's disease and for these officials to have proper education and training;

d. study the needs of persons with Alzheimer's disease and their family members and caregivers, assess the availability and affordability of existing services, programs, facilities, and agencies to meet those needs, and make recommendations for improving, expanding, or changing such services, programs, facilities, and agencies, as appropriate;

e. gather and disseminate data and information relative to the care of persons with Alzheimer's disease in order to provide health care professionals and governmental policymakers, as appropriate, with accurate data about the disease and its impact on these persons and their family members and caregivers;

f. identify the adequacy, appropriateness, and best practice-based geriatric and psychiatric services and interventions; and

g. consider such other issues as the commission may identify as necessary to ease the burden for persons with Alzheimer's disease and their family members and caregivers in the State.

**C.26:2M-19 Hearings, report, recommendations.**

4. The commission may meet and hold hearings at such places and times as it shall designate, and shall report its findings and recommendations to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), within two years of the appointment of a majority of the public members of the commission.

5. This act shall take effect immediately and shall expire upon the submission by the commission of its report.

Approved June 21, 2011.

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CHAPTER 77

AN ACT concerning certain dogs, to be known as Schultz's law, and amending P.L.1983, c.261.

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

1. Section 1 of P.L.1983, c.261 (C.2C:29-3.1) is amended to read as follows:

**C.2C:29-3.1 Animal owned, used by law enforcement agency, search and rescue dog, infliction of harm upon, interference with officer, degree of crime, penalties.**

1. Any person who purposely kills a dog, horse or other animal owned or used by a law enforcement agency or a search and rescue dog shall be guilty of a crime of the third degree, and shall be sentenced by the court to a term of imprisonment. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at five years, during which the defendant shall be ineligible for parole. In addition, the court shall impose a fine of \$15,000. Any person who purposely maims or otherwise inflicts harm upon a dog, horse or other animal owned or used by a law enforcement agency or a search and rescue dog shall be guilty of a crime of the fourth degree. Any person who interferes with any law enforcement officer using an animal in the performance of his official duties commits a disorderly persons offense, subject to a sentence of six months' imprisonment, some or all of which may be community service, restitution and a \$1,000.00 fine.

As used in this section, "search and rescue dog" means any dog trained or being trained for the purpose of search and rescue that is owned by an independent handler or member of a search and rescue team, and used in conjunction with local law enforcement or emergency services organizations for the purpose of locating missing persons or evidence of arson.

2. This act shall take effect immediately.

Approved June 21, 2011.

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CHAPTER 78

AN ACT concerning public employee pension and health care benefits, and amending and supplementing various parts of the statutory law and repealing P.L.1999, c.96, P.L.1985, c.414, and section 2 of P.L.1989, c.6.

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

1. N.J.S.18A:66-56 is amended to read as follows:

**Board of trustees, committee duties, appointment or election, terms, vacancies, oaths, voting, expenses.**

18A:66-56. a. (1) Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the teachers'

pension and annuity fund shall be vested in the board of trustees, and, as specified, in the committee established pursuant to subsection b. of this section. Subject to the limitations of the law, the board shall annually establish rules and regulations for the administration and transaction of the board's and committee's business and for the control of the funds created by this article. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions and Benefits in order to permit the most economical and uniform administration of all such retirement systems. The committee shall adopt such regulations as provided in subsection b. of this section.

(2) The membership of the board shall consist of the following:

(a) The State Treasurer or the deputy State Treasurer, when designated for that purpose by the State Treasurer;

(b) Two trustees appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of three years and until their successors are appointed, and who shall be private citizens of the State of New Jersey and who are neither an officer thereof nor active or retired members of the system, except that of the two trustees initially appointed by the Governor pursuant to P.L.1992, c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two years and one for a term of three years;

(c) Three trustees from among the active or retired members of the retirement system, elected by the membership or by the delegates elected for this purpose by the membership, one of whom shall be elected each year for a three-year term commencing on January 1, following such election in such manner as the board of trustees may prescribe. If the board of trustees determines that the election of trustees under this subsection is to be made by delegates elected by the membership, it shall prescribe that those delegates shall be chosen from among active and retired members of the retirement system;

(d) One trustee not an active or retired teacher nor an officer of the State, elected by the other trustees, other than the State Treasurer, for a term of three years.

(3) A vacancy occurring in the board of trustees shall be filled in the same manner as provided in this section for regular appointment or election to the position where the vacancy exists, except that a vacancy occurring in the trustees elected from among the active or retired members of the retirement system shall be filled for the unexpired term.

Each member of the board shall, upon appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the board's affairs, and that he will not knowingly violate or willfully permit to be violated any provision of law applicable to this

article. The oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and filed immediately in the office of the Secretary of State.

Each trustee shall be entitled to one vote in the board and a majority of all the votes of the entire board shall be necessary for a decision by the board of trustees at a meeting of the board or committee. The board shall keep a record of all its proceedings, which shall be open to public inspection.

The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through serving on the board.

(4) The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions and Benefits, subject to veto by the board for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this article, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

b. There is established a committee to be composed of eight members, four of whom shall be appointed by the Governor as representatives of public employers whose employees are enrolled in the retirement system, three of whom shall be appointed by the head of the union representing the greatest number of members of the retirement system having union membership, and one of whom shall be appointed by the head of the union representing the second greatest number of members of the retirement system having union membership. The members of the committee shall not be appointed until the system, or part of the system, attains the target funded ratio.

The members of the committee shall serve for a term of three years and until a successor is appointed and qualified. Of the initial appointments by the Governor, two members shall serve for two years and until a successor is appointed and qualified, and one shall serve for one year and until a successor is appointed and qualified. Of the initial appointments by the head of the union representing the greatest number of members of the retirement system, one member shall serve for two years and until a successor is appointed and qualified, and one shall serve for one year and until a successor is appointed and qualified.

The members of the committee shall select a chairperson from among the members, who shall serve for a term of one year, with no member serving more than one term, until all the members of the committee have served

a term in a manner alternating among the employer representatives and employee representatives, unless the committee determines otherwise with regard to this process.

The provisions of paragraph (3) of subsection a. of this section, and N.J.S.18A:66-60, shall apply to the committee and its members, as appropriate.

Upon the convening of any meeting of the committee, the members shall consider a motion to assume the authority provided in this subsection and shall proceed only if a majority of the members of the committee vote in the affirmative on that motion.

The committee may contract with such actuaries or consultants, or both, in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), as the committee may deem necessary to perform its duties, when the system or part of the system has attained the target funded ratio.

When the retirement system, or a part of the system, has attained the target funded ratio as defined in section 27 of P.L.2011, c.78 (C.43:3C-16), the committee shall have the discretionary authority for the system or for that part, as appropriate, to (1) modify the: member contribution rate; formula for calculation of final compensation; the fraction of compensation applied to service credited after the modification; age at which a member may be eligible for and the benefits for service or early retirement; and benefits provided for disability retirement; and (2) activate the application of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) for retirees for the period that the system or part is at or above the target funded ratio and modify the basis for the calculation of the adjustment and set the duration and extent of the activation. The committee shall give priority consideration to subparagraph (2) of this paragraph. The committee shall not have the authority to change the years of creditable service required for vesting.

The committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law may set forth a specific requirement on that matter.

The committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law do not set forth a specific requirement on the considered aspect of that matter or address that matter at all.

The members of the committee shall have the same duty and responsibility to the retirement system as do the members of the board of trustees. No decision of the committee shall be implemented if the direct or indirect result of the decision will be that the system's or part's funded ratio falls

below the target funded ratio in any valuation period during the 30 years following the implementation of the decision. The actuary of the fund shall make a determination of the result in that regard and submit that determination in a written report to the committee and the board prior to the implementation of the decision.

If any matter before the committee receives at least five votes in the affirmative, the board of trustees shall approve and implement the committee's decision.

If any matter regarding benefits before the committee receives four votes in the affirmative and four votes in the negative or the committee otherwise reaches an impasse on a decision, the provisions of section 33 of P.L.2011, c.78 (C.43:3C-17) shall be followed.

A final action of the committee shall be made by the adoption of a regulation that shall identify the modifications to the system by reference to statutory section. The regulations shall also specify the effective date of the modification and the system members, including beneficiaries and retirees, to whom the modification applies. Regulations of the committee are considered to be part of the plan document for the system. A regulation adopted by the committee may be modified by regulation in order to comply with the requirements of this section.

c. No member of the board, committee, employee of the board, or employee of the Division of Pensions and Benefits in the Department of the Treasury shall accept from any person, whether directly or indirectly and whether by himself or through his spouse or any member of his family, or through any partner or associate, any gift, favor, service, employment or offer of employment, or any other thing of value, including contributions to the campaign of a member or employee as a candidate for elective public office, which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities. As used in this paragraph, "person" means an (1) individual or business entity, or officer or employee of such an entity, who is seeking, or who holds, or who held within the prior three years, a contract with the board; (2) an active or retired member, or beneficiary, of the retirement system; or (3) an entity, or officer or employee of such an entity, in which the assets of the retirement system have been invested. A board or committee member or employee violating this prohibition shall be guilty of a crime of the third degree.

2. Section 29 of P.L.1973, c.140 (C.43:6A-29) is amended to read as follows:

**C.43:6A-29 State House Commission, operation of system.**

29. a. Subject to the provisions of P.L.1955, c.70 (C.52:18A-95 to 52:18A-104), the general responsibility for the proper operation of the retirement system is hereby vested in the State House Commission.

b. Except as otherwise herein provided, no member of the State House Commission shall have any direct interest in the gains or profits of any investments of the retirement system, nor shall any member of the State House Commission directly or indirectly, for himself or as an agent in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the commission; nor shall any member of the State House Commission become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

c. For purposes of this act, each member of the State House Commission shall be entitled to one vote and a majority vote of all members shall be necessary for any decision by the commission at any meeting of said commission.

d. Subject to the limitations of this act, the State House Commission shall annually establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions and Benefits in order to permit the most economical and uniform administration of all such retirement systems.

e. The actuary of the system shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125. He shall be the technical adviser of the commission on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection herewith.

f. The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the commission on a matter affecting the retirement system, the commission may select and employ legal counsel to advise and represent the commission on that matter.

g. The Director of the Division of Pensions and Benefits of the State Department of the Treasury shall be the secretary of the commission for purposes pertaining to the provisions of this act.

h. For purposes of this act, the State House Commission shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal

transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of any actuarial valuation of the assets and liabilities of the retirement system.

i. The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions and Benefits. It shall be composed of three physicians. The medical board shall pass on all medical examinations required under the provisions of this act, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

j. When the retirement system has attained the target funded ratio as defined in section 27 of P.L.2011, c.78 (C.43:3C-16), the commission shall have the discretionary authority for the system to (1) modify the: member contribution rate; formula for calculation of final salary; age at which a member may be eligible for and the benefits for service or early retirement; and benefits provided for disability retirement; and (2) activate the application of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) for retirees for the period that the system is at or above the target funded ratio and modify the basis for the calculation of the adjustment and set the duration and extent of the activation. The commission shall give priority consideration to subparagraph (2) of this paragraph. The commission shall not have the authority to change the years of creditable service required for vesting.

The commission may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law may set forth a specific requirement on that matter.

The commission may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law do not set forth a specific requirement on the considered aspect of that matter or address that matter at all.

No decision of the commission shall be implemented if the direct or indirect result of the decision will be that the system's funded ratio falls below the target funded ratio in any valuation period during the 30 years following the implementation of the decision. The actuary of the system shall make a determination of the result in that regard and submit that determination in a written report to the commission prior to the implementation of the decision.

If any matter before the commission receives a majority vote, the commission shall implement the decision.

A final action of the commission shall be made by the adoption of a regulation that shall identify the modifications to the system by reference to statutory section. The regulations shall also specify the effective date of the modification and the system members, including beneficiaries and retirees, to whom the modification applies. Regulations of the commission are considered to be part of the plan document for the system. A regulation adopted by the commission may be modified by regulation in order to comply with the requirements of this section.

k. No member of the commission, employee of the commission, or employee of the Division of Pensions and Benefits in the Department of the Treasury shall accept from any person, whether directly or indirectly and whether by himself or through his spouse or any member of his family, or through any partner or associate, any gift, favor, service, employment or offer of employment, or any other thing of value, including contributions to the campaign of a member or employee as a candidate for elective public office, which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities. As used in this subsection, "person" means an (1) individual or business entity, or officer or employee of such an entity, who is seeking, or who holds, or who held within the prior three years, a contract with the commission; or (2) an active or retired member, or beneficiary, of the retirement system. A member or employee violating this prohibition shall be guilty of a crime of the third degree.

3. Section 17 of P.L.1954, c.84 (C.43:15A-17) is amended to read as follows:

**C.43:15A-17 Board of trustees, committees.**

17. a. (1) Subject to the provisions of P.L.1955, c.70 the general responsibility for the proper operation of the Public Employees' Retirement System shall be vested in the board of trustees, and, as specified, the committees established pursuant to subsection b. of this section. Subject to the limitations of the law, the board shall annually establish rules and regulations for the administration and transaction of the board's and committees' business and for the control of the funds created by this subtitle. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions and Benefits in order to permit the most economical and uniform administration of all such retirement systems. The committees shall adopt such regulations as provided in subsection b. of this section.

(2) The membership of the board shall consist of the following:

(a) Two trustees appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of three years and until their successors are appointed, who shall be private citizens of the State of New Jersey and who are neither an officer thereof nor active or retired members of the system. Of the two trustees initially appointed by the Governor pursuant to P.L.1992, c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two years and one for a term of three years.

(b) The State Treasurer or the Deputy State Treasurer, when designated for that purpose by the State Treasurer.

(c) Three trustees elected for a term of three years by the member employees of the State from among the active or retired State members of the retirement system in a manner prescribed by the board of trustees.

(d) One trustee elected for a term of three years by the member employees of counties from among the active or retired county members of the retirement system and the same method of holding an election from time to time used for the State employees' representatives shall be followed in elections held for county representatives.

(e) Two trustees elected for a term of three years by the member employees of municipalities from among the active or retired municipal members of the retirement system and the same method of holding an election from time to time used for the State employees' representatives shall be followed in elections held for municipal representatives.

(3) A vacancy occurring in the board of trustees shall be filled by the appointment or election of a successor in the same manner as his predecessor.

Each member of the board shall, upon appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the board's affairs, and that he will not knowingly violate or willfully permit to be violated any provision of law applicable to this act. The oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and filed immediately in the office of the Secretary of State.

Each trustee shall be entitled to one vote in the board and a majority of all the votes of the entire board shall be necessary for a decision by the board of trustees at a meeting of the board. The board shall keep a record of all its proceedings, which shall be open to public inspection.

The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through the serving on the board.

(4) The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions and Benefits, subject to

veto by the board of trustees for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

b. There are established two committees, to be composed of eight members each as follows, one for the State employees part of the retirement system and one for the part of the retirement system with employees of employers other than the State.

Each committee shall have four members who shall be appointed by the Governor as representatives of public employers whose employees are enrolled in the retirement system, and four members who shall be appointed by the Public Employee Committee of the AFL-CIO with the four appointments to be allocated among the unions representing members of the retirement system having union membership in a manner that results in the unions representing a greater number of members receiving more appointments than the unions representing fewer members. The members of the committees shall not be appointed until that part of the system attains the target funded ratio.

The members of each committee shall serve for a term of three years and until a successor is appointed and qualified. For each committee, of the initial appointments by the Governor, two members shall serve for two years and until a successor is appointed and qualified, and one shall serve for one year and until a successor is appointed and qualified. For each committee, of the initial appointments by the Public Employee Committee of the AFL-CIO, one member shall serve for two years and until a successor is appointed and qualified, and one shall serve for one year and until a successor is appointed and qualified.

For each committee, the members of the committee shall select a chairperson from among the members, who shall serve for a term of one year, with no member serving more than one term until all the members of that committee have served a term in a manner alternating among the employer representatives and employee representatives, unless the committee determines otherwise with regard to this process.

The provisions of paragraph (3) of subsection a. of this section, and section 36 of P.L.1954, c.84 (C.43:15A-36), shall apply to each committee and its members, as appropriate.

Upon the convening of any meeting of a committee, the members shall consider a motion to assume the authority provided in this subsection and shall proceed only if a majority of the members of the committee vote in the affirmative on that motion.

Each committee may contract with such actuaries or consultants, or both, in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), as the committee may deem necessary to perform its duties, when that part of the system has met the target funded ratio.

When a part of the system has attained the target funded ratio as defined in section 27 of P.L.2011, c.78 (C.43:3C-16), the committee for that part shall have the discretionary authority for that part to (1) modify the: member contribution rate; formula for calculation of final compensation; the fraction of compensation applied to service credited after the modification; age at which a member may be eligible for and the benefits for service or early retirement; and benefits provided for disability retirement; and (2) activate the application of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) for retirees for the period that the part is at or above the target funded ratio and modify the basis for the calculation of the adjustment and set the duration and extent of the activation. A committee shall give priority consideration to subparagraph (2) of this paragraph. A committee shall not have the authority to change the years of creditable service required for vesting.

Each committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law may set forth a specific requirement on that matter.

Each committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law do not set forth a specific requirement on the considered aspect of that matter or address that matter at all.

The members of each committee shall have the same duty and responsibility to the retirement system as do the members of the board of trustees. No decision of a committee shall be implemented if the direct or indirect result of the decision will be that the funded ratio of that part falls below the target funded ratio in any valuation period during the 30 years following the implementation of the decision. The actuary of the fund shall make a determination of the result in that regard and submit that determination in a written report to the committee and the board prior to the implementation of the decision.

If any matter before a committee receives at least five votes in the affirmative, the board of trustees shall approve and implement the committee's decision.

If any matter regarding benefits before a committee receives four votes in the affirmative and four votes in the negative or a committee otherwise reaches an impasse on a decision, the provisions of section 33 of P.L.2011, c.78 (C.43:3C-17) shall be followed.

A final action of the committee shall be made by the adoption of a regulation that shall identify the modifications to the system by reference to statutory section. The regulations shall also specify the effective date of the modification and the system members, including beneficiaries and retirees, to whom the modification applies. Regulations of the committee are considered to be part of the plan document for the system. A regulation adopted by the committee may be modified by regulation in order to comply with the requirements of this section.

c. No member of the board, committee, employee of the board, or employee of the Division of Pensions and Benefits in the Department of the Treasury shall accept from any person, whether directly or indirectly and whether by himself or through his spouse or any member of his family, or through any partner or associate, any gift, favor, service, employment or offer of employment, or any other thing of value, including contributions to the campaign of a member or employee as a candidate for elective public office, which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities. As used in this subsection, "person" means an (1) individual or business entity, or officer or employee of such an entity, who is seeking, or who holds, or who held within the prior three years, a contract with the board; (2) an active or retired member, or beneficiary, of the retirement system; or (3) an entity, or officer or employee of such an entity, in which the assets of the retirement system have been invested. A board or committee member or employee violating this prohibition shall be guilty of a crime of the third degree.

4. Section 13 of P.L.1944, c.255 (C.43:16A-13) is amended to read as follows:

**C.43:16A-13 Police and Firemen's Retirement System, trustees, committees.**

13. a. (1) Subject to the provisions of P.L.1955, c.70 (C.52:18A-95 et seq.), the general responsibility for the proper operation of the retirement system is hereby vested in a board of trustees, and, as specified, the committees established pursuant to subsection b. of this section.

(2) The board shall consist of 11 trustees as follows:

(a) Five members to be appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of four years

and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor an active or retired member of any police or fire department thereof. Of the four members initially appointed by the Governor pursuant to P.L.1992, c.125 (C.43:4B-1 et al.), one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. The member appointed by the Governor pursuant to the provisions of this amendatory act, P.L.1995, c.238, shall serve for a term of four years and until a successor is appointed.

(b) The State Treasurer or the deputy State Treasurer, when designated for that purpose by the State Treasurer.

(c) Two policemen and two firemen who shall be active members of the system and who shall be elected by the active members of the system for a term of four years according to such rules and regulations as the board of trustees shall adopt to govern such election.

(d) One retiree from the system who shall be elected by retirees from the system for a term of four years according to such rules and regulations as the board of trustees shall adopt to govern the election.

(3) Each trustee shall, after his appointment or election, take an oath of office that, so far as it devolves upon him he will diligently and honestly fulfill his duties as a board member, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member making it, and certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

(4) If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

(5) The trustees shall serve without compensation, but they shall be reimbursed for all necessary expenses that they may incur through service on the board.

(6) Each trustee shall be entitled to one vote in the board. Six trustees must be present at any meeting of said board for the transaction of its business.

(7) Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transaction of the board's and committees' business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions and Benefits in order to permit the most economical and uniform administration of all such retirement systems. The committees shall adopt such regulations as provided in subsection b. of this section.

(8) The board of trustees shall elect from its membership a chairman. The Director of the Division of Pensions and Benefits shall appoint a qualified employee of the division to be secretary of the board. The administration of the program shall be performed by the personnel of the Division of Pensions and Benefits.

(9) The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

(10) The Attorney General of the State of New Jersey shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board or the committees on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board or the committees on that matter.

(11) The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions and Benefits, subject to veto by the board of trustees for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

(12) The actuary of the system shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125. He shall be the technical adviser of the board of trustees and the committees on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

(13) At least once in each three-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system and, with the advice of the actuary, the board of trustees shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this act.

(14) (Deleted by amendment, P.L.1970, c.57.)

(15) On the basis of such tables recommended by the actuary as the board of trustees shall adopt and regular interest, the actuary shall make an annual valuation of the assets and liability of the funds of the system created by this act.

(16) (Deleted by amendment, P.L.1987, c.330.)

(17) Each policeman or fireman member of the board of trustees or the committees shall be entitled to time off from his duty, with pay, during the periods of his attendance upon regular or special meetings of the board of trustees or the committees, and such time off shall include reasonable travel time required in connection therewith.

b. There are established two committees, to be composed of 10 members each as follows, one for the State employees part of the retirement system and one for the part of the retirement system with employees of employers other than the State.

Each committee shall have five members who shall be appointed by the Governor as representatives of public employers whose employees are enrolled in the retirement system, two members who shall be appointed by the head of the union representing the greatest number of police officer members of the retirement system having union membership, one member who shall be appointed by the head of the union representing the second greatest number of police officer members of the retirement system having union membership, one member who shall be appointed by the head of the union representing the greatest number of firefighter members of the retirement system having union membership, and one member who shall be appointed by the head of the union representing the second greatest number of firefighter members of the retirement system having union membership. The members of the committees shall not be appointed until that part of the system attains the target funded ratio.

The members of each committee shall serve for a term of three years and until a successor is appointed and qualified. For each committee, of the initial appointments by the Governor, two members shall serve for two years and until a successor is appointed and qualified, and two shall serve for one year and until a successor is appointed and qualified. For each committee, of the initial appointments by the head of the union representing the greatest number of police officer members of the retirement system, the members shall serve for two years and until a successor is appointed and qualified. For each committee, of the initial appointment by the head of the union representing the greatest number of firefighter members of the retirement system, the member shall serve for one year and until a successor is appointed and qualified.

For each committee, the members of the committee shall select a chairperson from among the members, who shall serve for a term of one year, with no member serving more than one term until all the members of the committee have served a term in a manner alternating among the employer representatives and employee representatives, unless the committee determines otherwise with regard to this process.

The provisions of paragraphs (3) through (6), inclusive, and (17) of subsection a. of this section, and subsection (4) of section 14 of P.L.1944, c.255 (C.43:16A-14), shall apply to the committee and its members, as appropriate. The committee shall keep a record of all of its proceedings which shall be open to public inspection.

Upon the convening of any meeting of a committee, the members shall consider a motion to assume the authority provided in this subsection and shall proceed only if a majority of the members of the committee vote in the affirmative on that motion.

Each committee may contract with such actuaries or consultants, or both, in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), as the committee may deem necessary to perform its duties, when that part of the system has attained the target funded ratio.

When a part of the system, has attained the target funded ratio as defined in section 27 of P.L.2011, c.78 (C.43:3C-16), the committee for that part shall have the discretionary authority for that part to (1) modify the: member contribution rate; formula for calculation of final compensation; age at which a member may be eligible for and the benefits for service or special retirement; and benefits provided for disability retirement; and (2) activate the application of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) for retirees for the period that the part is at or above the target funded ratio and modify the basis for the calculation of the adjustment and set the duration and extent of the activation. A committee shall give priority consideration to subparagraph (2) of this paragraph. A committee shall not have the authority to change the years of creditable service required for vesting.

Each committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law may set forth a specific requirement on that matter.

Each committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law do not set forth a specific requirement on the considered aspect of that matter or address that matter at all.

The members of each committee shall have the same duty and responsibility to the retirement system as do the members of the board of trustees. No decision of a committee shall be implemented if the direct or indirect result of the decision will be that the funded ratio of that part falls below the target funded ratio in any valuation period during the 30 years following the implementation of the decision. The actuary of the system shall make a determination of the result in that regard and submit that determination in a written report to the committee and the board prior to the implementation of the decision.

If any matter before a committee receives at least six votes in the affirmative, the board of trustees shall approve and implement the committee's decision.

If any matter regarding benefits before a committee receives five votes in the affirmative and five votes in the negative or the committee otherwise reaches an impasse on a decision, the provisions of section 33 of P.L.2011, c.78 (C.43:3C-17) shall be followed.

A final action of the committee shall be made by the adoption of a regulation that shall identify the modifications to the system by reference to statutory section. The regulations shall also specify the effective date of the modification and the system members, including beneficiaries and retirees, to whom the modification applies. Regulations of the committee are considered to be part of the plan document for the system. A regulation adopted by the committee may be modified by regulation in order to comply with the requirements of this section.

c. No member of the board, committee, employee of the board, or employee of the Division of Pensions and Benefits in the Department of the Treasury shall accept from any person, whether directly or indirectly and whether by himself or through his spouse or any member of his family, or through any partner or associate, any gift, favor, service, employment or offer of employment, or any other thing of value, including contributions to the campaign of a member or employee as a candidate for elective public office, which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities. As used in this subsection, "person" means an (1) individual or business entity, or officer or employee of such an entity, who is seeking, or who holds, or who held within the prior three years, a contract with the board; (2) an active or retired member, or beneficiary, of the retirement system; or (3) an entity, or officer or employee of such an entity, in which the assets of the retirement system have been invested. A board or committee member or employee violating this prohibition shall be guilty of a crime of the third degree.

5. Section 30 of P.L.1965, c.89 (C.53:5A-30) is amended to read as follows:

**C.53:5A-30 State police retirement system trustees, committee.**

30. a. Subject to the provisions of P.L.1955, c.70 (C.52:18A-95 et seq.), the general responsibility for the proper operation of the retirement system is hereby vested in the board of trustees, and, as specified, the committee established pursuant to subsection o. of this section.

b. The board shall consist of five trustees as follows:

(1) Two active or retired members of the system who shall be appointed by the Superintendent of State Police, who shall serve at the pleasure of the superintendent and until their successors are appointed and one of whom shall be or shall have been a commissioned officer of the Division of State Police.

(2) Two members to be appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of three years and until their successors are appointed and who shall be private citizens of the State of New Jersey who are neither an officer thereof nor active or retired members of the system. Of the two members initially appointed by the Governor pursuant to P.L.1992, c.125 (C.43:4B-1 et al.), one shall be appointed for a term of two years and one for a term of three years.

(3) The State Treasurer ex officio. The Deputy State Treasurer, when designated for that purpose by the State Treasurer, may sit as a member of the board of trustees and when so sitting shall have all the powers and shall perform all the duties vested by this act in the State Treasurer.

c. Each trustee shall, after his appointment, take an oath of office that, so far as it devolves upon him, he will diligently and honestly fulfill his duties as a board member, and that he will not knowingly violate or permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed by the member taking it, and certified by the official before whom it is taken, and immediately filed in the office of the Secretary of State.

d. If a vacancy occurs in the office of a trustee, the vacancy shall be filled in the same manner as the office was previously filled.

e. The trustees shall serve without compensation, but they shall be reimbursed by the State for all necessary expenses that they may incur through service on the board. No employee member shall suffer loss of salary through the serving on the board.

f. Except as otherwise herein provided, no member of the board of trustees shall have any direct interest in the gains or profits of any invest-

ments of the retirement system; nor shall any member of the board of trustees directly or indirectly, for himself or as an agent in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any member of the board of trustees become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

g. Each trustee shall be entitled to one vote in the board. A majority vote of all trustees shall be necessary for any decision by the trustees at any meeting of said board.

h. Subject to the limitations of this act, the board of trustees shall annually establish rules and regulations for the administration of the funds created by this act and for the transactions of the board's and committee's business. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions and Benefits in order to permit the most economical and uniform administration of all such retirement systems. The committee shall adopt such regulations as provided in subsection o. of this section.

i. The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125. He shall be the technical adviser of the board and the committee on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection herewith.

j. The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board or the committee on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board or the committee on that matter.

k. The Director of the Division of Pensions and Benefits of the State Department of the Treasury shall appoint a qualified member of the division who shall be the secretary of the board.

l. The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. The retirement system shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

m. The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions and Benefits, subject to veto by

the board of trustees for valid reason. It shall be composed of three physicians. The medical board shall pass on all medical examinations required under the provisions of this act, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

n. (Deleted by amendment, P.L.1987, c.330).

o. There is established a committee to be composed of eight members, four of whom shall be appointed by the Governor as representatives of the public employer whose employees are enrolled in the retirement system, three of whom shall be appointed by the head of the State Troopers Fraternal Association, and one of whom shall be appointed by the head of the union representing the greatest number of members of the retirement system who are supervisory officers having union membership. The members of the committee shall not be appointed until the system attains the target funded ratio.

The members of the committee shall serve for a term of three years and until a successor is appointed and qualified. Of the initial appointments by the Governor, two members shall serve for two years and until a successor is appointed and qualified, and one shall serve for one year and until a successor is appointed and qualified. Of the initial appointments by the State Troopers Fraternal Association, one member shall serve for two years and until a successor is appointed and qualified, and one shall serve for one year and until a successor is appointed and qualified.

The members of the committee shall select a chairperson from among the members, who shall serve for a term of one year, with no member serving more than one term until all the members of the committee have served a term in a manner alternating among the employer representatives and employee representatives, unless the committee determines otherwise with regard to this process.

The provisions of subsections c. through g., inclusive, of this section shall apply to the committee and its members, as appropriate. The committee shall keep a record of all of its proceedings which shall be open to public inspection.

Upon the convening of any meeting of the committee, the members shall consider a motion to assume the authority provided in this subsection and shall proceed only if a majority of the members of the committee vote in the affirmative on that motion.

The committee may contract with such actuaries or consultants, or both, in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), as the committee may deem necessary to perform its duties, when the system has attained the target funded ratio.

When the retirement system has attained the target funded ratio as defined in section 27 of P.L.2011, c.78 (C.43:3C-16), the committee shall have the discretionary authority for the system to (1) modify the: member contribution rate; formula for calculation of final compensation or final salary; age at which a member may be eligible for and the benefits for service or special retirement; and benefits provided for disability retirement; and (2) activate the application of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) for retirees for the period that the system is at or above the target funded ratio and modify the basis for the calculation of the adjustment and set the duration and extent of the activation. The committee shall give priority consideration to subparagraph (2) of this paragraph. The committee shall not have the authority to change the years of creditable service required for vesting.

The committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law may set forth a specific requirement on that matter.

The committee may consider a matter described above and render a decision notwithstanding that the provisions of the statutory law do not set forth a specific requirement on the considered aspect of that matter or address that matter at all.

The members of the committee shall have the same duty and responsibility to the retirement system as do the members of the board of trustees. No decision of the committee shall be implemented if the direct or indirect result of the decision will be that the system's funded ratio falls below the target funded ratio in any valuation period during the 30 years following the implementation of the decision. The actuary of the fund shall make a determination of the result in that regard and submit that determination in a written report to the committee and the board prior to the implementation of the decision.

If any matter before the committee receives at least five votes in the affirmative, the board of trustees shall approve and implement the committee's decision.

If any matter regarding benefits before the committee receives four votes in the affirmative and four votes in the negative or the committee otherwise reaches an impasse on a decision, the provisions of section 33 of P.L.2011, c.78 (C.43:3C-17) shall be followed.

A final action of the committee shall be made by the adoption of a regulation that shall identify the modifications to the system by reference to statutory section. The regulations shall also specify the effective date of the modification and the system members, including beneficiaries and retirees,

to whom the modification applies. Regulations of the committee are considered to be part of the plan document for the system. A regulation adopted by the committee may be modified by regulation in order to comply with the requirements of this section.

p. No member of the board, committee, employee of the board, or employee of the Division of Pensions and Benefits in the Department of the Treasury shall accept from any person, whether directly or indirectly and whether by himself or through his spouse or any member of his family, or through any partner or associate, any gift, favor, service, employment or offer of employment, or any other thing of value, including contributions to the campaign of a member or employee as a candidate for elective public office, which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities. As used in this subsection, "person" means an (1) individual or business entity, or officer or employee of such an entity, who is seeking, or who holds, or who held within the prior three years, a contract with the board; (2) an active or retired member, or beneficiary, of the retirement system; or (3) an entity, or officer or employee of such an entity, in which the assets of the retirement system have been invested. A board or committee member or employee violating this prohibition shall be guilty of a crime of the third degree.

6. N.J.S.18A:66-57 is amended to read as follows:

**Officers, actuary, legal adviser, secretary.**

18A:66-57. The board shall elect annually from its membership a chairman and may also elect a vice chairman, who shall have all the power and authority of the chairman in the event of the death, absence or disability of the chairman. The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125.

The actuary shall be the technical adviser of the board and the committee on matters regarding the operation of the funds created by the provisions of this article and shall perform such other duties as are required in connection therewith.

The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board or the committee on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board or the committee on that matter.

The chief or assistant chief of the office of secretarial services of the Division of Pensions and Benefits of the State Department of the Treasury, shall be the secretary of the board. The chief and assistant chief of the office of secretarial services shall be in the competitive division of the State classified service. The secretary presently in office shall hold the position as chief of the office of secretarial services subject to all of the provisions of Title 11 of the Revised Statutes and shall not be removed from said office except in the manner provided under the provisions of said title relating to permanent employees in the competitive division of the State classified service. The board of trustees shall select its secretary from among the eligible candidates.

7. Section 18 of P.L.1954, c.84 (C.43:15A-18) is amended to read as follows:

**C.43:15A-18 Officers, actuary, legal adviser, secretary.**

18. The board shall elect annually from its membership a chairman and may also elect a vice-chairman, who shall have all the power and authority of the chairman in the event of the death, absence or disability of the chairman.

The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125.

The actuary shall be the technical adviser of the board and the committees on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection therewith.

The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board or the committees on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board or the committees on that matter.

The chief or assistant chief of the office of secretarial services of the Division of Pensions and Benefits of the State Department of the Treasury shall be the secretary of the board. The chief and assistant chief of the office of secretarial services shall be in the competitive division of the State classified service. The secretary presently in office shall hold the position as assistant chief of the office of secretarial services subject to all of the provisions of Title 11 of the Revised Statutes and shall not be removed from said office except in the manner provided under the provisions of said

Title relating to permanent employees in the competitive division of the State classified service. The board of trustees shall select its secretary from among the eligible candidates.

8. N.J.S.18A:66-29 is amended to read as follows:

**Members' contribution rate.**

18A:66-29. Members enrolled in the retirement system on or after July 1, 1994 shall contribute 5% of compensation to the system. Members enrolled in the system prior to July 1, 1994 shall contribute 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, provided, however, that any member enrolled before July 1, 1994, whose full contribution rate under the system prior to the revisions by this act was less than 6%, shall pay 4% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, and 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1996.

Members enrolled in the retirement system on or after July 1, 2007 shall contribute 5.5% of compensation to the system. Members enrolled in the system prior to July 1, 2007 shall contribute 5.5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 2007.

Members of the retirement system shall contribute 6.5% of compensation to the system on and after the effective date of P.L.2011, c.78, with an additional contribution of 1% to be phased-in in equal increments over a period of seven years commencing with the first year following that effective date.

9. Section 26 of P.L.1981, c.470 (C.43:6A-34.1) is amended to read as follows:

**C.43:6A-34.1 Annuity savings fund, payroll deductions.**

26. a. The annuity savings fund shall be the fund to which shall be credited aggregate contributions made by members or on their behalf to provide for their allowances. The aggregate contributions of a member withdrawn by him or paid to his estate or his designated beneficiary in the event of death as provided by this amendatory and supplementary act shall be paid from the annuity savings fund. Upon the retirement of a member where the aggregate contributions of the member are to be provided in the

form of an annuity, the aggregate contributions of the member shall be transferred from the annuity savings fund to the retirement reserve fund.

b. There shall be deducted from the payroll of each member of the system 3% of the amount of any difference between the salary on or after January 19, 1982 for any judicial position held by the member and the salary for that position on January 18, 1982, except that there shall be deducted from the payroll of each new member initially enrolled on or after January 1, 1996, in the retirement system, 3% of the salary for the judicial position held by the member. There shall be deducted from the payroll of each member of the system on and after the effective date of P.L.2011, c.78 an additional 9% of the salary for the judicial position held by the member phased-in in equal increments over a period of seven years.

Every judge of the several courts to whom this amendatory and supplementary act applies shall be deemed to consent and agree to any deduction from his compensation required by this act and to all other provisions of this act. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other perquisites, or tenure of a person to whom this amendatory and supplementary act applies, or shall apply, and notwithstanding that the minimum salary, pay, or compensation or other perquisites provided by law for him shall be reduced thereby, payment, less such deductions, shall be a full and complete discharge and acquittance of all claims and demands for service rendered by him during the period covered by such payment.

10. Section 25 of P.L.1954, c.84 (C.43:15A-25) is amended to read as follows:

**C.43:15A-25 Annuity savings fund, members' contributions.**

25. a. The annuity savings fund shall be the fund in which shall be credited accumulated deductions and contributions by members or on their behalf to provide for their allowances. A single account shall be established in this fund for each person who is or shall become a member and all contributions deducted from each such member's compensation shall be credited to this single account.

b. (1) Members enrolled in the retirement system on or after July 1, 1994 shall contribute 5% of compensation to the system. Members enrolled in the system prior to July 1, 1994 shall contribute 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, provided, however, that any member enrolled before July 1, 1994, whose full contribution rate under the system prior to the revi-

sions by this act was less than 6%, shall pay 4% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, and 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1996.

(2) Members enrolled in the retirement system on or after July 1, 2007 who are:

employees of the State, other than employees of the Judicial Branch;

employees of an independent State authority, board, commission, corporation, agency or organization;

employees of a local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, State-operated school district, charter school, county college, any officer, board, or commission under the authority of the Commissioner of Education or of the State Board of Education, and any other public entity which is established pursuant to authority provided by Title 18A of the New Jersey Statutes; or

employees of a State public institution of higher education, other than employees of the University of Medicine and Dentistry of New Jersey shall contribute 5.5% of compensation to the system, and all such members described above enrolled in the system prior to July 1, 2007 shall contribute 5.5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 2007.

Members enrolled in the retirement system on or after July 1, 2008, other than those described in the paragraph above, shall contribute 5.5% of compensation to the system. Members enrolled in the system prior to July 1, 2008, other than those described in the paragraph above, shall contribute 5.5% of compensation to the system effective with the payroll period that begins immediately after July 1, 2008.

(3) Members of the retirement system shall contribute 6.5% of compensation to the system on and after the effective date of P.L.2011, c.78, with an additional contribution of 1% to be phased in in equal increments over a period of seven years commencing with the first year following that effective date.

c. The retirement system shall certify to each State department or subdivision thereof, and to each branch of the State service not included in a State department, and to every other employer, the proportion of each member's compensation to be deducted and to facilitate the making of deductions the retirement system may modify the deduction required by a member by such an amount as shall not exceed 1/10 of 1% of the compensation upon the basis of which the deduction is to be made.

If payment in full, representing the monthly or biweekly 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 6% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

d. Every employee to whom this act applies shall be deemed to consent and agree to any deduction from his compensation required by this act and to all other provisions of this act. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other perquisites, or tenure of a person to whom this act applies, or shall apply, and notwithstanding that the minimum salary, pay, or compensation or other perquisites provided by law for him shall be reduced thereby, payment, less such deductions, shall be a full and complete discharge and acquittance of all claims and demands for service rendered by him during the period covered by such payment.

11. Section 8 of P.L.1955, c.257 (C.43:15A-104) is amended to read as follows:

**C.43:15A-104 Contribution rate.**

8. The percentage contribution rate of each member who is a law enforcement officer shall be fixed according to his age at the time of becoming a permanent and full-time employee of the State and shall be 1/2 of the total percentage contribution rate calculated for such age by the actuary of the board of trustees to be required to provide all benefits of service retirement, ordinary disability retirement, and termination of service benefits provided by this act and the act to which this act is a supplement. In the event that a member ceases to hold a position as a law enforcement officer although continuing his employment in a position covered by the Public Employees' Retirement System, his rate of contribution shall be fixed in accordance with the rates applicable at that time to persons becoming members who are not law enforcement officers, except that his age at the time of becoming a permanent full-time employee of the State shall be used in determining his rate of contribution. Members of the retirement system shall contribute 6.5% of compensation to the system on and after the effective date of P.L.2011, c.78, with an additional contribution of 1% to be phased-in in equal increments over a period of seven years commencing with the first year following that effective date.

12. Section 2 of P.L.1972, c.167 (C.43:15A-136) is amended to read as follows:

**C.43:15A-136 Accounts in annuity savings fund; contributions.**

2. Notwithstanding the provisions of section 25 of P.L.1954, c.84 (C.43:15A-25), (a) a separate account shall be established in the annuity savings fund for each member of the Legislature and all contributions based on legislative salaries shall be credited to this account as distinguished from any other account that the legislator may have as a result of other public service covered by the retirement system; and (b) the member of the Legislature shall contribute at a rate equal to 5% of his legislative salary, which contribution shall be deducted from his salary at the time or times it is paid, and which shall be exclusive of any other contribution required of the member for Social Security, contributory death benefits or deductions for any other purpose. The contribution rate shall be 5.5% of the member's legislative salary beginning July 1, 2007. The contribution rate shall be 6.5% of the member's legislative salary on and after the effective date of P.L.2011, c.78, with an additional contribution of 1% to be phased-in in equal increments over a period of seven years commencing with the first year following that effective date.

A member of the Legislature who is enrolled on the basis of other public service before, during, or after his service as a member of the Legislature shall contribute for such other service at the rate of contribution required of other members as provided by section 25.

13. Section 3 of P.L.2001, c.259 (C.43:15A-144) is amended to read as follows:

**C.43:15A-144 Separate accounts, contributions.**

3. a. Notwithstanding the provisions of section 25 of P.L.1954, c.84 (C.43:15A-25) to the contrary, a separate account shall be established in the annuity savings fund for each workers compensation judge and all contributions based on the judge's salary shall be credited to this account. This account shall be separate from any other account that the member may have as a result of other public service covered by the retirement system.

b. A workers compensation judge shall contribute at a rate equal to 5% of the judge's salary, which contribution shall be deducted from the salary at the time or times it is paid, and which shall be exclusive of any other contribution required of the member for Social Security, contributory death benefits or deductions for any other purpose. The contribution rate shall be 5.5% of the judge's salary effective with the payroll period for which the beginning date is closest to July 1, 2007. The contribution rate shall be 6.5% of the judge's salary on and after the effective date of P.L.2011, c.78, with an addi-

tional contribution of 1% to be phased in in equal increments over a period of seven years commencing with the first year following that effective date.

c. A workers compensation judge who is enrolled on the basis of other public service before, during, or after service as a judge of compensation shall contribute for such other service at the rate of contribution required of other members as provided by section 25.

14. Section 3 of P.L.2001, c.366 (C.43:15A-157) is amended to read as follows:

**C.43:15A-157 Separate account for each prosecutor, rate.**

3. a. Notwithstanding the provisions of section 25 of P.L.1954, c.84 (C.43:15A-25) to the contrary, a separate account shall be established in the annuity savings fund for each prosecutor and all contributions based on the prosecutor's salary shall be credited to this account.

b. A prosecutor shall contribute at a rate established by the board, which contribution shall be deducted from the salary at the time or times it is paid, and which shall be exclusive of any other contribution required of the prosecutor for Social Security, contributory death benefits or deductions for any other purpose. The contribution rate shall be 10% of the prosecutor's salary on and after the effective date of P.L.2011, c.78.

c. A prosecutor who is enrolled on the basis of other public service before, during, or after service as a prosecutor shall contribute for such other service at the rate of contribution required of other members as provided by section 25.

15. 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. Members of the retirement system shall contribute 10% of compensation to the system on and after the effective date of P.L.2011, c.78.

(3) (Deleted by amendment, P.L.1989, c.204).

(4) Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1991, the amount of contribution which shall be the

normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

(5) (Deleted by amendment, P.L.1989, c.204).

(6) (Deleted by amendment, P.L.1994, c.62.)

(7) Each employer shall cause to be deducted from the salary of each member the percentage of earnable compensation prescribed in subsection (2) of this section. To facilitate the making of deductions, the retirement system may modify the amount of deduction required of any member by an amount not to exceed 1/10 of 1% of the compensation upon which the deduction is based.

(8) The deductions provided for herein shall be made notwithstanding that the minimum salary provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The chief fiscal officer of each employer shall certify to the retirement system in such manner as the retirement system may prescribe, the amounts deducted; and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose salary said deduction was made.

(9) With respect to employers other than the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute the amount of the accrued liability as of June 30, 1991 under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. Using the total amount of this unfunded accrued liability, the actuary shall compute the initial amount of contribution which, if the contribution is paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the time period for full funding of this liability, which shall not exceed 40 years on initial application of this section as amended by this act, P.L.1994, c.62. This shall be known as the "accrued liability contribution." Any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for the 10 valuation years following valuation year 1991 shall serve

to increase or decrease, respectively, the unfunded accrued liability contribution. Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2018 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2028 actuarial valuation, when the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

With respect to the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve

to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2018 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2028 actuarial valuation, when the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1995 shall be the full market value of the assets as of that date and, with respect to the valuation assets allocated to the State, shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system. Notwithstanding the first sentence of this paragraph, the percentage

of the difference between the expected value and the full market value of the assets to be added to the expected value of the assets for the valuation period ending June 30, 1998 for the State shall be 100% and for other employers shall be 57% plus such additional percentage as is equivalent to \$150,000,000. Notwithstanding the first sentence of this paragraph, the amount of the difference between the expected value and the full market value of the assets to be added to the expected value of the assets for the valuation period ending June 30, 1999 shall include an additional amount of the market value of the assets sufficient to fund (1) the unfunded accrued liability for the supplementary "special retirement" allowances provided under subsection b. of section 16 of P.L.1964, c.241 (C.43:16A-11.1) and (2) the unfunded accrued liability for the full credit toward benefits under the retirement system for service credited in the Public Employees' Retirement System and transferred pursuant to section 1 of P.L.1993, c.247 (C.43:16A-3.8) and the reimbursement of the cost of any credit purchase pursuant to section 3 of P.L.1993, c.247 (C.43:16A-3.10) provided under section 1 of P.L.2001, c.201 (C.43:16A-3.14).

"Excess valuation assets" means, with respect to the valuation assets allocated to the State, the valuation assets allocated to the State for a valuation period less the actuarial accrued liability of the State for the valuation period, and beginning with the valuation period ending June 30, 1998, less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.1999, c.428 (C.43:16A-15.8 et al.) payable on behalf of the active members employed by the State as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable to the valuation period, and less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.2003, c.108 as amending section 16 of P.L.1964, c.241 (C.43:16A-11.1) payable on behalf of the active members employed by the State as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable to the valuation period, if the sum is greater than zero. "Excess valuation assets" means, with respect to the valuation assets allocated to other employers, the valuation assets allocated to the other employers for a valuation period less the actuarial accrued liability of the other employers for the valuation period, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1993, c.99 for the other employers, and beginning with the valuation period ending June 30, 1998, less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.1999,

c.428 (C.43:16A-15.8 et al.) payable on behalf of the active members employed by other employers as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable to the valuation period, and less the present value of the expected additional normal cost contributions attributable to the provisions of P.L.2003, c.108 as amending section 16 of P.L.1964, c.241 (C.43:16A-11.1) payable on behalf of the active members employed by other employers as of the valuation period over the expected working lives of the active members in accordance with the tables of actuarial assumptions applicable to the valuation period, if the sum is greater than zero.

If there are excess valuation assets allocated to the State or to the other employers for the valuation period ending June 30, 1995, the normal contributions payable by the State or by the other employers for the valuation periods ending June 30, 1995, and June 30, 1996 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets allocated to the State or to the other employers, respectively, provided that with respect to the excess valuation assets allocated to the State, the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in *Abbott v. Burke*.

If there are excess valuation assets allocated to the other employers for the valuation period ending June 30, 1998, the accrued liability contributions payable by the other employers for the valuation period ending June 30, 1997 shall be reduced to the extent possible by the excess valuation assets allocated to the other employers.

If there are excess valuation assets allocated to the State or to the other employers for a valuation period ending after June 30, 1998, the State Treasurer may reduce the normal contribution payable by the State or by other employers for the next valuation period as follows:

(1) for valuation periods ending June 30, 1996 through June 30, 2000, to the extent possible by up to 100% of the excess valuation assets allocated to the State or to the other employers, respectively;

(2) for the valuation period ending June 30, 2001, to the extent possible by up to 84% of the excess valuation assets allocated to the State or to the other employers, respectively;

(3) for the valuation period ending June 30, 2002, to the extent possible by up to 68% of the excess valuation assets allocated to the State or to the other employers, respectively; and

(4) for valuation periods ending June 30, 2003 through June 30, 2007, to the extent possible by up to 50% of the excess valuation assets allocated to the State or to the other employers, respectively.

Notwithstanding the discretion provided to the State Treasurer in the previous paragraph to reduce the amount of the normal contribution payable by employers other than the State, the State Treasurer shall reduce the amount of the normal contribution payable by employers other than the State by \$150,000,000 in the aggregate for the valuation period ending June 30, 1998, and then the State Treasurer may reduce further pursuant to the provisions of the previous paragraph the normal contribution payable by such employers for that valuation period.

The normal and accrued liability contributions shall be certified annually by the retirement system and shall be included in the budget of the employer and levied and collected in the same manner as any other taxes are levied and collected for the payment of the salaries of members.

Notwithstanding the preceding sentence, the normal and accrued liability contributions to be included in the budget of and paid by the employer other than the State shall be as follows: for the payment due in the State fiscal year ending on June 30, 2004, 20% of the amount certified by the retirement system; for the payment due in the State fiscal year ending on June 30, 2005, a percentage of the amount certified by the retirement system as the State Treasurer shall determine but not more than 40%; for the payment due in the State fiscal year ending on June 30, 2006, a percentage of the amount certified by the retirement system as the State Treasurer shall determine but not more than 60%; and for the payment due in the State fiscal year ending on June 30, 2007, a percentage of the amount certified by the retirement system as the State Treasurer shall determine but not more than 80%.

The State Treasurer shall reduce the normal and accrued liability contributions payable by employers other than the State to 50 percent of the amount certified annually by the retirement system for payments due in the State fiscal year ending June 30, 2009. An employer that elects to pay the reduced normal and accrued liability contribution shall adopt a resolution, separate and apart from other budget resolutions, stating that the employer needs to pay the reduced contribution and providing an explanation of that need which shall include (1) a description of its inability to meet the levy cap without jeopardizing public safety, health, and welfare or without jeopardizing the fiscal stability of the employer, or (2) a description of another condition that offsets the long term fiscal impact of the payment of the reduced contribution. An employer also shall document those actions it has taken to reduce its operating costs, or provide a description of relevant an-

anticipated circumstances that could have an impact on revenues or expenditures. This resolution shall be submitted to and approved by the Local Finance Board after making a finding that these fiscal conditions are valid and affirming the findings contained in the employer resolution.

An employer that elects to pay 100 percent of the amount certified by the retirement system for the State fiscal year ending June 30, 2009 shall be credited with such payment and any such amounts shall not be included in the employer's unfunded liability.

The actuaries for the retirement system shall determine the unfunded liability of the retirement system, by employer, for the reduced normal and accrued liability contributions provided under P.L.2009, c.19. This unfunded liability shall be paid by the employer in level annual payments over a period of 15 years beginning with the payments due in the State fiscal year ending June 30, 2012 and shall be adjusted by the rate of return on the actuarial value of assets.

The retirement system shall annually certify to each employer the contributions due to the contingent reserve fund for the liability under P.L.2009, c.19. The contributions certified by the retirement system shall be paid by the employer to the retirement system on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 30 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the thirtieth day.

(10) The treasurer or corresponding officer of the employer shall pay to the State Treasurer no later than April 1 of the State's fiscal year in which payment is due the amount so certified as payable by the employer, and shall pay monthly to the State Treasurer the amount of the deductions from the salary of the members in the employ of the employer, and the State Treasurer shall credit such amount to the appropriate fund or funds, of the retirement system.

If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by this act, interest at the rate of 10% per annum shall commence to run against the unpaid balance thereof on the first day after such 30th day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 10% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such 15th day.

(11) The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employer bears to the total number of members in the system. The pro rata share of the cost of administrative expense shall be included with the certification by the retirement system of the employer's contribution to the system.

(12) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pension or other benefits on account of the employees or beneficiaries of any employer participating in the retirement system, for which reserves have not been previously created from funds, contributed by such employer or its employees for such benefits.

(13) (Deleted by amendment, P.L.1992, c.125.)

(14) Commencing with valuation year 1991, with payment to be made in Fiscal Year 1994, the Legislature shall annually appropriate and the State Treasurer shall pay into the pension accumulation fund of the retirement system an amount equal to 1.1% of the compensation of the members of the system for the valuation year to fund the benefits provided by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

(15) If the valuation assets are insufficient to fund the normal and accrued liability costs attributable to P.L.1999, c.428 (C.43:16A-15.8 et al.) as provided hereinabove, the normal and unfunded accrued liability contributions required to fund these costs for the State and other employers shall be paid by the State.

(16) The savings realized as a result of the amendments to this section by P.L.2001, c.44 in the payment of normal contributions computed by the actuary for the valuation periods ending June 30, 1998 for employers other than the State shall be used solely and exclusively by a county or municipality for the purpose of reducing the amount that is required to be raised by the local property tax levy by the county for county purposes or by the municipality for municipal purposes, as appropriate. The Director of the Division of Local Government Services in the Department of Community Affairs shall certify for each year that each county or municipality has complied with the requirements set forth herein. If the director finds that a county or municipality has not used the savings solely and exclusively for the purpose of reducing the amount that is required to be raised by the local property tax levy by the county for county purposes or by the municipality for municipal purposes, as appropriate, the director shall direct the county or municipal governing body, as appropriate, to make corrections to its budget.

16. Section 38 of P.L.1965, c.89 (C.53:5A-38) is amended to read as follows:

**C.53:5A-38 Payroll deductions; amount.**

38. There shall be deducted from the payroll of each active member of the system 7 1/2% of the amount of his salary, which shall be turned over to the State Treasurer and be credited by him to the account of the State Police Retirement System. Members of the retirement system shall contribute 9% of salary to the system on and after the effective date of P.L.2011, c.78.

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 deductions 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.

17. N.J.S.18A:66-37 is amended to read as follows:

**Early retirement.**

18A:66-37. Should a member resign after having established 25 years of creditable service before reaching age 60, or before reaching the age of 62 if the person became a member of the retirement system on or after the effective date of P.L.2008, c.89, or after having established 30 years of creditable service before reaching the age of 65 if the person became a member of the retirement system on or after the effective date of P.L.2011, c.78, the member may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof the member desires to be retired. The member shall receive, in lieu of the payment provided in N.J.S.18A:66-34, an annuity which is the actuarial equivalent of the member's accumulated deductions and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1/64 of the member's final compensation for each year of service credited as class A service and 1/55 of the member's final compensation for each year of service credited as class B service, or for a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1 1/60 of final compensation for each year of service credited as class B service, calculated in accordance with N.J.S.18A:66-44, reduced:

(a) by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55; or

(b) for a person who becomes a member of the retirement system on or after July 1, 2007, by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55 and by  $\frac{1}{12}$  of 1% for each month that the member lacks of being age 60 but over age 55;

(c) for a person who becomes a member of the retirement system on or after the effective date of P.L.2008, c.89, by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55 and by  $\frac{1}{12}$  of 1% for each month that the member lacks of being age 62 but over age 55; or

(d) for a person who becomes a member of the retirement system on or after the effective date of P.L.2011, c.78, by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 65; provided, however, that upon the receipt of proper proofs of the death of such a member there shall be paid to the member's beneficiary an amount equal to  $\frac{3}{16}$  of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service or in the year of the member's highest contractual salary, whichever is higher.

Subparagraph (b) or (c) of this section shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to N.J.S.18A:66-15.1, but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to N.J.S.18A:66-53.2 after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

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

18. Section 41 of P.L.1954, c.84 (C.43:15A-41) is amended to read as follows:

**C.43:15A-41 Withdrawal from service; early retirement; death benefits.**

41. a. A member who withdraws from service or ceases to be an employee for any cause other than death or retirement shall, upon the filing of an application therefor, receive all of his accumulated deductions standing to the credit of his individual account in the annuity savings fund, plus regular interest, less any outstanding loan, except that for any period after June 30, 1944, the interest payable shall be such proportion of the interest determined

at the regular rate of 2% per annum bears to the regular rate of interest, and except that no interest shall be payable in the case of a member who has less than three years of membership credit for which he has made contributions. He shall cease to be a member two years from the date he discontinued service as an eligible employee, or, if prior thereto, upon payment to him of his accumulated deductions. If any such person or member shall die before withdrawing or before endorsing the check constituting the return of his accumulated deductions, such deductions shall be paid to the member's beneficiary. No member shall be entitled to withdraw the amounts contributed by his employer covering his military leave unless he shall have returned to the payroll and contributed to the retirement system for a period of 90 days.

b. Should a member resign after having established 25 years of creditable service before reaching age 60, or before reaching age 62 if the person became a member of the retirement system on or after the effective date of P.L.2008, c.89, or after having established 30 years of creditable service before reaching the age of 65 if the person became a member of the retirement system on or after the effective date of P.L.2011, c.78, he may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in subsection a. of this section, an annuity which is the actuarial equivalent of his accumulated deductions together with regular interest, and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of  $\frac{1}{64}$  of final compensation for each year of service credited as Class A service and  $\frac{1}{55}$  of final compensation for each year of service credited as Class B service, or for a person who becomes a member of the retirement system on or after the effective date of P.L.2010, c.1  $\frac{1}{60}$  of final compensation for each year of service credited as Class B service, calculated in accordance with section 48 (C.43:15A-48) of this act, reduced:

(a) by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55; or

(b) for a person who becomes a member of the retirement system on or after July 1, 2007, by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55 and by  $\frac{1}{12}$  of 1% for each month that the member lacks of being age 60 but over age 55;

(c) for a person who becomes a member of the retirement system on or after the effective date of P.L.2008, c.89, by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55 and by  $\frac{1}{12}$  of 1% for each month that the member lacks of being age 62 but over age 55; or

(d) for a person who becomes a member of the retirement system on or after the effective date of P.L.2011, c.78, by 1/4 of 1% for each month that the member lacks of being age 65; provided, however, that upon the receipt of proper proofs of the death of such a member there shall be paid to his beneficiary an amount equal to three-sixteenths of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

Paragraph (b) or (c) of this subsection shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to section 14 of P.L.1954, c.84 (C.43:15A-14), but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to section 27 of P.L.1966, c.217 (C.43:15A-57.2) after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

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

c. Upon the receipt of proper proofs of the death of a member in service on account of which no accidental death benefit is payable under section 49 there shall be paid to such member's beneficiary:

(1) The member's accumulated deductions at the time of death together with regular interest; and

(2) An amount equal to one and one-half times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

19. Section 16 of P.L.1964, c.241 (C.43:16A-11.1) is amended to read as follows:

**C.43:16A-11.1 Special retirement; allowance; death benefits.**

16. a. Should a member resign after having established 25 years of creditable service, he may elect "special retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in section 11, a retirement allowance which shall consist of:

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

(2) A pension in the amount which, when added to the member's annuity, will provide (a) for a person who is a member on the effective date of P.L.2011, c.78, a total retirement allowance of 65% of final compensation, plus 1% of final compensation multiplied by the number of years of creditable service over 25 but not over 30 or (b) for a person who becomes a member of the retirement system after that effective date, a total retirement allowance of 60% of final compensation, plus 1% of final compensation multiplied by the number of years of creditable service over 25 but not over 30; provided, however, that any member who has earned, prior to July 1, 1979, more than 30 years of creditable service, shall receive an additional 1% of his final compensation for each year of his creditable service over 30.

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

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

b. The "special retirement" allowance payable under subsection a. of this section to any person who retired under the retirement system prior to December 20, 1989 shall be increased by an amount equal to 5% of the person's final compensation or by such lesser amount as would, if added to the allowance payable at the time of retirement, provide a total retirement allowance of 70% of final compensation, except that in the case of such a retirant who retired on or after July 1, 1979 and had earned prior to that date more than 30 years of creditable service, the amount of the increase shall be equal to 5% of the person's final compensation irrespective of the total retirement allowance which such an increase would provide. The provisions of this subsection shall not be construed either to require a reduction in the retirement allowance payable to any retirant or to provide for the payment of any adjustment in such an allowance with respect to any period of time prior to the first day of the month following that effective date.

20. N.J.S.18A:66-18 is amended to read as follows:

**Contingent reserve fund.**

18A:66-18. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of the tables recommended by the actuary which the board of trustees adopts and regular interest, the actuary of the board shall compute annually, beginning as of March 31, 1992, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the board of trustees adopts and regular interest, the actuary of the board shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, including the liability for pension adjustment benefits for active employees funded pursuant to section 2 of P.L.1987, c.385 (C.18A:66-18.1), which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2019 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2029 actuarial valuation, when the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the

amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending March 31, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system. Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1999 shall be the full market value of the assets as of that date.

"Excess valuation assets" for a valuation period means:

- (1) the valuation assets; less
- (2) the actuarial accrued liability for basic benefits and pension adjustment benefits, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1991, c.231 and P.L.1993, c.163 for employers other than the State; less
- (3) the contributory group insurance premium fund created by N.J.S.18A:66-77; less
- (4) the post-retirement medical premium fund created pursuant to section 2 of P.L.1987, c.385 (C.18A:66-18.1), as amended by section 3 of P.L.1994, c.62; less
- (5) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits as originally authorized by section 2 of P.L.1987, c.385 (C.18A:66-18.1) over the full phase-in period, determined in the manner pre-

scribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

If there are excess valuation assets for the valuation period ending March 31, 1996, the normal contributions for the valuation periods ending March 31, 1996 and March 31, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in *Abbott v. Burke*, and provided further that the normal contribution for the valuation period ending March 31, 1996 shall not be less than \$54,000,000. If there are excess valuation assets for a valuation period ending after March 31, 1996, the State Treasurer may reduce the normal contribution payable for the next valuation period as follows:

- (1) for valuation periods ending March 31, 1997 through March 31, 2001, to the extent possible by up to 100% of the excess valuation assets;
- (2) for the valuation period ending March 31, 2002, to the extent possible by up to 84% of the excess valuation assets;
- (3) for the valuation period ending March 31, 2003, to the extent possible by up to 68% of the excess valuation assets; and
- (4) for valuation periods ending March 31, 2004 through June 30, 2007, to the extent possible by up to 50% of the excess valuation assets.

For calendar years 1998 and 1999, the rate of contribution of members of the retirement system under N.J.S.18A:66-29 shall be reduced by 1/2 of 1% from excess valuation assets. For calendar years 2000 and 2001, the rate of contribution of members of the retirement system shall be reduced equally with normal contributions to the extent possible, but not more than 1/2 of 1%, from excess valuation assets. Thereafter, through calendar year 2007, the rate of contribution of members of the retirement system under that section for a calendar year shall be reduced equally with normal contributions to the extent possible, but not by more than 2%, from excess valuation assets if the State Treasurer determines that excess valuation assets shall be used to reduce normal contributions by the State for the fiscal year beginning immediately prior to the calendar year, and excess valuation assets above the amount necessary to fund the reduction for that calendar year in the member contribution rate plus an equal reduction in the normal contribution shall be available for the further reduction of normal contributions, subject to the limitations prescribed by this subsection.

If there are excess valuation assets after reductions in normal contributions and member contributions as authorized in the preceding paragraphs for a valuation period beginning with the valuation period ending June 30, 1999, an amount of excess valuation assets not to exceed the amount of the member contributions for the fiscal year in which the normal contributions are payable shall be credited to the benefit enhancement fund. The amount of excess valuation assets credited to the benefit enhancement fund shall not exceed the present value of the expected additional normal contributions attributable to the provisions of P.L.2001, c.133 payable on behalf of the active members over the expected working lives of the active members in accordance with the tables of actuarial assumptions for the valuation period. No additional excess valuation assets shall be credited to the benefit enhancement fund after the maximum amount is attained. Interest shall be credited to the benefit enhancement fund as provided under N.J.S.18A:66-25.

The normal contribution for the increased benefits for active members under P.L.2001, c.133 shall be paid from the benefit enhancement fund. If assets in the benefit enhancement fund are insufficient to pay the normal contribution for the increased benefits for a valuation period, the State shall pay the amount of normal contribution for the increased benefits not covered by assets from the benefit enhancement fund.

c. (Deleted by amendment, P.L.1992, c.125.)

d. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section, and which shall be paid into the contingent reserve fund in the manner provided by N.J.S.18A:66-33.

e. Except as provided in N.J.S.18A:66-26 and N.J.S.18A:66-53, the death benefits payable under the provisions of this article upon the death of an active or retired member shall be paid from the contingent reserve fund.

f. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contribution of the State.

21. Section 33 of P.L.1973, c.140 (C.43:6A-33) is amended to read as follows:

**C.43:6A-33 Computation of contributions; valuation of assets; contingent reserve fund.**

33. a. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1992, the amount of the contribution which

shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the commission and the actuary, the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2019 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2029 actuarial valuation, when the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" means the valuation assets for a valuation period less the actuarial accrued liability for the valuation period, if the sum is greater than zero. If there are excess valuation assets for the valuation period ending June 30, 1996, the normal contributions for the valuation periods ending June 30, 1996 and June 30, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in *Abbott v. Burke*. If there are excess valuation assets for a valuation period ending after June 30, 1996, the State Treasurer may reduce the normal contribution payable for the next valuation period as follows:

- (1) for valuation periods ending June 30, 1997 through June 30, 2001, to the extent possible by up to 100% of the excess valuation assets;
- (2) for the valuation period ending June 30, 2002, to the extent possible by up to 84% of the excess valuation assets;
- (3) for the valuation period ending June 30, 2003, to the extent possible by up to 68% of the excess valuation assets; and
- (4) for valuation periods ending June 30, 2004 through June 30, 2007, to the extent possible by up to 50% of the excess valuation assets.

c. The actuary shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the contingent reserve fund during the ensuing year the amount so determined.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement, shall be paid from the contingent reserve fund.

d. (Deleted by amendment, P.L.1992, c.125.)

22. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to read as follows:

**C.43:15A-24 Contingent reserve fund.**

24. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of March 31, 1992, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. With respect to employers other than the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute the amount of the accrued liability of the retirement system as of March 31, 1992 under the projected unit credit method, excluding the liability for pension adjustment benefits for active employees funded pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. Using the total amount of this unfunded accrued liability, the actuary shall compute the initial amount of contribution which, if paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the time period for full funding of this liability, which shall not exceed 40 years on initial application of this section as amended by this act, P.L.1994, c.62. This shall be known as the "accrued liability contribution." Any increase or decrease in the unfunded accrued liability as a result of actuarial losses or

gains for the 10 valuation years following valuation year 1992 shall serve to increase or decrease, respectively, the unfunded accrued liability contribution. Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2019 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2029 actuarial valuation, when the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

With respect to the State, upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the commission and the actuary, the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial

losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2019 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2029 actuarial valuation, when the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending March 31, 1996 shall be the full market value of the assets as of that date and, with respect to the valuation assets allocated to the State, shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system. Notwithstanding the first sentence of this paragraph, the valuation

assets for the valuation period ending June 30, 1999 shall be the full market value of the assets as of that date.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to the State:

- (1) the valuation assets allocated to the State; less
- (2) the actuarial accrued liability of the State for basic benefits and pension adjustment benefits under the retirement system; less
- (3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less
- (4) the post retirement medical premium fund, created pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by section 8 of P.L.1994, c.62; less
- (5) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the State authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to other employers:

- (1) the valuation assets allocated to the other employers; less
- (2) the actuarial accrued liability of the other employers for basic benefits and pension adjustment benefits under the retirement system, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other than the State; less
- (3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less
- (4) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the other employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

If there are excess valuation assets allocated to the State or to the other employers for the valuation period ending March 31, 1996, the normal con-

tributions payable by the State or by the other employers for the valuation periods ending March 31, 1996 and March 31, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets allocated to the State or to the other employers, respectively, provided that with respect to the excess valuation assets allocated to the State, the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in *Abbott v. Burke*. If there are excess valuation assets allocated to the State or to the other employers for a valuation period ending after March 31, 1996, the State Treasurer may reduce the normal contribution payable by the State or by the other employers for the next valuation period as follows:

(1) for valuation periods ending March 31, 1997 through March 31, 2001, to the extent possible by up to 100% of the excess valuation assets allocated to the State or to the other employers, respectively;

(2) for the valuation period ending March 31, 2002, to the extent possible by up to 84% of the excess valuation assets allocated to the State or to the other employers, respectively;

(3) for the valuation period ending March 31, 2003, to the extent possible by up to 68% of the excess valuation assets allocated to the State or to the other employers, respectively; and

(4) for valuation periods ending March 31, 2004 through June 30, 2007, to the extent possible by up to 50% of the excess valuation assets allocated to the State or to the other employers, respectively.

For calendar years 1998 and 1999, the rate of contribution of members of the retirement system under section 25 of P.L.1954, c.84 (C.43:15A-25) shall be reduced by 1/2 of 1% from excess valuation assets and for calendar years 2000 and 2001, the rate of contribution shall be reduced by 2% from excess valuation assets. Thereafter, through calendar year 2007, the rate of contribution of members of the retirement system under that section for a calendar year shall be reduced equally with normal contributions to the extent possible, but not by more than 2%, from excess valuation assets if the State Treasurer determines that excess valuation assets shall be used to reduce normal contributions by the State and local employers for the fiscal year beginning immediately prior to the calendar year, or for the calendar year for local employers whose fiscal year is the calendar year, and excess valuation assets above the amount necessary to fund the reduction for that calendar year in the member contribution rate plus an equal reduction in the

normal contribution shall be available for the further reduction of normal contributions, subject to the limitations prescribed by this subsection.

If there are excess valuation assets after reductions in normal contributions and member contributions as authorized in the preceding paragraphs for a valuation period beginning with the valuation period ending June 30, 1999, an amount of excess valuation assets not to exceed the amount of the member contributions for the fiscal year in which the normal contributions are payable shall be credited to the benefit enhancement fund. The amount of excess valuation assets credited to the benefit enhancement fund shall not exceed the present value of the expected additional normal contributions attributable to the provisions of P.L.2001, c.133 payable on behalf of the active members over the expected working lives of the active members in accordance with the tables of actuarial assumptions for the valuation period. No additional excess valuation assets shall be credited to the benefit enhancement fund after the maximum amount is attained. Interest shall be credited to the benefit enhancement fund as provided under section 33 of P.L.1954, c.84 (C.43:15A-33).

The normal contribution for the increased benefits for active employees under P.L.2001, c.133 shall be paid from the benefit enhancement fund. If assets in the benefit enhancement fund are insufficient to pay the normal contribution for the increased benefits for a valuation period, the State shall pay the amount of normal contribution for the increased benefits not covered by assets from the benefit enhancement fund.

c. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section.

The State Treasurer shall reduce the normal and accrued liability contributions payable by employers other than the State, excluding the contribution payable from the benefit enhancement fund, to a percentage of the amount certified annually by the retirement system, which percentage shall be: for payments due in the State fiscal year ending June 30, 2005, 20%; for payments due in the State fiscal year ending June 30, 2006, not more than 40%; for payments due in the State fiscal year ending June 30, 2007, not more than 60%; and for payments due in the State fiscal year ending June 30, 2008, not more than 80%.

The State Treasurer shall reduce the normal and accrued liability contributions payable by employers other than the State, excluding the contribution payable from the benefit enhancement fund, to 50 percent of the amount certified annually by the retirement system, for payments due in the State fiscal year ending June 30, 2009. An employer that elects to pay the

reduced normal and accrued liability contribution shall adopt a resolution, separate and apart from other budget resolutions, stating that the employer needs to pay the reduced contribution and providing an explanation of that need which shall include (1) a description of its inability to meet the levy cap without jeopardizing public safety, health, and welfare or without jeopardizing the fiscal stability of the employer, or (2) a description of another condition that offsets the long term fiscal impact of the payment of the reduced contribution. An employer also shall document those actions it has taken to reduce its operating costs, or provide a description of relevant anticipated circumstances that could have an impact on revenues or expenditures. This resolution shall be submitted to and approved by the Local Finance Board after making a finding that these fiscal conditions are valid and affirming the findings contained in the employer resolution.

An employer that elects to pay 100 percent of the amount certified by the retirement system for the State fiscal year ending June 30, 2009 shall be credited with such payment and any such amounts shall not be included in the employer's unfunded liability.

The actuaries for the retirement system shall determine the unfunded liability of the retirement system, by employer, for the reduced normal and accrued liability contributions provided under P.L.2009, c.19. This unfunded liability shall be paid by the employer in level annual payments over a period of 15 years beginning with the payments due in the State fiscal year ending June 30, 2012 and shall be adjusted by the rate of return on the actuarial value of assets.

The retirement system shall annually certify to each employer the contributions due to the contingent reserve fund for the liability under P.L.2009, c.19. The contributions certified by the retirement system shall be paid by the employer to the retirement system on or before the date prescribed by law for payment of employer contributions for basic retirement benefits. If payment of the full amount of the contribution certified is not made within 30 days after the last date for payment of employer contributions for basic retirement benefits, interest at the rate of 10% per year shall be assessed against the unpaid balance on the first day after the thirtieth day.

The State shall pay into the contingent reserve fund during the ensuing year the amount so determined. The death benefits, payable as a result of contribution by the State under the provisions of this chapter upon the death of an active or retired member, shall be paid from the contingent reserve fund.

d. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contributions of the State and other employers.

23. Section 34 of P.L.1965, c.89 (C.53:5A-34) is amended to read as follows:

**C.53:5A-34 Contingent reserve fund.**

34. The Contingent Reserve Fund shall be the fund in which shall be credited contributions made by the State.

a. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1992, the amount of the contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if paid annually in level dollars for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. Beginning with the July 1, 2019 actuarial valuation, the accrued liability contribution shall be computed so that if the contribution is paid annually in level dollars, it will amortize this unfunded accrued liability over a closed 30-year period. Beginning with the July 1, 2029 actuarial valuation, when

the remaining amortization period reaches 20 years, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 20 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 20 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" means the valuation assets for a valuation period less the actuarial accrued liability for the valuation period, if the sum is greater than zero. If there are excess valuation assets for the valuation period ending June 30, 1996, the normal contributions for the valuation periods ending June 30, 1996 and June 30, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in *Abbott v. Burke*. If there are excess valuation assets for a

valuation period ending after June 30, 1996, the State Treasurer may reduce the normal contribution payable for the next valuation period as follows:

(1) for valuation periods ending June 30, 1997 through June 30, 2001, to the extent possible by up to 100% of the excess valuation assets;

(2) for the valuation period ending June 30, 2002, to the extent possible by up to 84% of the excess valuation assets;

(3) for the valuation period ending June 30, 2003, to the extent possible by up to 68% of the excess valuation assets; and

(4) for valuation periods ending June 30, 2004 through June 30, 2007, to the extent possible by up to 50% of the excess valuation assets.

c. The actuary shall certify annually the aggregate amount payable to the Contingent Reserve Fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the Contingent Reserve Fund during the ensuing year the amount so certified. In the event the amount certified to be paid by the State includes amounts due for services rendered by members to specific instrumentalities or authorities the total amounts so certified shall be paid to the retirement system by the State; provided, however, the full cost attributable to such services rendered to such instrumentalities and authorities shall be computed separately by the actuary and the State shall be reimbursed for such amounts by such instrumentalities or authorities.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement shall be paid from the Contingent Reserve Fund.

24. Section 19 of P.L.1992, c.125 (C.43:4B-1) is amended to read as follows:

**C.43:4B-1 Retirement Systems Actuary Selection Committee.**

19. There is hereby established the Retirement Systems Actuary Selection Committee which shall consist of the State Treasurer, and the directors of the Divisions of Pensions and Benefits and Investment, and Office of Management and Budget, or their designated representatives, and one member designated by each of the boards of trustees of the Public Employees' Retirement System established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), the Teachers' Pension and Annuity Fund established pursuant to N.J.S.18A:66-1 et seq., and the Police and Firemen's Retirement System established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.). The committee shall select the actuary or actuaries for the State retirement systems in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), pro-

vided, however, that the boards shall have the power to veto the selection of the actuary for valid reason.

25. Section 2 of P.L.1958, c.143 (C.43:3B-2) is amended to read as follows:

**C.43:3B-2 Adjustment of monthly retirement allowance, pension or survivorship benefit.**

2. The monthly retirement allowance or pension originally granted to any retirant and the pension or survivorship benefit originally granted to any beneficiary shall be adjusted in accordance with the provisions of this act provided, however, that:

- a. the maximum retirement allowance, without option, shall be considered the retirement allowance originally granted to any retirant who, at retirement, elected an Option I allowance pursuant to the provisions of the statutes stipulated in subsection b. of section 1 of this act (C.43:3B-1); and
- b. the minimum pension granted to any beneficiary stipulated in subsection d. (4) of section 1 of this act (C.43:3B-1), shall be considered the pension originally granted to such beneficiary.

Pension adjustments shall not be paid to retirants or beneficiaries who are not receiving their regular, full, monthly retirement allowances, pensions or survivorship benefits. The adjustment granted under the provisions of this act shall be effective only on the first day of a month, shall be paid in monthly installments, and shall not be decreased, increased, revoked or repealed except as otherwise provided in this act. No adjustment shall be due to a retirant or a beneficiary unless it constitutes a payment for an entire month; provided, however, that an adjustment shall be payable for the entire month in which the retirant or beneficiary dies.

Commencing with the effective date of P.L.2011, c.78 and thereafter, no further adjustments to the monthly retirement allowance or pension originally granted to any retirant and the pension or survivorship benefit granted to any beneficiary shall be made in accordance with the provisions of P.L.1958, c.143 (C.43:3B-1 et seq.), unless the adjustment is reactivated as permitted by law. This provision shall not reduce the monthly retirement benefit that a retirant or a beneficiary is receiving on the effective date of P.L.2011, c.78 when the benefit includes an adjustment granted prior to that effective date.

26. Section 5 of P.L.1997, c.113 (C.43:3C-9.5) is amended to read as follows:

**C.43:3C-9.5 "Non-forfeitable right to receive benefits."**

5. a. For purposes of this section, a "non-forfeitable right to receive benefits" means that the benefits program, for any employee for whom the right has attached, cannot be reduced. The provisions of this section shall not apply to post-retirement medical benefits which are provided pursuant to law.

b. Vested members of the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, and the State Police Retirement System, upon the attainment of five years of service credit in the retirement system or fund or on the date of enactment of this bill, whichever is later, shall have a non-forfeitable right to receive benefits as provided under the laws governing the retirement system or fund upon the attainment of five years of service credit in the retirement system or fund or on the effective date of this act, whichever is later. This subsection shall not be applicable to a person who becomes a member of these systems or funds on or after the effective date of P.L.2010, c.1, except that such person shall not include a person who at the time of enrollment in the retirement system or fund on or after that effective date transfers service credit, as permitted, from another State-administered retirement system or fund of which the person was a member immediately prior to the effective date and continuously thereafter, but shall include a former member of the retirement system or fund who has been granted a retirement allowance and is reenrolled in the retirement system or fund on or after that effective date after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

c. (1) The State and all other applicable employers shall make their annual normal contribution to each system or fund as determined by the applicable board of trustees in consultation with the system's or fund's actuary. The State and all other applicable employers shall also make their annual unfunded accrued liability contribution to each system or fund as determined by the applicable board in consultation with the system's or fund's actuary, pursuant to standard actuarial practices authorized by law, unless: (1) there is no existing unfunded accrued liability contribution due to the system or fund at the close of the valuation period applicable to the upcoming fiscal year; or (2) there are excess valuation assets in excess of the actuarial accrued liability of the system or fund at the close of the valuation period applicable to the upcoming fiscal year. The annual normal contribution plus the annual unfunded accrued liability contribution shall together be the annual required contribution, provided, however, that for the

State, section 38 of P.L.2010, c.1 (C.43:3C-14) shall apply with regard to the State's annual required contribution. The amount of the State's annually required contributions shall be included in all annual appropriations acts as a dedicated line item.

(2) Each member of the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, and the State Police Retirement System shall have a contractual right to the annual required contribution amount being made by the member's employer or by any other public entity. The contractual right to the annual required contribution means that the employer or other public entity shall make the annual required contribution on a timely basis to help ensure that the retirement system is securely funded and that the retirement benefits to which the members are entitled by statute and in consideration for their public service and in compensation for their work will be paid upon retirement. The failure of the State or any other public employer to make the annually required contribution shall be deemed to be an impairment of the contractual right of each employee. The Superior Court, Law Division shall have jurisdiction over any action brought by a member of any system or fund or any board of trustees to enforce the contractual right set forth in this subsection. The State and other public employers shall submit to the jurisdiction of the Superior Court, Law Division and shall not assert sovereign immunity in such an action. If a member or board prevails in litigation to enforce the contractual right set forth in this subsection, the court may award that party their reasonable attorney's fees.

d. This act shall not be construed to preclude forfeiture, suspension or reduction in benefits for dishonorable service.

e. Except as expressly provided herein and only to the extent so expressly provided, nothing in this act shall be deemed to (1) limit the right of the State to alter, modify or amend such retirement systems and funds, or (2) create in any member a right in the corpus or management of a retirement system or pension fund. The rights reserved to the State in this subsection shall not diminish the contractual rights of employees established by subsections a., b., and c. of this section.

**C.43:3C-16 "Target funded ratio."**

27. For the purpose of the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq., the Judicial Retirement System, established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), the Public Em-

ployees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.), and the State Police Retirement System, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.), "target funded ratio" means a ratio of the actuarial value of assets to the actuarially determined accrued liabilities expressed as a percentage that shall be for the State part of each system, and the local part of each system, if any, 75 percent in State fiscal year 2012, and increased in each fiscal year thereafter by equal increments for seven years, until the ratio reaches 80 percent at which it shall remain for all subsequent fiscal years.

28. Section 5 of P.L.1950, c.270 (C.52:18A-83) is amended to read as follows:

**C.52:18A-83 State Investment Council established; membership; terms.**

5. a. There is hereby established in the Division of Investment a State Investment Council which shall consist of 16 members.

(1) Each of the following agencies, namely, the Board of Trustees of the Public Employees' Retirement System, the Board of Trustees of the Teachers' Pension and Annuity Fund, and the Board of Trustees of the Police and Firemen's Retirement System of New Jersey, shall designate one board member elected to serve on the board, to serve as a member of the State Investment Council herein established. The three members of the council so designated shall serve as such for a period of three years from the date of their designation and until their respective successors are in like manner designated.

(2) Eight of the members of the State Investment Council shall be appointed by the Governor, with the advice and consent of the Senate, for a term of five years and shall serve until the member's successor is appointed and has qualified. Of the initial members appointed following the effective date of P.L.2011, c.78, one shall serve for an initial period of three years, and one shall serve for an initial period of two years.

(3) One member of the State Investment Council shall be appointed by the Governor from among three persons nominated jointly by the President of the Senate and the Speaker of the General Assembly and shall serve for a term of five years and until the member's successor is appointed and has qualified.

(4) Two members of the State Investment Council shall be appointed by the Governor from among six persons nominated by the Public Employee Committee of the New Jersey State AFL-CIO and shall serve for a

term of five years and until the member's successor is appointed and has qualified. At least one of the two members appointed shall be a member of a union representing police officers or firefighters. If the persons nominated are not acceptable to the Governor for appointment, the Governor may request submission of new nominees.

(5) One member of the State Investment Council shall be appointed by the Governor from among three persons nominated by the New Jersey Education Association and shall serve for a term of three years and until the member's successor is appointed and has qualified. If the persons nominated are not acceptable to the Governor for appointment, the Governor may request submission of new nominees.

(6) One member of the State Investment Council shall be appointed by the Governor from among three persons nominated by the State Troopers Fraternal Association and shall serve for a term of three years and until the member's successor is appointed and has qualified. If the persons nominated are not acceptable to the Governor for appointment, the Governor may request submission of new nominees.

The four members appointed pursuant to paragraphs (4), (5) and (6) of this subsection by the Governor to the council shall be qualified by training, experience or long-term interest in the direct management, analysis, supervision or investment of assets, and this training, experience or long-term interest shall have been supplemented by academic training in the fields of economics, business, law, finance or actuarial science or by actual employment in those fields.

At least seven of the nine members appointed pursuant to paragraphs (2) and (3) of this subsection by the Governor to the council shall be qualified by training and experience in the direct management, analysis, supervision or investment of assets, which training and experience shall have been acquired through academic training or through actual employment in those fields.

b. No member of the State Investment Council shall hold any office, position or employment in any political party nor shall any such member benefit directly or indirectly from any transaction made by the Director of the Division of Investment provided for herein.

The members of the council shall elect annually from their number a chairman of such council. Any member of the council so elected shall serve as such chairman for a term of one year and until a successor is, in like manner, elected. The chairman of the council shall be its presiding officer.

The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties as approved by the chairman of the council. The members of the

council shall be required to file the same annual financial disclosure statements as those required to be filed by members of other State boards and commissions who are not compensated for their services, as such statements shall be required by law or executive order of the Governor. The financial disclosure statements of council members shall be made available to the public in the same manner as the statements of members of other State boards and commissions are made available to the public.

Each member of the council, except the member appointed from among persons nominated by the President of the Senate and the Speaker of the General Assembly, may be removed from office by the Governor, for cause, upon notice and opportunity to be heard at a public hearing. Any vacancy in the membership of the council 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 terms of the members of the council serving pursuant to paragraph (1) of subsection a. of this section and serving on the effective date of P.L.2011, c.78 are terminated as of that effective date. A member terminated pursuant to this subsection shall be eligible for reappointment.

29. N.J.S.18A:66-61 is amended to read as follows:

**Trustees to control funds, investment council member, finance committee.**

18A:66-61. The board of trustees shall be and are hereby constituted trustees of the various funds and accounts established by this article; provided, however, that all functions, powers and duties relating to the investment or reinvestment of moneys of, and purchase, sale or exchange of any investments or securities, of or for any fund or account established under this article, shall be exercised and performed by the Director of the Division of Investment in accordance with the provisions of chapter 270, of the laws of 1950. The secretary of the board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by this article and the amount available for investment, all of which shall be certified to the Director of the Division of Investment.

An elected member of the board of trustees to be designated by a majority vote thereof shall serve on the state investment council as a representative of said board of trustees, for a term of three years and until a successor is designated and qualified.

The finance committee of the board of trustees shall be appointed on or before July 1 of each calendar year by the chairman of the board of trustees to serve through June 30 of the ensuing calendar year and until their suc-

cessors are appointed. The finance committee of the board of trustees shall consist of three members of the board of trustees, one of whom shall be the State Treasurer.

30. Section 32 of P.L.1954, c.84 (C.43:15A-32) is amended to read as follows:

**C.43:15A-32 Management of funds.**

32. The board of trustees shall be and are hereby constituted trustees of the various funds and accounts established by this act; provided, however, that all functions, powers, and duties relating to the investment or reinvestment of moneys of, and purchase, sale, or exchange of any investments or securities, of or for any fund or account established under this act, shall be exercised and performed by the Director of the Division of Investment in accordance with the provisions of chapter 270, P.L.1950, as amended and supplemented. The secretary of the board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by this act and the amount available for investment, all of which shall be certified to the Director of the Division of Investment.

The members of the finance committee of the board of trustees shall be appointed at or after July 1 of each calendar year by the chairman of the board of trustees to serve through June 30 of the ensuing calendar year and until their successors are appointed. The finance committee of the board of trustees shall consist of five members of the board of trustees, one of whom shall be the State Treasurer, and one of whom shall be the member designated to serve on the State Investment Council. At least three members of the finance committee shall be members of the board of trustees who have been elected by members of the system. A quorum of the finance committee shall consist of three members thereof.

An elected member of the board of trustees to be designated by a majority vote thereof shall serve on the State Investment Council as a representative of said board of trustees, for a term of three years and until a successor is designated and qualified.

31. Section 14 of P.L.1944, c.255 (C.43:16A-14) is amended to read as follows:

**C.43:16A-14 Management of funds.**

14. (1) The board of trustees shall be and are hereby constituted trustees of the various funds and accounts established by this act; provided,

however, that all functions, powers and duties relating to the investment or reinvestment of moneys of, and purchase, sale or exchange of any investments or securities, of or for any fund or account established under this act shall be exercised and performed by the director of the Division of Investment in accordance with the provisions of chapter 270, of the laws of 1950. The secretary of the board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by this act and the amount available for investment, all of which shall be certified to the Director of the Division of Investment.

An elected member of the board of trustees to be designated by a majority vote thereof shall serve on the State Investment Council as a representative of said board of trustees, for a term of three years and until a successor is designated and qualified.

(2) The Treasurer of the State of New Jersey shall be the custodian of the several funds created by this act, shall select all depositories and custodians and shall negotiate and execute custody agreements in connection with the assets or investments of any of said funds. All payments from said funds shall be made by him only upon vouchers signed by the chairman and countersigned by the secretary of the board of trustees. No voucher shall be drawn, except upon the authority of the board duly entered in the records of its proceedings.

(3) (Deleted by amendment.)

(4) Except as otherwise herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investments of the retirement system; nor shall any trustee or employee of the board directly or indirectly, for himself or as an agent in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or employee of the board of trustees become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

32. Section 31 of P.L.1965, c.89 (C.53:5A-31) is amended to read as follows:

**C.53:5A-31 Administration of funds.**

31. a. The board of trustees shall be and are hereby constituted trustees of all the various funds established by this act except the group insurance premium fund; provided, however, that all functions, powers, and duties relating to the investment or reinvestment of moneys of, and purchase, sale,

or exchange of any investments or securities, of or for any fund established under this act, shall be exercised and performed by the Director of the Division of Investment in accordance with the provisions of c. 270, P.L.1950, as amended and supplemented.

b. The secretary of the board shall determine from time to time the cash requirements of the various funds established by this act and the amount available for investment, all of which shall be certified to the Director of the Division of Investment.

c. (Deleted by amendment, P.L.2011, c.78).

d. The Treasurer of the State of New Jersey shall be the custodian of the several funds. All payments from said funds shall be made by him only upon vouchers signed by the secretary and the chairman of the board of trustees. A duly attested copy of the resolution of the board of trustees designating the chairman and bearing on its face specimen signatures of the chairman and the secretary shall be filed with the treasurer as his authority for making payments upon such vouchers.

e. The administration of the program shall be performed by the personnel of the Division of Pensions and Benefits of the State Department of the Treasury and the costs of administration shall be borne by the State.

**C.43:3C-17 Utilization of super conciliator.**

33. Whenever a committee of the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund, the Police and Firemen's Retirement System, or the State Police Retirement System fails to render a decision on a matter before the committee because it has not received a vote of the majority of the committee members after 60 days have passed following the initial consideration of the matter, the committee shall utilize a super conciliator, randomly selected from a list developed by the New Jersey Public Employment Relations Commission. The super conciliator shall assist the committee based upon procedures and subject to qualifications established by the commission pursuant to regulation.

The super conciliator shall promptly schedule investigatory proceedings. The purpose of the proceedings shall be to:

Investigate and acquire all relevant information regarding the committee's failure to render a decision;

Discuss with the members of the committee their differences, and utilize means and mechanisms, including but not limited to requiring 24-hour per day negotiations, until a voluntary settlement is reached, and provide recommendations to resolve the members' differences; and

Institute any other non-binding procedures deemed appropriate by the super conciliator.

If the actions taken by the super conciliator fail to resolve the dispute, the super conciliator shall issue a final report, which shall be provided to the committee promptly and made available to the public within 10 days thereafter.

The super conciliator, while functioning in a mediatory capacity, shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential which are received or prepared by him or to testify with regard to mediation conducted by him under this section. Nothing contained herein shall exempt an individual from disclosing information relating to the commission of a crime.

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

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

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

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

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

but shall not be less than the death benefit that was applicable to his former retirement.

b. The cancellation, re-enrollment, and additional retirement allowance provisions of subsection a. of this section shall not apply to a former member of the retirement system who, after having been granted a retirement allowance, becomes employed again by: (1) an employer or employers in a position or positions for which the aggregate compensation does not exceed \$15,000 per year; or (2) if the compensation exceeds \$10,000 per year, by an employer that is a public institution of higher education as defined in N.J.S.18A:62-1 in a teaching staff position. The Director of the Division of Pensions and Benefits may from time to time adjust the amount in paragraph (1) of this subsection. This adjustment shall be  $\frac{3}{5}$  of the percentage of change in the index, as defined in section 1 of P.L.1958, c.143 (C.43:3B-1), over a period of time as determined by the director.

c. The cancellation, reenrollment, and additional retirement allowance provisions of subsection a. and the compensation limitations of subsection b. of this section shall not apply to a former member of the retirement system who, after having been granted a retirement allowance, becomes employed by the State Department of Education in a position of critical need as determined by the State Commissioner of Education, or becomes employed by a board of education in a position of critical need as determined by the superintendent of the district on a contractual basis for a term of not more than one year; except that the cancellation, reenrollment, and additional retirement allowance provisions and the compensation limitations shall apply if the former member becomes employed within 120 days of retirement in a position with the employer from which the member retired. Nothing herein shall preclude a former member so reemployed by a board of education from renewing a contract for one additional year, provided that the total period of employment with any individual board of education does not exceed a two-year period.

d. The cancellation, reenrollment, and additional retirement allowance provisions of subsections a., b., and c. of this section shall not apply to a former member of the retirement system who was granted a retirement allowance pursuant to section 1 of P.L.1985, c.414 (C.43:15A-47.2) prior to the effective date of P.L.2011, c.78.

35. Section 20 of P.L.1971, c.175 (C.43:16A-15.3) is amended to read as follows:

**C.43:16A-15.3 Reemployment of retiree; cancellation of benefits; reenrollment.**

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

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for determining disability or death benefits while in service. Upon subsequent retirement of such member, his former retirement allowance shall be reinstated based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of this chapter; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his average final compensation or final compensation, whichever is applicable, than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

b. The cancellation, reenrollment, and additional retirement allowance provisions of subsection a. of this section shall not apply to a former member of the retirement system who was granted a retirement allowance pursuant to section 1 of P.L.1999, c.96 (C.43:16A-5.1) prior to the effective date of P.L.2011, c.78.

36. Section 34 of P.L.2007, c.103 (C.52:14-17.46.4) is amended to read as follows:

**C.52:14-17.46.4 Administration of School Employees' Health Benefits Program.**

34. The School Employees' Health Benefits Program, authorized by sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11), shall be administered in the Department of the Treasury. Administrative services required by the commission shall be provided through the Division of Pensions and Benefits, and the Director of the Division of Pensions and Benefits shall be the secretary of the commission. The commission and the committee shall establish a health benefits program for the school employees of the State, the cost of which shall be paid as speci-

fied in this act. The commission shall, by a majority vote of its full authorized membership, establish and change rules and regulations as may be deemed reasonable and necessary for the administration of this act by the commission and committee. Until such rules and regulations are established, the rules and regulations of the State Health Benefits Commission shall be deemed to apply to the School Employees' Health Benefits Program.

The Attorney General shall be the legal advisor of the commission and committee.

The members of the commission and committee shall serve without compensation but shall be reimbursed for any necessary expenditure.

The commission shall ensure that audits and reviews are performed as required by section 40 of P.L.2007, c.103 (C.52:14-17.46.10). Actions of the commission related to such audits and reviews shall require a majority vote of the full authorized membership of the commission to be approved.

Except as otherwise specified in this act, actions of the commission shall require the affirmative vote of a majority of the members present at a meeting at which a majority of the full authorized membership is present.

37. N.J.S.18A:66-43 is amended to read as follows:

**Retirement for service age limits.**

18A:66-43. Retirement for service shall be as follows: (a) A person who was a member before the effective date of P.L.2008, c.89 and has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof he desires to be retired. The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

(b) A person who becomes a member on or after the effective date of P.L.2008, c.89 and has attained 62 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall retire the member at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

(c) A person who becomes a member on or after the effective date of P.L.2011, c.78 and has attained 65 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall

retire the member at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

38. Section 47 of P.L.1954, c.84 (C.43:15A-47) is amended to read as follows:

**C.43:15A-47 Retirement based on age.**

47. a. A person who was a member before the effective date of P.L.2008, c.89 and has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall retire him at the time specified or at such other time within one month after the date so specified as the board finds advisable.

b. A person who becomes a member on or after the effective date of P.L.2008, c.89 and has attained 62 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall retire the member at the time specified or at such other time within one month after the date so specified as the board finds advisable.

c. A person who becomes a member on or after the effective date of P.L.2011, c.78 and has attained 65 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall retire the member at the time specified or at such other time within one month after the date so specified as the board finds advisable.

**C.52:14-17.28c Amount of contribution to be paid.**

39. The amount of contribution to be paid pursuant to the provisions of sections 40, 41, and 42 of P.L.2011, c.78 (C.52:14-17.28d, C.18A:16-17.1, and C.40A:10-21.1) by public employees of the State or of employers other than the State for health care benefits coverage for the employee and any dependent shall be as follows:

for family coverage or its equivalent -

an employee who earns less than \$25,000 shall pay 3 percent of the cost of coverage;

an employee who earns \$25,000 or more but less than \$30,000 shall pay 4 percent of the cost of coverage;

an employee who earns \$30,000 or more but less than \$35,000 shall pay 5 percent of the cost of coverage;  
an employee who earns \$35,000 or more but less than \$40,000 shall pay 6 percent of the cost of coverage;  
an employee who earns \$40,000 or more but less than \$45,000 shall pay 7 percent of the cost of coverage;  
an employee who earns \$45,000 or more but less than \$50,000 shall pay 9 percent of the cost of coverage;  
an employee who earns \$50,000 or more but less than \$55,000 shall pay 12 percent of the cost of coverage;  
an employee who earns \$55,000 or more but less than \$60,000 shall pay 14 percent of the cost of coverage;  
an employee who earns \$60,000 or more but less than \$65,000 shall pay 17 percent of the cost of coverage;  
an employee who earns \$65,000 or more but less than \$70,000 shall pay 19 percent of the cost of coverage;  
an employee who earns \$70,000 or more but less than \$75,000 shall pay 22 percent of the cost of coverage;  
an employee who earns \$75,000 or more but less than \$80,000 shall pay 23 percent of the cost of coverage;  
an employee who earns \$80,000 or more but less than \$85,000 shall pay 24 percent of the cost of coverage;  
an employee who earns \$85,000 or more but less than \$90,000 shall pay 26 percent of the cost of coverage;  
an employee who earns \$90,000 or more but less than \$95,000 shall pay 28 percent of the cost of coverage;  
an employee who earns \$95,000 or more but less than \$100,000 shall pay 29 percent of the cost of coverage;  
an employee who earns \$100,000 or more but less than \$110,000 shall pay 32 percent of the cost of coverage;  
an employee who earns \$110,000 or more shall pay 35 percent of the cost of coverage  
for individual coverage or its equivalent -  
an employee who earns less than \$20,000 shall pay 4.5 percent of the cost of coverage;  
an employee who earns \$20,000 or more but less than \$25,000 shall pay 5.5 percent of the cost of coverage;  
an employee who earns \$25,000 or more but less than \$30,000 shall pay 7.5 percent of the cost of coverage;

an employee who earns \$30,000 or more but less than \$35,000 shall pay 10 percent of the cost of coverage;  
an employee who earns \$35,000 or more but less than \$40,000 shall pay 11 percent of the cost of coverage;  
an employee who earns \$40,000 or more but less than \$45,000 shall pay 12 percent of the cost of coverage;  
an employee who earns \$45,000 or more but less than \$50,000 shall pay 14 percent of the cost of coverage;  
an employee who earns \$50,000 or more but less than \$55,000 shall pay 20 percent of the cost of coverage;  
an employee who earns \$55,000 or more but less than \$60,000 shall pay 23 percent of the cost of coverage;  
an employee who earns \$60,000 or more but less than \$65,000 shall pay 27 percent of the cost of coverage;  
an employee who earns \$65,000 or more but less than \$70,000 shall pay 29 percent of the cost of coverage;  
an employee who earns \$70,000 or more but less than \$75,000 shall pay 32 percent of the cost of coverage;  
an employee who earns \$75,000 or more but less than \$80,000 shall pay 33 percent of the cost of coverage;  
an employee who earns \$80,000 or more but less than \$95,000 shall pay 34 percent of the cost of coverage;  
an employee who earns \$95,000 or more shall pay 35 percent of the cost of coverage;  
for member with child or spouse coverage or its equivalent -  
an employee who earns less than \$25,000 shall pay 3.5 percent of the cost of coverage;  
an employee who earns \$25,000 or more but less than \$30,000 shall pay 4.5 percent of the cost of coverage;  
an employee who earns \$30,000 or more but less than \$35,000 shall pay 6 percent of the cost of coverage;  
an employee who earns \$35,000 or more but less than \$40,000 shall pay 7 percent of the cost of coverage;  
an employee who earns \$40,000 or more but less than \$45,000 shall pay 8 percent of the cost of coverage;  
an employee who earns \$45,000 or more but less than \$50,000 shall pay 10 percent of the cost of coverage;  
an employee who earns \$50,000 or more but less than \$55,000 shall pay 15 percent of the cost of coverage;

an employee who earns \$55,000 or more but less than \$60,000 shall pay 17 percent of the cost of coverage;

an employee who earns \$60,000 or more but less than \$65,000 shall pay 21 percent of the cost of coverage;

an employee who earns \$65,000 or more but less than \$70,000 shall pay 23 percent of the cost of coverage;

an employee who earns \$70,000 or more but less than \$75,000 shall pay 26 percent of the cost of coverage;

an employee who earns \$75,000 or more but less than \$80,000 shall pay 27 percent of the cost of coverage;

an employee who earns \$80,000 or more but less than \$85,000 shall pay 28 percent of the cost of coverage;

an employee who earns \$85,000 or more but less than \$100,000 shall pay 30 percent of the cost of coverage.

an employee who earns \$100,000 or more shall pay 35 percent of the cost of coverage.

Base salary shall be used to determine what an employee earns for the purposes of this provision.

As used in this section, “cost of coverage” means the premium or periodic charges for medical and prescription drug plan coverage, but not for dental, vision, or other health care, provided under the State Health Benefits Program or the School Employees’ Health Benefits Program; or the premium or periodic charges for health care, prescription drug, dental, and vision benefits, and for any other health care benefit, provided pursuant to P.L.1979, c.391 (C.18A:16-12 et seq.), N.J.S.40A:10-16 et seq., or any other law by a local board of education, local unit or agency thereof, and including a county college, an independent State authority as defined in section 43 of P.L.2011, c.78 (C.52:14-17.34a), and a local authority as defined in section 44 of P.L.2011, c.78 (C.40A:5A-11.1), when the employer is not a participant in the State Health Benefits Program or the School Employees’ Health Benefits Program.

**C.52:14-17.28d Contribution toward cost of health care benefits.**

40. a. Notwithstanding the provisions of any other law to the contrary, public employees of the State and employers other than the State shall contribute, through the withholding of the contribution from the pay, salary, or other compensation, toward the cost of health care benefits coverage for the employee and any dependent provided under the State Health Benefits Program or the School Employees’ Health Benefits Program in an amount that shall be determined in accordance with section 39 of P.L.2011, c.78

(C.52:14-17.28c), except that, an employee employed on the date on which the contribution commences, as specified in subsection c. of this section, shall pay:

during the first year in which the contribution is effective, one-fourth of the amount of contribution;

during the second year in which the contribution is effective, one-half of the amount of contribution; and

during the third year in which the contribution is effective, three-fourths of the amount of contribution,

as that amount is calculated in accordance with section 39 of P.L.2011, c.78 (C.52:14-17.28c).

The amount payable by any employee under this subsection shall not under any circumstance be less than the 1.5 percent of base salary that is provided for in subsection c. of section 6 of P.L.1996, c.8 (C.52:14-17.28b), subsection a. of section 7 of P.L.1964, c.125 (C.52:14-17.38), or subsection b. of section 39 of P.L.2007, c.103 (C.52:14-17.46.9). An employee who pays the contribution required under this subsection shall not also be required to pay the contribution of 1.5 percent of base salary under those subsections listed above.

This section shall apply to employees for whom the employer has assumed a health care benefits payment obligation, to require that such employees pay at a minimum the amount of contribution specified in this section for health care benefits coverage.

b. (1) Notwithstanding the provisions of any other law to the contrary, public employees of the State and employers other than the State, as those employees are specified in paragraph (2) of this subsection, shall contribute, through the withholding of the contribution from the monthly retirement allowance, toward the cost of health care benefits coverage for the employee in retirement and any dependent provided under the State Health Benefits Program or the School Employees' Health Benefits Program in an amount that shall be determined in accordance with section 39 of P.L.2011, c.78 (C.52:14-17.28c) by using the percentage applicable to the range within which the annual retirement allowance, and any future cost of living adjustments thereto, falls. The retirement allowance, and any future cost of living adjustments thereto, shall be used to identify the percentage of the cost of coverage.

(2) The contribution specified in paragraph (1) of this subsection shall apply to:

(a) State employees and employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is

a majority representative for collective negotiations purposes who accrue 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems on or after the effective date of P.L.2011, c.78, or on or after the expiration of an applicable binding collective negotiations agreement in force on that effective date, and who retire on or after that effective date or expiration date, excepting employees who elect deferred retirement;

(b) State employees and employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is no majority representative for collective negotiations purposes who accrue 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems on or after that effective date, or on or after the expiration of an applicable binding collective negotiations agreement in force on that effective date if the terms of that agreement concerning health care benefits coverage in retirement have been deemed applicable by the commission or the employer to those employees, and who retire on or after that effective date or expiration date, excepting employees who elect deferred retirement;

(c) employees covered by section 3 of P.L.1987, c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) who accrue 25 years of service credit on or after that effective date and retire on or after that effective date, including employees who elect deferred retirement;

(d) employees of an employer other than the State for whom there is a majority representative for collective negotiations purposes who accrue the number of years of service credit, and age if required, as specified in subsection b. of section 7 of P.L.1964, c.125 (C.52:14-17.38), on or after that effective date, or on or after the expiration of an applicable binding collective negotiations agreement in force on that effective date, and who retire on or after that effective date or expiration date, excepting employees who elect deferred retirement, when the employer has assumed payment obligations for health care benefits in retirement for such an employee; and

(e) employees of an employer other than the State for whom there is no majority representative for collective negotiations purposes who accrue the number of years of service credit, and age if required, as specified in subsection b. of section 7 of P.L.1964, c.125 (C.52:14-17.38), on or after that effective date, or on or after the expiration of an applicable binding collective negotiations agreement in force on that effective date if the terms of that agreement concerning health care benefits payment obligations in retirement have been deemed applicable by the employer to those employees,

and who retire on or after that effective date or expiration date, excepting employees who elect deferred retirement, when the employer has assumed payment obligations for health care benefits in retirement for such an employee.

(3) Employees described in paragraph (2) of this subsection who have 20 or more years of creditable service in one or more State or locally-administered retirement systems on the effective date of P.L.2011, c.78 shall not be subject to the provisions of this subsection.

(4) The amount payable by a retiree under this subsection shall not under any circumstance be less than the 1.5 percent of the monthly retirement allowance, including any future cost of living adjustments thereto, that is provided for such a retiree, if applicable to that retiree, under subsection d. of section 6 of P.L.1996, c.8 (C.52:14-17.28b), subsection b. of section 7 of P.L.1964, c.125 (C.52:14-17.38), section 3 of P.L.1987, c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2), or less than a comparable contribution with regard to the retirees who are members of the alternate benefit program. A retiree who pays the contribution required under this subsection shall not also be required to pay the contribution of 1.5 percent of the monthly retirement allowance under those sections or subsections listed above.

c. The contribution required under subsection a. of this section shall commence: (1) upon the effective date of P.L.2011, c.78 for employees who do not have a majority representative for collective negotiations purposes, notwithstanding that the terms of a collective negotiations agreement binding on the employer have been applied or have been deemed applicable to those employees by the commission or the employer, or have been used to modify the respective payment obligations of the employer and those employees in a manner consistent with those terms, as permitted by law, before that effective date; and (2) upon the expiration of any applicable binding collective negotiations agreement in force on that effective date for employees covered by that agreement with the contribution required for the first year under subsection a. of this section commencing in the first year after that expiration, or upon the effective date of P.L.2011, c.78 if such an agreement has expired before that effective date with the contribution required for the first year under subsection a. of this section commencing in the first year after that effective date.

Once those employees are subjected to the contribution requirements set forth in subsection a. of this section, the public employers and public employees shall be bound by this act, P.L.2011, c.78, to apply the contribution levels set forth in section 39 of this act until all affected employees are con-

tributing the full amount of the contribution, as determined by the implementation schedule set forth in subsection a. of this section. Notwithstanding the expiration date set forth in section 83 of this act, P.L.2011, c.78, or the expiration date of any successor agreements, the parties shall be bound to apply the requirements of this paragraph until they have reached the full implementation of the schedule set forth in subsection a. of this section.

The provisions of law permitting the determination of an amount of contribution at the discretion of the employer or by means of a binding collective negotiations agreement, and by means of the application of the terms of such an agreement to employees who do not have a majority representative for collective negotiations purposes, or the modification of the respective payment obligations of the employer and those employees in a manner consistent with the terms of such an agreement, shall remain in effect with regard to contributions, whether as a share of the cost, or percentage of the premium or periodic charge, or otherwise, in addition to the contributions required under subsections a. and b. of this section.

Paragraphs (5) and (6) of subsection c. of section 6 of P.L.1996, c.8 (C.52:14-17.28b) shall not be deemed to apply with regard to contributions specified and made under this section. Paragraph (7) of subsection c. of P.L.1996, c.8 (C.52:14-17.28b) shall apply with regard to contributions specified and made under this section.

A qualified retiree under section 1 of P.L.1997, c.330 (C.52:14-17.32i) who meets the eligibility requirements on or after the effective date of P.L.2011, c.78 shall not pay less than the contribution required under subsection b. of this section, including as specified in paragraph (3) of subsection b. of this section. Part-time State employees and part-time faculty members participating under section 1 of P.L.2003, c.172 (C.52:14-17.33a) shall not pay less than the contribution specified in subsection a. of this section. Subsection b. of this section shall apply under subsection b. of section 7 of P.L.1964, c.125 (C.52:14-17.38) to a surviving spouse of a retired employee of an employer other than the State and the employee's dependents in the same manner as to the retiree at the time of death.

The minimum contribution based on the retirement allowance of members of the alternate benefit program in retirement shall be determined, as may be necessary, pursuant to the formula specified in paragraph (4) of subsection c. of section 6 of P.L.1996, c.8 (C.52:14-17.28b).

All other provisions of law shall remain applicable to the extent not inconsistent with this section.

d. Any extension, alteration, re-opening, amendment or other adjustment to a collective negotiations agreement in force on the effective date of

P.L.2011, c.78, or to an agreement that is expired on that effective date, shall be considered a new collective negotiations agreement entered into after that effective date for the purposes of this section.

**C.18A:16-17.1 Contributions by employees of a local board of education toward cost of health care benefits coverage.**

41. a. Notwithstanding the provisions of any other law to the contrary, public employees, as specified herein, of a local board of education shall contribute, through the withholding of the contribution from the pay, salary, or other compensation, toward the cost of health care benefits coverage for the employee and any dependent provided pursuant to P.L.1979, c.391 (C.18A:16-12 et seq.), unless the provisions of subsection b. of this section apply, in an amount that shall be determined in accordance with section 39 of P.L.2011, c.78 (C.52:14-17.28c), except that, employees employed on the date on which the contribution commences, as specified in subsection c. of this section, shall pay:

during the first year in which the contribution is effective, one-fourth of the amount of contribution;

during the second year in which the contribution is effective, one-half of the amount of contribution; and

during the third year in which the contribution is effective, three-fourths of the amount of contribution,

as that amount is calculated in accordance with section 39 of P.L.2011, c.78 (C.52:14-17.28c).

The amount payable by any employee under this subsection shall not under any circumstance be less than the 1.5 percent of base salary that is provided for in subsection b. of section 6 of P.L.1979, c.391 (C.18A:16-17). An employee who pays the contribution required under this subsection shall not also be required to pay the contribution of 1.5 percent of base salary under subsection b. of section 6 of P.L.1979, c.391 (C.18A:16-17).

This section shall apply to employees for whom the employer has assumed a health care benefits payment obligation pursuant to section 6 of P.L.1979, c.391 (C.18A:16-17), to require that such employees pay at a minimum the amount of contribution specified in this section for health care benefits coverage.

b. A board of education may enter into a contract or contracts to provide health care benefits including prescription drug benefits and other health care benefits, as may be required to implement a duly executed collective negotiations agreement, and may provide through such agreement for an amount of employee contribution as a cost share or premium share

that is other than the percentage required under subsection a. of this section, if the total aggregate savings during the term of the agreement from employee contributions or plan design, or both, from that agreement as applied to employees covered by that agreement, and to employees not covered by that agreement but to whom the agreement has been applied by the employer, if any, equals or exceeds the annual savings that would have resulted had those employees made the contributions required under subsection a. of this section plus the annual savings resulting to the plans within the School Employees' Health Benefits Program as a result of plan design changes made pursuant to P.L.2011, c.78.

A board of education shall certify the savings in writing to the Department of Education and the Division of Pensions and Benefits in the Department of the Treasury. The Department of Education shall review and approve or reject the certification within 30 days of receipt. The certification is deemed approved if not rejected within that time. The agreement shall not be executed until that approval is received or the 30-day period has lapsed, whichever occurs first.

c. The contribution under subsection a. of this section shall commence: (1) upon the effective date of P.L.2011, c.78 for employees who do not have a majority representative for collective negotiations purposes, notwithstanding that the terms of a collective negotiations agreement binding on the employer have been applied or have been deemed applicable to those employees by the employer, or have been used to modify the respective payment obligations of the employer and those employees in a manner consistent with those terms, before that effective date; and (2) upon the expiration of any applicable binding collective negotiations agreement in force on that effective date for employees covered by that agreement with the contribution required for the first year under subsection a. of this section commencing in the first year after that expiration, or upon the effective date of P.L.2011, c.78 if such an agreement has expired before that effective date with the contribution required for the first year under subsection a. of this section commencing in the first year after that effective date.

Once those employees are subjected to the contribution requirements set forth in subsection a. of this section, the public employers and public employees shall be bound by this act, P.L.2011, c.78, to apply the contribution levels set forth in section 39 of this act until all affected employees are contributing the full amount of the contribution, as determined by the implementation schedule set forth in subsection a. of this section. Notwithstanding the expiration date set forth in section 83 of this act, P.L.2011, c.78, or the expiration date of any successor agreements, the parties shall be bound

to apply the requirements of this paragraph until they have reached the full implementation of the schedule set forth in subsection a. of this section.

As may be permitted by law or otherwise, the authority to determine an amount of contribution at the discretion of the employer or by means of a binding collective negotiations agreement, and by means of the application of the terms of such an agreement to employees who do not have a majority representative for collective negotiations purposes, or the modification of the respective payment obligations of the employer and those employees in a manner consistent with the terms of such agreements, shall remain in effect with regard to contributions, whether as a share of the cost, or percentage of the premium or periodic charge, or otherwise, in addition to the contributions required under subsection a. of this section.

This section shall apply when the health care benefits are provided through self insurance, the purchase of commercial insurance or reinsurance, an insurance fund or joint insurance fund, or in any other manner, or any combination thereof.

All other provisions of law shall remain applicable to the extent not inconsistent with this section.

d. Any extension, alteration, re-opening, amendment or other adjustment to a collective negotiations agreement in force on the effective date of P.L.2011, c.78, or to an agreement that is expired on that effective date, shall be considered a new collective negotiations agreement entered into after that effective date for the purposes of this section.

**C.40A:10-21.1 Contributions of employees of local unit, agency toward health care benefits.**

42. a. Notwithstanding the provisions of any other law to the contrary, public employees, as specified herein, of a local unit or agency thereof, herein referred to as an employer, shall contribute, through the withholding of the contribution from the pay, salary, or other compensation, toward the cost of health care benefits coverage for the employee and any dependent provided pursuant to N.J.S.40A:10-16 et seq., unless the provisions of subsection c. of this section apply, in an amount that shall be determined in accordance with section 39 of P.L.2011, c.78 (C.52:14-17.28c), except that, employees employed on the date on which the contribution commences, as specified in subsection d. of this section, shall pay:

during the first year in which the contribution is effective, one-fourth of the amount of contribution;

during the second year in which the contribution is effective, one-half of the amount of contribution; and

during the third year in which the contribution is effective, three-fourths of the amount of contribution,

as that amount is calculated in accordance with section 39 of P.L.2011, c.78 (C.52:14-17.28c).

The amount payable by any employee under this subsection shall not under any circumstance be less than the 1.5 percent of base salary that is provided for in subsection b. of N.J.S.40A:10-21 or section 16 of P.L.2010, c.2 (C.18A:64A-13.1a). An employee who pays the contribution required under this subsection shall not also be required to pay the contribution of 1.5 percent of base salary under subsection b. of N.J.S.40A:10-21 or section 16 of P.L.2010, c.2 (C.18A:64A-13.1a).

This subsection shall apply to employees for whom the employer has assumed a health care benefits payment obligation pursuant to N.J.S.40A:10-21, to require that such employees pay at a minimum the amount of contribution specified in this section for health care benefits coverage, with an employer including a county college.

b. (1) Notwithstanding the provisions of any other law to the contrary, public employees of an employer, as those employees are specified in paragraph (2) of this subsection, shall contribute, through the withholding of the contribution from the monthly retirement allowance, toward the cost of health care benefits coverage for the employee in retirement and any dependent provided pursuant to N.J.S.40A:10-16 et seq., unless the provisions of subsection c. of this section apply, in an amount that shall be determined in accordance with section 39 of P.L.2011, c.78 (C.52:14-17.28c) using the percentage applicable to the range within which the annual retirement allowance, and any future cost of living adjustments thereto, falls. The retirement allowance, and any future cost of living adjustments thereto, shall be used to identify the percentage of the cost of coverage.

(2) The contribution specified in paragraph (1) of this subsection shall apply to:

(a) employees of employers for whom there is a majority representative for collective negotiations purposes who accrue the number of years of service credit, and age if required, as specified in N.J.S.40A:10-23, or on or after the expiration of an applicable binding collective negotiations agreement in force on that effective date, and who retire on or after that effective date or expiration date, excepting employees who elect deferred retirement, when the employer has assumed payment obligations for health care benefits in retirement for such an employee; and

(b) employees of employers for whom there is no majority representative for collective negotiations purposes who accrue the number of years of

service credit, and age if required, as specified in N.J.S.40A:10-23, on or after that effective date or on or after the expiration of a binding collective negotiations agreement in force on that effective date if the terms of that agreement concerning health care benefits payment obligations in retirement have been deemed applicable by the employer to those employees, and who retire on or after that effective date or expiration date, excepting employees who elect deferred retirement, when the employer has assumed payment obligations for health care benefits in retirement for such an employee.

(3) Employees described in paragraph (2) of this subsection who have 20 or more years of creditable service in one or more State or locally-administered retirement systems on the effective date of P.L.2011, c.78 shall not be subject to the provisions of this subsection.

The amount payable by a retiree under this subsection shall not under any circumstance be less than the 1.5 percent of the monthly retirement allowance, including any future cost of living adjustments thereto, that is provided for such a retiree, if applicable to that retiree, under subsection b. of N.J.S.40A:10-23. A retiree who pays the contribution required under this subsection shall not also be required to pay the contribution of 1.5 percent of the monthly retirement allowance under subsection b. of N.J.S.40A:10-23.

c. A local unit may enter into a contract or contracts to provide health care benefits, including prescription drug benefits and other health care benefits, as may be required to implement a duly executed collective negotiations agreement, and may provide through such agreement for an amount of employee or retiree contribution as a cost share or premium share that is other than the percentage required under subsection a. or b., or both, of this section, if the total aggregate savings during the term of that agreement from such contributions or plan design, or both, from that agreement as applied to employees and retirees covered by that agreement, and to employees and retirees not covered by that agreement but to whom the agreement has been applied by the employer, if any, equals or exceeds the annual savings that would have resulted had those employees or retirees made the contributions required under subsection a. or b., or both, of this section plus the annual savings resulting to the plans within the State Health Benefits Program as a result of plan design changes made pursuant to P.L.2011, c.78.

A local unit shall certify the savings in writing to the Division of Local Government Services in the Department of Community Affairs and the Division of Pensions and Benefits in the Department of the Treasury. The Department of Community Affairs shall review and approve or reject the certification within 30 days of receipt. The certification shall be deemed

approved if not rejected within that time. The agreement shall not be executed until that approval is received or the 30-day period has lapsed, whichever occurs first.

d. The contribution under subsection a. of this section shall commence: (1) upon the effective date of P.L.2011, c.78 for employees who do not have a majority representative for collective negotiations purposes, notwithstanding that the terms of an applicable collective negotiations agreement binding on the employer have been applied or have been deemed applicable to those employees by the employer, or have been used to modify the respective payment obligations of the employer and those employees in a manner consistent with those terms, before that effective date; and (2) upon the expiration of any applicable binding collective negotiations agreement in force on that effective date for employees covered by that agreement with the contribution required for the first year under subsection a. of this section commencing in the first year after that expiration, or upon the effective date of P.L.2011, c.78 if such an agreement has expired before that effective date with the contribution required for the first year under subsection a. of this section commencing in the first year after that effective date.

Once those employees are subjected to the contribution requirements set forth in subsection a. of this section, the public employers and public employees shall be bound by this act, P.L.2011, c.78, to apply the contribution levels set forth in section 39 of this act until all affected employees are contributing the full amount of the contribution, as determined by the implementation schedule set forth in subsection a. of this section. Notwithstanding the expiration date set forth in section 83 of this act, P.L.2011, c.78, or the expiration date of any successor agreements, the parties shall be bound to apply the requirements of this paragraph until they have reached the full implementation of the schedule set forth in subsection a. of this section.

As may be permitted by law or otherwise, the authority to determine an amount of contribution at the discretion of the employer or by means of a binding collective negotiations agreement, and by means of the application of the terms of such an agreement to employees who do not have a majority representative for collective negotiations purposes, or the modification of the respective payment obligations of the employer and those employees in a manner consistent with the terms of such an agreement, shall remain in effect with regard to contributions, whether as a share of the cost, or percentage of the premium or periodic charge, or otherwise, in addition to the contributions required under subsections a. and b. of this section.

This section shall apply when the health care benefits are provided through self insurance, the purchase of commercial insurance or reinsur-

ance, an insurance fund or joint insurance fund, or in any other manner, or any combination thereof.

This section shall apply to counties and municipalities, and any agency, board, commission, authority, or instrumentality of a local unit, fire districts, or other entities created by a county or municipality, and to county colleges.

Amounts deducted from a retiree's benefit pursuant to subsection b. of this section shall be paid to the retiree's former employer, as appropriate.

All other provisions of law shall remain applicable to the extent not inconsistent with this section.

e. Any extension, alteration, re-opening, amendment or other adjustment to a collective negotiations agreement in force on the effective date of P.L.2011, c.78, or to an agreement that is expired on that effective date, shall be considered a new collective negotiations agreement entered into after that effective date for the purposes of this section.

**C.52:14-17.34a "Independent state authority."**

43. As used in this section, "independent State authority" means a public authority, board, commission, corporation, or other agency or instrumentality of the State allocated, in but not of, a principal department of State government pursuant to Article V, Section IV, paragraph 1 of the New Jersey Constitution, or which is not subject to supervision or control by the department in which it is allocated, and a regional authority, but shall not include a college or university.

Notwithstanding the provisions of any other law to the contrary, public employees of an independent State authority who are not subject to the provisions of section 40 of P.L.2011, c.78 (C.52:14-17.28d) shall contribute, through the withholding of the contribution from the pay, salary, or other compensation or from the monthly retirement allowance, toward the cost of health care benefits coverage for the employee and any dependent provided by the authority during active service and in retirement in an amount that shall be determined as closely as possible in accordance with sections 39 and 40 of P.L.2011, c.78 (C.52:14-17.28c and C.52:14-17.28d).

Once those employees are subjected to the contribution requirements set forth in this section, the public employers and public employees shall be bound by this act, P.L.2011, c.78, to apply the contribution levels set forth in section 39 of this act until all affected employees are contributing the full amount of the contribution, as determined by the implementation schedule set forth in subsection a. of section 40 of this act. Notwithstanding the expiration date set forth in section 83 of this act, P.L.2011, c.78, or the expira-

tion date of any successor agreements, the parties shall be bound to apply the requirements of this paragraph until they have reached the full implementation of the schedule set forth in subsection a. of section 40 of this act.

**C.40A:5A-11.1 "Local authority."**

44. As used in this section, "local authority" means an "authority" as defined under the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

Notwithstanding the provisions of any other law to the contrary, public employees of a local authority who are not subject to the provisions of sections 40 and 42 of P.L.2011, c.78 (C.52:14-17.28d and C.40A:10-21.1) shall contribute, through the withholding of the contribution from the pay, salary, or other compensation or from the monthly retirement allowance, toward the cost of health care benefits coverage for the employee and any dependent provided by the local authority during active service and in retirement in an amount that shall be determined as closely as possible in accordance with sections 39 and 42 of P.L.2011, c.78 (C.52:14-17.28c and C.40A:10-21.1).

Once those employees are subjected to the contribution requirements set forth in this section, the public employers and public employees shall be bound by this act, P.L.2011, c.78, to apply the contribution levels set forth in section 39 of this act until all affected employees are contributing the full amount of the contribution, as determined by the implementation schedule set forth in subsection a. of section 42 of this act. Notwithstanding the expiration date set forth in section 83 of this act, P.L.2011, c.78, or the expiration date of any successor agreements, the parties shall be bound to apply the requirements of this paragraph until they have reached the full implementation of the schedule set forth in subsection a. of section 40 of this act.

45. Section 3 of P.L.1961, c.49 (C.52:14-17.27) is amended to read as follows:

**C.52:14-17.27 State Health Benefits Commission, State Health Benefits Plan Design Committee.**

3. a. There is hereby created a State Health Benefits Commission, consisting of five members: the State Treasurer; the Commissioner of Banking and Insurance; the Chairperson of the Civil Service Commission; a State employees' representative chosen by the Public Employee Committee of the AFL-CIO; and the fifth member of the commission shall be a local employees' representative chosen by the Public Employee Committee of the AFL-CIO.

The treasurer shall be chairman of the commission and the health benefits program authorized by P.L.1961, c.49 shall be administered in the Treasury Department. The Director of the Division of Pensions and Benefits shall be the secretary of the commission. The commission and committee shall establish a health benefits program for the employees of the State, the cost of which shall be paid as specified in section 6 of P.L.1961, c.49 (C.52:14-17.30). The commission, in consultation with the committee, shall establish rules and regulations as may be deemed reasonable and necessary for the administration of P.L.1961, c.49.

The Attorney General shall be the legal advisor of the commission and committee.

The members of the commission and committee shall serve without compensation but shall be reimbursed for any necessary expenditures. The public employee members shall not suffer loss of salary or wages during service on the commission or committee.

The commission shall publish annually a report showing the fiscal transactions of the program for the preceding year and stating other facts pertaining to the plan. The commission shall submit the report to the Governor and furnish a copy to every employer for use of the participants and the public.

b. There is established a State Health Benefits Plan Design Committee, composed of 12 members as follows:

six members who shall be appointed by the Governor as representatives of public employers whose employees are enrolled in the program;

three members who shall be appointed by the Public Employee Committee of the AFL-CIO;

one member who shall be appointed by the head of the union, that is not affiliated with the AFL-CIO, that represents the greatest number of police officers in this State;

one member who shall be appointed by the head of the union, that is not affiliated with the AFL-CIO, that represents the greatest number of fire-fighters in this State; and

one member who shall be appointed by the head of the State Troopers Fraternal Association.

The members of the committee shall serve for a term of three years and until a successor is appointed and qualified. Of the initial appointments by the Governor, three members shall serve for two years and until a successor is appointed and qualified, and two shall serve for one year and until a successor is appointed and qualified. Of the initial appointment by the head of the union representing the greatest number of police officers in the State,

the member shall serve for two years and until a successor is appointed and qualified. Of the initial appointment by the head of the union representing the greatest number of firefighters in the State, the member shall serve for one year and until a successor is appointed and qualified.

The members of the committee shall select a chairperson from among the members, who shall serve for a term of one year, with no member serving more than one term as chairperson until all the members of the committee have served a term in a manner alternating among the employer representatives and employee representatives, unless the committee determines otherwise with regard to this process.

The committee shall have the responsibility for and authority over the various plans and components of those plans, including for medical benefits, prescription benefits, dental, vision, and any other health care benefits, offered and administered by the program. The committee shall have the authority to create, modify, or terminate any plan or component, at its sole discretion. Any reference in law to the State Health Benefits Commission in the context of the creation, modification, or termination of a plan or plan component shall be deemed to apply to the committee.

The members of the committee shall have the same duty and responsibility to the program as do the members of the commission.

If any matter before the committee receives at least seven votes in the affirmative, the commission shall approve and implement the committee's decision.

If any matter before the committee receives six votes in the affirmative and six votes in the negative or the committee otherwise reaches an impasse on a decision, the provisions of section 55 of P.L.2011, c.78 (C.52:14-17.27b) shall be followed.

46. Section 33 of P.L.2007, c.103 (C.52:14-17.46.3) is amended to read as follows:

**C.52:14-17.46.3 School Employees' Health Benefits Commission, School Employees' Health Benefits Plan Design Committee.**

33. a. There is hereby created a School Employees' Health Benefits Commission, consisting of nine members:

(1) the State Treasurer and the Commissioner of the Department of Banking and Insurance serving ex officio;

(2) a member appointed by the Governor who is a New Jersey resident and is qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers;

(3) a member appointed by the Governor from among three persons nominated by the New Jersey School Boards' Association, which member shall be qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers;

(4) three members appointed by the Governor from among five persons nominated by the New Jersey Education Association, of whom two shall be qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers;

(5) a member appointed by the Governor from among three persons nominated by the education section of the New Jersey State AFL-CIO, which member shall be qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers; and

(6) a member appointed pursuant to subsection b. of this section who shall be the chairperson.

b. The Governor shall appoint the chairperson from among three persons nominated jointly by at least six of the eight members appointed pursuant to subsection a. of this section.

c. If the Governor declines to make an appointment from among the persons nominated for membership, the Governor shall request that a new list of nominees be provided in compliance with subsection a. of this section. If the Governor declines to make an appointment from the new list, the process set forth in this subsection shall be repeated until the Governor makes an appointment from a list of nominees. Except with respect to the appointment of the chairperson, if a new list of nominees is not submitted within 45 days of the Governor's request, the Governor shall make the appointment without the need to select from any list of nominees.

d. The initial terms of the members of the commission shall be as follows:

(1) the member appointed pursuant to paragraph (3) of subsection a. of this section and the two members appointed pursuant to paragraph (4) of subsection a. of this section who are required to be qualified by experience, education, or training shall serve for a term of three years;

(2) the member appointed pursuant to paragraph (2) of subsection a. of this section, the member appointed pursuant to paragraph (4) of subsection a. of this section who is not required to be qualified by experience, education, or training, and the member appointed pursuant to paragraph (5) of subsection a. of this section shall serve for a term of two years; and

(3) the chairperson shall serve for a term of six years.

All subsequent terms shall be for three years, except that the term of the chairperson shall be five years. A member of the commission may be reappointed to succeeding terms without limit in the same manner as the original appointment. A vacancy occurring on the commission shall be filled in the same manner as the original appointment and only for the unexpired term.

e. There is established a School Employees' Health Benefits Plan Design Committee, composed of six members as follows:

three members who shall be appointed by the Governor as representatives of public employers whose employees are enrolled in the program;

two members who shall be appointed by the New Jersey Education Association; and

one member who shall be appointed by the education section of the New Jersey State AFL-CIO.

The members of the committee shall serve for a term of three years and until a successor is appointed and qualified. Of the initial appointments by the Governor, two members shall serve for two years and until a successor is appointed and qualified, and one shall serve for one year and until a successor is appointed and qualified. Of the initial appointments by the New Jersey Education Association, one member shall serve for one year and until a successor is appointed and qualified.

The members of the committee shall select a chairperson from among the members, who shall serve for a term of one year, with no member serving more than one term as chairperson until all the members of the committee have served a term in a manner alternating among the employer representatives and employee representatives, unless the committee determines otherwise with regard to this process.

The committee shall have the responsibility for and authority over the various plans and components of those plans, including for medical benefits, prescription benefits, dental, vision, and any other health care benefits, offered and administered by the program. The committee shall have the authority to create, modify, or terminate any plan or component, at its sole discretion. Any reference in law to the School Employees' Health Benefits Commission in the context of the creation, modification, or termination of a plan or plan component shall be deemed to apply to the committee.

The members of the committee shall have the same duty and responsibility to the program as do the members of the commission.

If any matter before the committee receives at least four votes in the affirmative, the commission shall approve and implement the committee's decision.

If any matter before the committee receives three votes in the affirmative and three votes in the negative or the committee otherwise reaches an impasse on a decision, the provisions of section 55 of P.L.2011, c.78 (C.52:14-17.27b) shall be followed.

47. Section 5 of P.L.1961, c.49 (C.52:14-17.29) is amended to read as follows:

**C.52:14-17.29 State health benefits program, coverages, options.**

5. (A) The contract or contracts purchased by the commission pursuant to subsection b. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall provide separate coverages or policies as follows:

(1) Basic benefits which shall include:

- (a) Hospital benefits, including outpatient;
- (b) Surgical benefits;
- (c) Inpatient medical benefits;
- (d) Obstetrical benefits; and

(e) Services rendered by an extended care facility or by a home health agency and for specified medical care visits by a physician during an eligible period of such services, without regard to whether the patient has been hospitalized, to the extent and subject to the conditions and limitations agreed to by the commission and the carrier or carriers.

Basic benefits shall be substantially equivalent to those available on a group remittance basis to employees of the State and their dependents under the subscription contracts of the New Jersey "Blue Cross" and "Blue Shield" Plans. Such basic benefits shall include benefits for:

- (i) Additional days of inpatient medical service;
- (ii) Surgery elsewhere than in a hospital;
- (iii) X-ray, radioactive isotope therapy and pathology services;
- (iv) Physical therapy services;
- (v) Radium or radon therapy services;

and the extended basic benefits shall be subject to the same conditions and limitations, applicable to such benefits, as are set forth in "Extended Outpatient Hospital Benefits Rider," Form 1500, 71(9-66), and in "Extended Benefit Rider" (as amended), Form MS 7050J(9-66) issued by the New Jersey "Blue Cross" and "Blue Shield" Plans, respectively, and as the same may be amended or superseded, subject to filing by the Commissioner of Banking and Insurance; and

(2) Major medical expense benefits which shall provide benefit payments for reasonable and necessary eligible medical expenses for hospitali-

zation, surgery, medical treatment and other related services and supplies to the extent they are not covered by basic benefits. The commission may, by regulation, determine what types of services and supplies shall be included as "eligible medical services" under the major medical expense benefits coverage as well as those which shall be excluded from or limited under such coverage. Benefit payments for major medical expense benefits shall be equal to a percentage of the reasonable charges for eligible medical services incurred by a covered employee or an employee's covered dependent, during a calendar year as exceed a deductible for such calendar year of \$100.00 subject to the maximums hereinafter provided and to the other terms and conditions authorized by this act. The percentage shall be 80% of the first \$2,000.00 of charges for eligible medical services incurred subsequent to satisfaction of the deductible and 100% thereafter. There shall be a separate deductible for each calendar year for (a) each enrolled employee and (b) all enrolled dependents of such employee. Not more than \$1,000,000.00 shall be paid for major medical expense benefits with respect to any one person for the entire period of such person's coverage under the plan, whether continuous or interrupted except that this maximum may be reapplied to a covered person in amounts not to exceed \$2,000.00 a year. Maximums of \$10,000.00 per calendar year and \$20,000.00 for the entire period of the person's coverage under the plan shall apply to eligible expenses incurred because of mental illness or functional nervous disorders, and such may be reapplied to a covered person, except as provided in P.L.1999, c.441 (C.52:14-17.29d et al.). The same provisions shall apply for retired employees and their dependents. Under the conditions agreed upon by the commission and the carriers as set forth in the contract, the deductible for a calendar year may be satisfied in whole or in part by eligible charges incurred during the last three months of the prior calendar year.

Any service determined by regulation of the commission to be an "eligible medical service" under the major medical expense benefits coverage which is performed by a duly licensed practicing psychologist within the lawful scope of his practice shall be recognized for reimbursement under the same conditions as would apply were such service performed by a physician.

(B) The contract or contracts purchased by the commission pursuant to subsection c. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall include coverage for services and benefits that are at a level that is equal to or exceeds the level of services and benefits set forth in this subsection, provided that such services and benefits shall include only those that are eligible medical services and not those deemed experimental, investigative or otherwise not eligible medical services. The determination of whether services

or benefits are eligible medical services shall be made by the commission consistent with the best interests of the State and participating employers, employees, and dependents. The following list of services is not intended to be exclusive or to require that any limits or exclusions be exceeded.

Covered services shall include:

- (1) Physician services, including:
  - (a) Inpatient services, including:
    - (i) medical care including consultations;
    - (ii) surgical services and services related thereto; and
    - (iii) obstetrical services including normal delivery, cesarean section, and abortion.
  - (b) Outpatient/out-of-hospital services, including:
    - (i) office visits for covered services and care;
    - (ii) allergy testing and related diagnostic/therapy services;
    - (iii) dialysis center care;
    - (iv) maternity care;
    - (v) well child care;
    - (vi) child immunizations/lead screening;
    - (vii) routine adult physicals including pap, mammography, and prostate examinations; and
    - (viii) annual routine obstetrical/gynecological exam.
- (2) Hospital services, both inpatient and outpatient, including:
  - (a) room and board;
  - (b) intensive care and other required levels of care;
  - (c) semi-private room;
  - (d) therapy and diagnostic services;
  - (e) surgical services or facilities and treatment related thereto;
  - (f) nursing care;
  - (g) necessary supplies, medicines, and equipment for care; and
  - (h) maternity care and related services.
- (3) Other facility and services, including:
  - (a) approved treatment centers for medical emergency/accidental injury;
  - (b) approved surgical center;
  - (c) hospice;
  - (d) chemotherapy;
  - (e) diagnostic x-ray and lab tests;
  - (f) ambulance;
  - (g) durable medical equipment;
  - (h) prosthetic devices;
  - (i) foot orthotics;

- (j) diabetic supplies and education; and
- (k) oxygen and oxygen administration.

(4) All services for which coverage is required pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), as amended and supplemented. Benefits under the contract or contracts purchased as authorized by the State Health Benefits Program shall include those for mental health services subject to limits and exclusions consistent with the provisions of the New Jersey State Health Benefits Program Act.

(C) The contract or contracts purchased by the commission pursuant to subsection c. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall include the following provisions regarding reimbursements and payments:

(1) In the successor plan, the co-payment for doctor's office visits shall be \$10 per visit with a maximum out-of-pocket of \$400 per individual and \$1,000 per family for in-network services for each calendar year. The out-of-network deductible shall be \$100 per individual and \$250 per family for each calendar year, and the participant shall receive reimbursement for out-of-network charges at the rate of 80% of reasonable and customary charges, provided that the out-of-pocket maximum shall not exceed \$2,000 per individual and \$5,000 per family for each calendar year.

(2) In the State managed care plan that is required to be included in a contract entered into pursuant to subsection c. of section 4 of P.L.1961, c.49 (C.52:14-17.28), the co-payment for doctor's office visits shall be \$15 per visit. The participant shall receive reimbursement for out-of-network charges at the rate of 70% of reasonable and customary charges. The in-network and out-of-network limits, exclusions, maximums, and deductibles shall be substantially equivalent to those in the NJ PLUS plan in effect on June 30, 2007, with adjustments to that plan pursuant to a binding collective negotiations agreement or pursuant to action by the commission, in its sole discretion, to apply such adjustments to State employees for whom there is no majority representative for collective negotiations purposes.

(3) "Reasonable and customary charges" means charges based upon the 90th percentile of the usual, customary, and reasonable (UCR) fee schedule determined by the Health Insurance Association of America or a similar nationally recognized database of prevailing health care charges.

(D) Benefits under the contract or contracts purchased as authorized by this act may be subject to such limitations, exclusions, or waiting periods as the commission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or benefits otherwise available, including coverage afforded under the laws of the United States, such as the federal Medicare program, or for other reasons.

Benefits under the contract or contracts purchased as authorized by this act shall include those for the treatment of alcoholism where such treatment is prescribed by a physician and shall also include treatment while confined in or as an outpatient of a licensed hospital or residential treatment program which meets minimum standards of care equivalent to those prescribed by the Joint Commission on Hospital Accreditation. No benefits shall be provided beyond those stipulated in the contracts held by the State Health Benefits Commission.

(E) The rates charged for any contract purchased under the authority of this act shall reasonably and equitably reflect the cost of the benefits provided based on principles which in the judgment of the commission are actuarially sound. The rates charged shall be determined by the carrier on accepted group rating principles with due regard to the experience, both past and contemplated, under the contract. The commission shall have the right to particularize subgroups for experience purposes and rates. No increase in rates shall be retroactive.

(F) The initial term of any contract purchased by the commission under the authority of this act shall be for such period to which the commission and the carrier may agree, but permission may be made for automatic renewal in the absence of notice of termination by the commission. Subsequent terms for which any contract may be renewed as herein provided shall each be limited to a period not to exceed one year.

(G) A contract purchased by the commission pursuant to subsection b. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall contain a provision that if basic benefits or major medical expense benefits of an employee or of an eligible dependent under the contract, after having been in effect for at least one month in the case of basic benefits or at least three months in the case of major medical expense benefits, is terminated, other than by voluntary cancellation of enrollment, there shall be a 31-day period following the effective date of termination during which such employee or dependent may exercise the option to convert, without evidence of good health, to converted coverage issued by the carriers on a direct payment basis. Such converted coverage shall include benefits of the type classified as "basic benefits" or "major medical expense benefits" in subsection (A) hereof and shall be equivalent to the benefits which had been provided when the person was covered as an employee. The provision shall further stipulate that the employee or dependent exercising the option to convert shall pay the full periodic charges for the converted coverage which shall be subject to such terms and conditions as are normally prescribed by the carrier for this type of coverage.

(H) The commission may purchase a contract or contracts to provide drug prescription and other health care benefits or authorize the purchase of a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement or as may be required to implement a determination by a public employer to provide such benefit or benefits to employees not included in collective negotiations units.

(I) The commission shall take action as necessary, in cooperation with the School Employees' Health Benefits Commission established pursuant to section 33 of P.L.2007, c.103 (C.52:14-17.46.3), to effectuate the purposes of the School Employees' Health Benefits Program Act as provided in sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11) and to enable the School Employees' Health Benefits Commission to begin providing coverage to participants pursuant to the School Employees' Health Benefits Program Act as of July 1, 2008.

(J) Beginning January 1, 2012, the State Health Benefits Plan Design Committee shall provide to employees the option to select one of at least three levels of coverage each for family, individual, individual and spouse, and individual and dependent, or equivalent categories, for each plan offered by the program differentiated by out of pocket costs to employees including co-payments and deductibles. Notwithstanding any other provision of law to the contrary, the committee shall have the sole discretion to set the amounts for maximums, co-pays, deductibles, and other such participant costs for all plans in the program. The committee shall also provide for a high deductible health plan that conforms with Internal Revenue Code Section 223.

There shall be appropriated annually for each State fiscal year, through the annual appropriations act, such amounts as shall be necessary as funding by the State as an employer, or as otherwise required, with regard to employees or retirees who have enrolled in a high deductible health plan that conforms with Internal Revenue Code Section 223.

48. Section 36 of P.L.2007, c.103 (C.52:14-17.46.6) is amended to read as follows:

**C.52:14-17.46.6 Benefits required for coverage under contract; terms defined.**

36. a. Notwithstanding the provisions of any other law to the contrary, the commission shall not enter into a contract under the School Employees' Health Benefits Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11), for the benefits provided pursuant to the act, unless the level of benefits provided under the contract en-

tered into is equal to or exceeds the level of benefits provided in this section, or as modified pursuant to section 40 of that act (C.52:14-17.46.10). Only benefits for medically necessary services that are not deemed experimental, investigative or otherwise not eligible medical services shall be provided. The determination that services are not "eligible medical services" shall be made by the commission consistent with the best interests of the State, participating employers and those persons covered hereunder. Benefits for services provided pursuant to the School Employees' Health Benefits Act shall be subject to limits or exclusions consistent with those that apply to benefits provided pursuant to the New Jersey State Health Benefits Program Act. The services provided pursuant to this section shall include all services, subject to applicable limits and exclusions, provided through the State Health Benefits Program as of July 1, 2007. The list of services in subsection b. of this section is not intended to be exclusive or to require that any limits or exclusions be exceeded.

b. The services covered hereunder by the School Employees' Health Benefits Program shall include:

- (1) Physician services, including:
  - (a) Inpatient services, including:
    - (i) medical care including consultations;
    - (ii) surgical services and services related thereto; and
    - (iii) obstetrical services including normal delivery, cesarean section, and abortion.
  - (b) Outpatient/out-of-hospital services, including:
    - (i) office visits for covered services and care;
    - (ii) allergy testing and related diagnostic/therapy services;
    - (iii) dialysis center care;
    - (iv) maternity care;
    - (v) well child care;
    - (vi) child immunizations/lead screening;
    - (vii) routine adult physicals including pap, mammography, and prostate examinations; and
    - (viii) annual routine obstetrical/gynecological exam.
- (2) Hospital services, both inpatient and outpatient, including:
  - (a) room and board;
  - (b) intensive care and other required levels of care;
  - (c) semi-private room;
  - (d) therapy and diagnostic services;
  - (e) surgical services or facilities and treatment related thereto;
  - (f) nursing care;

- (g) necessary supplies, medicines, and equipment for care; and
- (h) maternity care and related services.
- (3) Other facility and services, including:
  - (a) approved treatment centers for medical emergency/accidental injury;
  - (b) approved surgical center;
  - (c) hospice;
  - (d) chemotherapy;
  - (e) diagnostic x-ray and lab tests;
  - (f) ambulance;
  - (g) durable medical equipment;
  - (h) prosthetic devices;
  - (i) foot orthotics;
  - (j) diabetic supplies and education; and
  - (k) oxygen and oxygen administration.

c. Benefits under the contract or contracts purchased as authorized by the School Employees' Health Benefits Program Act shall include those for the treatment of alcoholism where such treatment is prescribed by a physician and shall also include treatment while confined in or as an outpatient of a licensed hospital or residential treatment program which meets minimum standards of care equivalent to those prescribed by the Joint Commission on Hospital Accreditation. No benefits shall be provided beyond those stipulated in the contracts held by the School Employees' Health Benefits Commission.

d. Benefits under the contract or contracts purchased as authorized by the School Employees' Health Benefits Program Act shall include those for mental health services subject to limits and exclusions consistent with those that apply to benefits for such services pursuant to the New Jersey State Health Benefits Program Act. Coverage for biologically-based mental illness, as defined in section 1 of P.L.1999, c.441 (C.52:14-17.29d), shall be provided in accordance with section 2 of P.L.1999, c.441 (C.52:14-17.29e).

e. Coverage provided under the School Employees' Health Benefits Program Act shall include coverage for all services for which coverage is mandated in the State Health Benefits Program pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.).

f. (1) As used in this subsection:

(a) "brand name" means the proprietary or trade name assigned to a drug product by the manufacturer or distributor of the drug product.

(b) "carrier" means an insurance company, hospital, medical, or health service corporation, preferred provider organization, or health maintenance organization under agreement or contract with the commission to administer the School Employee Prescription Drug Plan.

(c) "School Employee Prescription Drug Plan" means the plan for providing payment for eligible prescription drug expenses of members of the School Employees' Health Benefits Program and their eligible dependents.

(d) "generic drug products" means prescription drug products and insulin approved and designated by the United States Food and Drug Administration as therapeutic equivalents for reference listed drug products. The term includes drug products listed in the New Jersey Generic Formulary by the Drug Utilization Review Council pursuant to P.L.1977, c.240 (C.24:6E-1 et al.).

(e) "mail-order pharmacy" means the mail order program available through the carrier.

(f) "preferred brands" means brand name prescription drug products and insulin determined by the carrier to be a more cost effective alternative for prescription drug products and insulin with comparable therapeutic efficacy within a therapeutic class, as defined or recognized in the United States Pharmacopeia or the American Hospital Formulary Service Drug Information, or by the American Society of Health Systems Pharmacists. A drug product for which there is no other therapeutically equivalent drug product shall be a preferred brand. Determinations of preferred brands by the carrier shall be subject to review and modification by the commission.

(g) "retail pharmacy" means a pharmacy, drug store or other retail establishment in this State at which prescription drugs are dispensed by a registered pharmacist under the laws of this State, or a pharmacy, drug store or other retail establishment in another state at which prescription drug products are dispensed by a registered pharmacist under the laws of that state if expenses for prescription drug products dispensed at the pharmacy, drug store, or other retail establishment are eligible for payment under the School Employee Prescription Drug Plan.

(h) "other brands" means prescription drug products which are not preferred brands or generic drug products. A new drug product approved by the United States Food and Drug Administration which is not a generic drug product shall be included in this category until the carrier makes a determination concerning inclusion of the drug product in the list of preferred brands.

(2) (a) Employers that participate in the School Employees' Health Benefits Program may offer to their employees and eligible dependents:

- (i) enrollment in the School Employee Prescription Drug Plan, or
- (ii) enrollment in another free-standing prescription drug plan, or
- (iii) election of prescription drug coverage under their health care coverage through the School Employees' Health Benefits Program plan or as otherwise determined by the commission.

(b) A co-payment shall be required for each prescription drug expense if the employer chooses to participate in the School Employee Prescription Drug Plan. The initial amounts of the co-payments shall be the same as those in effect on July 1, 2007 for the employee prescription drug plan offered through the State Health Benefits Program.

(c) If the employer elects to offer a free-standing prescription drug plan, the employee's share of the cost for this prescription drug plan may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time the employer commences participation in the School Employees' Health Benefits Program.

(d) If an employee declines the employer's offering of a free-standing prescription drug plan, no reimbursement for prescription drugs shall be provided under the health care coverage through the School Employees' Health Benefits Program plan in which the employee is enrolled.

(e) Prescription drug classifications that are not eligible for coverage under the employer's prescription drug plan shall also not be eligible for coverage under the health care coverage through the School Employees' Health Benefits Program plan except as federally or State mandated.

(f) If the employer elects to not offer a free-standing prescription drug plan, then the employer shall offer prescription drug coverage under the health care coverage through the School Employees' Health Benefits Program plan or as determined by the commission. Any plan that has in-network and out-of-network coverage shall cover prescription drugs at 90% in-network and at the out-of-network rate applicable to health care coverage in the plan. The out-of-pocket amounts paid towards prescription drugs shall be combined with out-of-pocket medical payments to reach all out-of-pocket maximums.

(g) Health care coverages through the School Employees' Health Benefits Program that only have in-network benefits shall include a prescription card with co-payment amounts the same as those in effect on July 1, 2007 for such coverages offered through the State Health Benefits Program.

(h) In the fifth year following the initial appointment of all of its members, the commission shall, as part of the fifth year audit and review undertaken pursuant to section 40 of that act (C.52:14-17.46.10), review the prescription drug program established in this subsection and may make changes in the program pursuant to the terms of section 40 by majority vote of the full authorized membership of the commission.

g. Beginning January 1, 2012, the School Employees' Health Benefits Plan Design Committee shall provide to employees the option to select one of at least three levels of coverage each for family, individual, individual

and spouse, and individual and dependent, or equivalent categories, for each plan offered by the program differentiated by out of pocket costs to employees including co-payments and deductibles. Notwithstanding any other provision of law to the contrary, the committee shall have the sole discretion to set the amounts for maximums, co-pays, deductibles, and other such participant costs for all plans in the program. The committee shall also provide for a high deductible health plan that conforms with Internal Revenue Code Section 223.

There shall be appropriated annually for each State fiscal year, through the annual appropriations act, such amounts as shall be necessary as funding by the State with regard to retirees who have enrolled in a high deductible health plan that conforms with Internal Revenue Code Section 223.

49. Section 37 of P.L.2007, c.103 (C.52:14-17.46.7) is amended to read as follows:

**C.52:14-17.46.7 Offer of managed care plan, terms.**

37. Beginning with the initial year of the School Employees' Health Benefits Program, the commission shall offer to participating employers and to qualified employees, retirees and dependents a managed care plan in which the office co-payment amount shall be \$10 per visit with a maximum out-of-pocket of \$400 per individual and \$1,000 per family for in-network services for each calendar year. The out-of-network deductible shall be \$100 per individual and \$250 per family for each calendar year with the plan paying for 80% of reasonable and customary charges as defined herein up to an out-of-pocket maximum that shall not exceed \$2,000 per individual and \$5,000 per family for each calendar year.

In the successor plan, the in-network out-of-pocket payments shall count toward the out-of-network out-of-pocket maximums. Any lifetime maximum for out-of-network services shall not be less than any maximums in effect under the State Health Benefits Program as of July 1, 2007. There shall be no lifetime maximum for in-network services.

The carrier that administers the successor plan shall make available to the plan participants through in-network and out-of-network providers access to physicians and hospitals sufficient in geographic scope and number to provide access to health care services that is substantially equivalent to the access to health care services available through the State Health Benefits Program as of July 1, 2007.

Beginning with the initial year of the School Employees' Health Benefits Program, the commission shall be authorized to offer to participating

employers and qualified employees, retirees and dependents managed care plans in which the in-network per visit charge shall not exceed \$15 per visit and the out of network reimbursement shall be 70% of reasonable and customary charges as defined herein, provided the in-network and out-of-network maximums and deductibles do not exceed the limits set forth above.

The amounts of maximums, co-pays, deductibles, and other participant costs shall be reviewed, as part of the fifth year audit undertaken pursuant to section 40 of P.L.2007, c.103 (C.52:14-17.46.10). The commission shall make changes in such amounts pursuant to section 40 by majority vote of the full authorized membership of the commission.

Beginning January 1, 2012, the School Employees' Health Benefits Plan Design Committee shall have the sole discretion to set the amounts for maximums, co-pays, deductibles, and other such participant costs for all plans offered in the program, notwithstanding any other provision of law to the contrary.

"Reasonable and customary charges" means, for any out-of-network payment made by a carrier, charges based upon the 90th percentile of the usual, customary, and reasonable (UCR) fee schedule determined by the Health Insurance Association of America or a similar nationally recognized database of prevailing health care charges.

Beginning with the initial year of the School Employees' Health Benefits Program, the commission shall offer to participating employers and qualified employees, retirees and dependents one or more health maintenance organization plans.

50. The Division of Pensions and Benefits in the Department of the Treasury shall conduct a study of: the risk impact of permitting employers to commence and to terminate participation in the State Health Benefits Program and the School Employees' Health Benefits Program; the long term sustainability of the programs; employee wellness programs; options for out-of-network cost containment; and the impact on the programs of the provisions of P.L.2011, c.78. The division shall conclude its study within one year following the effective date of P.L.2011, c.78 and submit a written report of its conclusions and recommendations to the Governor and the Legislature.

51. Section 44 of P.L.2007, c.62 (C.18A:16-19.1) is amended to read as follows:

**C.18A:16-19.1 Establishment of cafeteria plan for health benefits by board of education.**

44. Notwithstanding the provisions of any other law to the contrary, a board of education, or an agency or instrumentality thereof, may establish as an employer a cafeteria plan for its employees pursuant to section 125 of the federal Internal Revenue Code, 26 U.S.C. s.125, and shall establish such a plan for medical or dental expenses not covered by a health benefits plan. The plan shall provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of medical or dental expenses not covered by a health benefits plan, and may provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of dependent care expenses as provided in section 129 of the code, 26 U.S.C. s.129, and such other benefits as are consistent with section 125 which are included under the plan. The amount of any reduction in an employee's salary for the purpose of contributing to the plan shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the federal Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

52. Section 45 of P.L.2007, c.62 (C.40A:10-23.5) is amended to read as follows:

**C.40A:10-23.5 Establishment of cafeteria plan for health benefits by local unit.**

45. Notwithstanding the provisions of any other law to the contrary, a local unit of government, or an agency, board, commission, authority or instrumentality thereof, may establish as an employer a cafeteria plan for its employees pursuant to section 125 of the federal Internal Revenue Code, 26 U.S.C. s.125, and shall establish such a plan for medical or dental expenses not covered by a health benefits plan. The plan shall provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of medical or dental expenses not covered by a health benefits plan, and may provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of dependent care expenses as provided in section 129 of the code, 26 U.S.C. s.129, and such other benefits as are consistent with section 125 which are included under the plan. The amount of any reduction in an employee's salary for the purpose of contributing to the plan shall continue to be treated as regular compensation for all other purposes,

including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the federal Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

53. Section 7 of P.L.1996, c.8 (C.52:14-15.1a) is amended to read as follows:

**C.52:14-15.1a Establishment of cafeteria plan; payroll deductions.**

7. Notwithstanding the provisions of any other law to the contrary, the State Treasurer on behalf of the State, and the governing body of an independent State authority, board, commission, corporation, agency or organization may establish as an employer a cafeteria plan for its employees pursuant to section 125 of the federal Internal Revenue Code, 26 U.S.C. s.125, and shall establish such a plan for medical or dental expenses not covered by a health benefits plan. The plan shall provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of medical or dental expenses not covered by a health benefits plan, and may provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of dependent care expenses as provided in section 129 of the code, 26 U.S.C. s.129, and such other benefits as are consistent with section 125 which are included under the plan. The amount of any reduction in an employee's salary for the purpose of contributing to the plan shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the federal Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

54. Section 39 of P.L.2007, c.103 (C.52:14-17.46.9) is amended to read as follows:

**C.52:14-17.46.9 Obligations of employer for charges for benefits; School Employee Health Benefits Program Fund.**

39. a. For each active covered employee and for the eligible dependents the employee may have enrolled at the employee's option, from funds appropriated therefor, the employer shall pay to the commission the premium or periodic charges for the benefits provided under the contract in amounts equal to the premium or periodic charges for the benefits provided under such a contract covering the employee and the employee's enrolled dependents.

b. The obligations of any employer to pay the premium or periodic charges for health benefits coverage provided under the School Employees' Health Benefits Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11), may be determined by means of a binding collective negotiations agreement, including any agreement in force at the time the employer commences participation in the School Employees' Health Benefits Program. With respect to employees for whom there is no majority representative for collective negotiations purposes, the employer may, in its sole discretion, modify the respective payment obligations set forth in law for the employer and such employees in a manner consistent with the terms of any collective negotiations agreement binding on the employer.

Commencing on the effective date of P.L.2010, c.2 and upon the expiration of any applicable binding collective negotiations agreement in force on that effective date, employees shall pay 1.5 percent of base salary, through the withholding of the contribution, for health benefits coverage provided under P.L.2007, c.103 (C.52:14-17.46.1 et seq.), notwithstanding any other amount that may be required additionally pursuant to this subsection by means of a binding collective negotiations agreement or the modification of payment obligations.

c. There is hereby established a School Employee Health Benefits Program fund consisting of all contributions to premiums and periodic charges remitted to the State treasury by participating employers for employee coverage. All such contributions shall be deposited in the fund and the fund shall be used to pay the portion of the premium and periodic charges attributable to employee and dependent coverage.

d. Notwithstanding any law to the contrary and except as provided by amendment by P.L.2010, c.2, and by P.L.2011, c.78, the payment in full of premium or periodic charges for eligible retirees and their dependents pursuant to section 3 of P.L.1987, c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) shall be continued without alteration or interruption and there shall be no premium sharing or periodic charges for certain school employees in retirement once they have met the criteria for vesting for pension benefits, which criteria for purposes of this subsection only shall mean the criteria for vesting in the Teachers' Pension and Annuity Fund. For purposes of this subsection, "premium sharing or periodic charges" shall mean payments by eligible retirees based upon a proportion of the premiums for health care benefits.

**C.52:14-17.27b Utilization of super conciliator.**

55. Whenever the State Health Benefits Plan Design Committee of the State Health Benefits Program or the School Employees' Health Benefits Plan Design Committee of the School Employees' Health Benefits Program fails to render a decision on a matter before the committee because it has not received a vote of the majority of the committee members after 60 days have passed following the initial consideration of the matter, the committee shall utilize a super conciliator, randomly selected from a list developed by the New Jersey Public Employment Relations Commission. The super conciliator shall assist the committee based upon procedures and subject to qualifications established by the commission pursuant to regulation.

The super conciliator shall promptly schedule investigatory proceedings. The purpose of the proceedings shall be to:

Investigate and acquire all relevant information regarding the committee's failure to render a decision;

Discuss with the members of the committee their differences, and utilize means and mechanisms, including but not limited to requiring 24-hour per day negotiations, until a voluntary settlement is reached, and provide recommendations to resolve the members' differences; and

Institute any other non-binding procedures deemed appropriate by the super conciliator.

If the actions taken by the super conciliator fail to resolve the dispute, the super conciliator shall issue a final report, which shall be provided to the committee promptly and made available to the public within 10 days thereafter.

The super conciliator, while functioning in a mediatory capacity, shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential which are received or prepared by him or to testify with regard to mediation conducted by him under this section. Nothing contained herein shall exempt an individual from disclosing information relating to the commission of a crime.

56. Section 1 of P.L.1997, c.113 (C.43:3C-9.1) is amended to read as follows:

**C.43:3C-9.1 Corpus, income of retirement systems, restrictions on use, diversions.**

1. In accordance with the provisions of section 401 (a) (2) of the federal Internal Revenue Code, and subject to such exceptions as may be permitted for governmental plans under section 401 (a) (2) of the federal Internal Revenue Code, at no time prior to the satisfaction of all liabilities with

respect to members and their beneficiaries under the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq., the Judicial Retirement System, established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), the Prison Officers' Pension Fund, established pursuant to P.L.1941, c.220 (C.43:7-7 et seq.), the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), the Consolidated Police and Firemen's Pension Fund, established pursuant to R.S.43:16-1 et seq., the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.), the State Police Retirement System, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.), the Alternate Benefit Program, established pursuant to P.L.1969, c.242 (C.18A:66-167 et seq.), and the Defined Contribution Retirement Program, established pursuant to P.L.2007, c.92 (C.43:15C-1 et seq.), shall any part of the corpus or income of the respective retirement systems, within the taxable year or thereafter, be used for or diverted to purposes other than for the exclusive benefit of the members or their beneficiaries.

57. Section 2 of P.L.1997, c.113 (C.43:3C-9.2) is amended to read as follows:

**C.43:3C-9.2 Limitations on contributions, benefits.**

2. Notwithstanding any law, rule or regulation to the contrary, the contributions to and benefits payable under the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, the State Police Retirement System, the Alternate Benefit Program, and the Defined Contribution Retirement Program shall not exceed the limitations provided under section 415 of the federal Internal Revenue Code. The Division of Pensions and Benefits in the Department of the Treasury shall be responsible for implementation and enforcement of these limitations.

58. Section 4 of P.L.1997, c.113 (C.43:3C-9.4) is amended to read as follows:

**C.43:3C-9.4 Alternate Benefit Program, Defined Contribution Retirement Program, compensation limitation not to be exceeded.**

4. a. Notwithstanding any law, rule or regulation to the contrary, for members of the Alternate Benefit Program, the amount of compensation which may be used for employer and member contributions and benefits

under the program after June 30, 1996 shall not exceed the compensation limitation of section 401 (a) (17) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.401 (a) (17)), as amended pursuant to section 13212 of the Omnibus Budget Reconciliation Act of 1993, Pub.L.103-66, 107 Stat. 312, or as hereafter amended or supplemented, to the extent applicable to governmental plans. The provisions of this section shall not be applicable to members enrolled prior to July 1, 1996 if the employer of the members certifies to the Director of the Division of Pensions and Benefits, in the form and manner prescribed by the director, prior to July 1, 1997, that the employer will pay the additional cost for not applying the limit to the members.

b. Notwithstanding any law, rule or regulation to the contrary, for members of the Defined Contribution Retirement Program, the amount of compensation which may be used for employer and member contributions shall not exceed the compensation limitation of section 401(a)(17) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.401(a)(17)), as amended from time to time.

59. Section 41 of P.L.2007, c.92 (C.43:3C-9.6) is amended to read as follows:

**C.43:3C-9.6 Accrued benefits, rights of members.**

41. a. Upon the termination of the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Judicial Retirement System, the Police and Firemen's Retirement System, the State Police Retirement System, the Prison Officers' Pension Fund, the Consolidated Police and Firemen's Fund, the Alternate Benefit Program, or the Defined Contribution Retirement Program, or upon complete discontinuance of contributions to any of the retirement systems, the rights of all members of such retirement system to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are non-forfeitable.

b. Notwithstanding any law, rule or regulation to the contrary, the form and timing of all distributions from the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Judicial Retirement System, the Police and Firemen's Retirement System, the State Police Retirement System, the Prison Officers' Pension Fund, the Consolidated Police and Firemen's Fund, the Alternate Benefit Program, or the Defined Contribution Retirement Program, to a member, or to the beneficiary of a member if the member dies before the member's entire interest has been distributed, shall conform to the required distribution provisions of section 401(a)(9) of the federal Internal Revenue Code and the regulations issued

by the United States Department of the Treasury under that Code section, including the incidental death benefit requirements of section 401(a)(9)(G) of the federal Internal Revenue Code. In addition, in no event shall payments under any of the retirement systems commence to be paid to a member later than the member's required beginning date, without regard to whether the member has filed application therefor. For this purpose, a member's required beginning date is the April 1 of the calendar year following the later of (1) the calendar year in which the member attains age 70 1/2 or (2) the calendar year in which the member retires. The actuarial adjustment described in section 401(a)(9)(C)(iii) of the federal Internal Revenue Code shall not apply.

**C.43:3C-18 Qualified governmental defined benefit plans.**

60. a. Notwithstanding any law, rule or regulation to the contrary, the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq., the Judicial Retirement System, established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), the Prison Officers' Pension Fund, established pursuant to P.L.1941, c.220 (C.43:7-7 et seq.), the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), the Consolidated Police and Firemen's Pension Fund, established pursuant to R.S.43:16-1 et seq., the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.), and the State Police Retirement System, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.), are established as qualified governmental defined benefit plans pursuant to sections 401(a) and 414(d) of the federal Internal Revenue Code of 1986 (26 U.S.C. ss.401(a) and 414(d)), as amended, or such other provision of the federal Internal Revenue Code, as applicable, regulations of the U.S. Treasury Department, and other guidance of the federal Internal Revenue Service.

b. Notwithstanding any law, rule or regulation to the contrary, the Alternate Benefit Program, established pursuant to P.L.1969, c.242 (C.18A:66-167 et seq.), and the Defined Contribution Retirement Program, established pursuant to P.L.2007, c.92 (C.43:15C-1 et seq.) are established as qualified governmental defined contribution plans pursuant to sections 401(a) and 414(d) of the federal Internal Revenue Code of 1986 (26 U.S.C. ss.401(a) and 414(d)), as amended, or such other provision of the federal Internal Revenue Code, as applicable, regulations of the U.S. Treasury Department, and other guidance of the federal Internal Revenue Service.

c. Notwithstanding the provisions of any law, rule or regulation to the contrary, the Director of the Division of Pensions and Benefits in the De-

partment of the Treasury shall be authorized to modify the provisions of the foregoing retirement plans, when a modification is required to maintain the qualified status of the retirement plans under the Internal Revenue Code of 1986, applicable regulations of the U.S. Treasury Department or other guidance of the federal Internal Revenue Service. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director may modify the provisions of the foregoing retirement plans, when a modification is required to maintain the qualified status of the retirement plans by promulgating a rule or regulation which shall be effective upon filing with the Office of Administrative Law.

**C.43:3C-19 Member fully vested in accumulated contributions.**

61. a. A member shall be fully vested in his or her accumulated contributions at all times.

b. A member shall be fully vested in his or her service retirement benefit upon the attainment of normal retirement age under the retirement system and the completion of any required years of service. Normal retirement age means the age established by regulation consistent with statute.

c. In conformity with section 401(a)(8) of the federal Internal Revenue Code (26 U.S.C. s.401(a)(8)), any forfeitures of benefits by members or former members of the plan shall not be applied to increase the benefits any member would otherwise receive under the plan.

**C.43:3C-20 Administration in accordance with rollover requirements.**

62. Notwithstanding any law, rule or regulation to the contrary, the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, the State Police Retirement System, the Alternate Benefit Program, and the Defined Contribution Retirement Program shall be administered in accordance with the rollover requirements of section 401(a)(31) of the federal Internal Revenue Code (26 U.S.C. s.401(a)(31)).

**C.43:3C-21 Qualified military service.**

63. Effective December 12, 1994, notwithstanding any other provision of the retirement system law, contributions, benefits and service credit with respect to qualified military service are governed by section 414(u) of the federal Internal Revenue Code (26 U.S.C. s.414(u)) and the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. s.4301 et seq.).

**C.43:3C-22 Prohibited transactions.**

64. Effective as of July 1, 1989, a retirement board, or a member of such board, shall not engage in a transaction prohibited by section 503(b) of the federal Internal Revenue Code (26 U.S.C. s.503(b)).

**C.43:3C-23 Participation in qualified group trust.**

65. Each retirement system may participate under Section 401(a)(24) of the federal Internal Revenue Code in a qualified group trust that meets the requirements of Section 401(a) of the federal Internal Revenue Code (26 U.S.C. s.401(a)(24)) in accordance with Revenue Ruling 81-100, as amended by Revenue Ruling 2004-67 and Revenue Ruling 2011-1.

**C.43:3C-24 Funding, payment of other post-employment benefits.**

66. a. Post-employment benefits other than pensions under the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), for retired employees, and their dependents, of employers other than the State that are participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), as non-State participating employers, shall be funded and paid by means of contributions to a separate trust fund. For the purposes of this section, the term "post-employment benefits other than pensions" means post-employment benefits including, but not limited to, health, dental and vision care, which give rise to a liability under Statement No. 43 of the Governmental Accounting Standards Board, Reporting for Postemployment Benefit Plans Other Than Pension Plans, and Statement No. 45 of the Governmental Accounting Standards Board, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions, together, GASB 43/45, as amended from time to time, or any successor publication. For purposes of this section, and notwithstanding anything to the contrary, the term "non-State participating employers" is limited only to entities that are a political subdivision of the State, as defined in federal Treas. Reg. s. 1.103-1(b), or entities the income of which is excluded from gross income under section 115 of the Internal Revenue Code of 1986 (26 U.S.C. s.115), as amended. For purposes of this section, the term "dependent" or "dependents" means a dependent as defined under section 152 of the Internal Revenue Code of 1986 (26 U.S.C. s.152), as amended, without regard to subsection (b)(1), (b)(2), or (d)(1)(B) thereof, of a retired employee.

b. There is hereby established the State of New Jersey Other Post-Employment Benefits (OPEB) Fund, which is intended to qualify as an instrumentality of the State or a political subdivision of the State under section 115 of the Internal Revenue Code of 1986 (26 U.S.C. s.115), as

amended. The assets of the OPEB Fund shall be used only to fund and pay post-employment benefits other than pensions, and the reasonable cost of administering such benefits, with respect to eligible retired employees, and their dependents, of non-State participating employers, and deposits and contributions to the OPEB Fund shall be irrevocable except as specifically provided in subsection i. of this section. The OPEB Fund shall be a trust, trust account or custodial account, the assets of which shall be deemed an arrangement equivalent to a trust for all legal purposes, and shall be established by means of appropriate documentation so as to be exempt from taxation under the provisions of applicable federal and State tax law, which shall contain such terms and conditions as are required to comply with all State and federal law including but not limited to the following:

(1) The OPEB Fund shall provide no guaranty that payments or reimbursements to employees, former employees, retirees, spouses or beneficiaries will be tax-free.

(2) In the event that the OPEB Fund has obtained a ruling from the Internal Revenue Service concerning only the federal tax treatment of the OPEB Fund's income, that ruling may not be cited or relied upon by any non-State participating employer as precedent concerning any matter relating to the non-State participating employer's health plans, including post-retirement health plans. In particular, that ruling shall have no effect on whether contributions to the non-State participating employer's health plans or payments from the non-State participating employer's health plans, including reimbursements of medical expenses, are excludable from the gross income of employees, former employees or retirees, under the Internal Revenue Code of 1986, as amended.

(3) The federal income tax consequences to employees, former employees and retirees shall depend on the terms and operation of the non-State participating employer's health plans.

c. The assets of the OPEB Fund shall be segregated from all other funds of the State and the non-State participating employers, including without limitation the fund described in section 48 of P.L.2007, c.103 (C.52:14-17.32a1), and shall be invested and administered solely in the interest of retired employees, and their dependents, of non-State participating employers entitled to post-employment benefits other than pensions provided by the State Health Benefits Program. However, the OPEB Fund may be invested in a group trust established pursuant to section 401(a)(24) of the Internal Revenue Code of 1986 (26 U.S.C. s.401(a)(24)), as amended. Neither the State, the State Legislature, the State Health Benefits Commission, the Treasurer of the State of New Jersey, the Division of Pen-

sions and Benefits in the Department of the Treasury, nor any public officer, employee or agency, nor service provider to the OPEB Fund, shall use or authorize the use of assets contributed to the OPEB Fund, or the investment earnings thereon, for any purpose other than the provision of post-employment benefits other than pensions in accordance with the terms of the State Health Benefits Program applicable to retired employees, and their dependents, of non-State participating employers, and the defraying of the reasonable costs of administering the OPEB Fund and the benefits provided by means of the OPEB Fund. The assets constituting the OPEB Fund shall under no circumstances be subject to assignment or alienation in favor of the creditors of the State or any non-State participating employer, or of the individuals or entities that administer the State Health Benefits Program or the OPEB Fund. Private parties' interests shall neither materially participate in the OPEB Fund nor benefit more than incidentally from the operation or earnings of the OPEB Fund.

d. The Director of the Division of Pensions and Benefits shall serve as the administrator of the OPEB Fund. The Director of the Division of Investment as trustee shall have the authority to adopt a trust agreement, to receive and hold all moneys in the OPEB Fund, and to disburse the same in accordance with instructions from the fund administrator. The Director of the Division of Investment shall have the authority to invest and reinvest the moneys in the OPEB Fund and to acquire for or on behalf of the OPEB Fund such investments in accordance with the standards governing the investment of other funds managed by the Director of the Division of Investment under the rules and regulations of the State Investment Council. The State, the Division of Pensions and Benefits, the State Treasurer, the Division of Investment, and the State Investment Council, and their respective officers and employees, shall not be liable for any loss incurred by the OPEB Fund.

e. The fund administrator or the trustee may select and contract with custodians, record keepers, actuaries and other consultants, and other service providers with respect to the administration of the OPEB Fund, and may delegate to such persons or entities, or to any person within the Department of the Treasury, any of their duties and responsibilities. The Director of the Division of Investment may select and contract with investment managers, investment advisors and other service providers with respect to the investment of the OPEB Fund, and may delegate to such persons or entities, or to any person within the Division of Investment, any of its duties and responsibilities.

f. The fund administrator shall, with the assistance of a qualified actuary, determine a funding policy for the OPEB Fund and may promulgate rules and procedures with respect to the administration and funding of the OPEB Fund. The fund administrator, with the assistance of a qualified actuary, shall annually measure and determine an amount for the annual "other post-employment benefits" cost of providing benefits for the retirees and their dependents of each non-State participating employer in the State Health Benefits Program based on the "annual required cost" (ARC) for providing such benefits determined in accordance with applicable standards under GASB 43/45. The fund administrator shall report the OPEB cost for each non-State participating employer to such employer on an annual basis.

g. The fund administrator, with the assistance of a qualified actuary, shall annually determine, and the fund administrator shall approve, the aggregate contribution to the OPEB Fund to fund post-employment benefits other than pensions under the terms of the State Health Benefits Program, which shall be the amount necessary to pay the anticipated premiums or periodic charges for the benefits for the following annual valuation period, with respect to all non-State employers participating in the OPEB Fund. The fund administrator shall determine and approve the rate or rates to be charged to non-State participating employers as contributions by such employers to the OPEB Fund, based on such allocable amounts of the above-described aggregate contribution and such other factors as the fund administrator shall determine with respect to the setting of such rates.

h. Deposits to the OPEB Fund shall be made by each non-State participating employer in the amounts specified by the fund administrator. Deposits to the OPEB Fund by each non-State participating employer shall be segregated in a separate account for recordkeeping purposes from the deposits from all other non-State participating employers in the OPEB Fund. Such deposits may be commingled for purposes of investment, but the fund administrator shall provide record keeping to establish the deposits allocable to each non-State participating employer and shall periodically report the value of the separate accounts to the applicable non-State participating employers. Investment earnings attributable to the OPEB Fund shall be determined on an aggregate basis for all non-State participating employers. A non-State participating employer shall not make a deposit to the OPEB Fund if the total amount invested with respect to that employer would exceed such employer's actuarially determined liability for post-employment benefits other than pensions due to its employees, as determined under the applicable standards of GASB 43/45.

i. In the event that, following the satisfaction in full of all liabilities for post-employment benefits other than pensions to retired employees, and their dependents, of non-State participating employers, there remain undistributed assets of the OPEB Fund, such assets shall be distributed in the manner determined by the fund administrator, provided that in no event shall such assets be distributed to, or used for the purpose of paying benefits for, the active or retired employees of an entity that is not a State, a political subdivision of the State or an entity the income of which is excluded from gross income under section 115 of the Internal Revenue Code of 1986 (26 U.S.C. s.115), as amended.

**C.18A:66-168.1 Termination of portion of alternate benefit program.**

67. With respect to the portion of the alternate benefit program, P.L.1969, c.242 (C.18A:66-167 et seq.), that is subject to section 403(b) of the federal Internal Revenue Code (26 U.S.C. s. 403(b)), the State may terminate the 403(b) portion of the alternate benefit program only as permitted by the applicable regulations of the United States Department of the Treasury.

68. Section 2 of P.L.1963, c.123 (C.52:18A-108) is amended to read as follows:

**C.52:18A-108 Definitions.**

2. As used in this act:

a. "Fiscal year" means any year commencing on July 1 and ending on June 30 next following.

b. "Participant" means (1) for the purposes of the Supplemental Annuity Collective Trust under section 4 of P.L.1965, c.90 (C.52:18A-113.1), any member of a State administered retirement system, who has elected to make voluntary additional contributions to the Supplemental Annuity Collective Trust, or for whom an employer has agreed to purchase an annuity from the Supplemental Annuity Collective Trust as hereinafter provided; or (2) for the purposes of the Additional Contributions Tax-Sheltered Program under section 1 of P.L.1995, c.92 (C.52:18A-113.2), means any employee of the Department of Education, the Commission on Higher Education, the governing body of any public institution of education, or any public school, as defined in N.J.S.18A:1-1, regularly scheduled to work 20 or more hours per week who has elected to make voluntary additional contributions to the Supplemental Annuity Collective Trust, or for whom an employer has agreed to purchase an annuity from the Supplemental Annuity Collective Trust as hereinafter provided. An employee regularly works less than 20 hours per week if, for the 12-month period beginning on the date the employee's employment commenced,

the employee's employer reasonably expects the employee to work fewer than 1,000 hours of service, as defined under section 410(a)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. s.410(a)(3)(C)), as amended, and, for each plan year ending after the close of that 12-month period, the employee has worked fewer than 1,000 hours of service.

c. "State administered retirement system" means any of the following retirement plans: Public Employees' Retirement System of New Jersey established pursuant to chapter 84, P.L.1954; Teachers' Pension and Annuity Fund established pursuant to chapter 37, P.L.1955; Police and Firemen's Retirement System of New Jersey established pursuant to chapter 255, P.L.1944; Consolidated Police and Firemen's Pension Fund established pursuant to chapter 358, P.L.1952; Prison Officers' Pension Fund established pursuant to chapter 220, P.L.1941; and State Police Retirement and Benevolent Fund established pursuant to chapter 188, P.L.1925.

69. Section 6 of P.L.1963, c.123 (C.52:18A-112) is amended to read as follows:

**C.52:18A-112 Participation; application for enrollment.**

6. A member of a State administered retirement system or an employee of a board of education, as defined in N.J.S.18A:1-1, regularly scheduled to work 20 or more hours per week may become a participant by filing an application for enrollment in either the Variable Division or the Fixed Division, or both, in accordance with rules and regulations established by the council. An employee regularly works less than 20 hours per week if, for the 12-month period beginning on the date the employee's employment commenced, the employee's employer reasonably expects the employee to work fewer than 1,000 hours of service, as defined under section 410(a)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. s.410(a)(3)(C)), and, for each plan year ending after the close of that 12-month period, the employee has worked fewer than 1,000 hours of service.

70. Section 1 of P.L.1995, c.92 (C.52:18A-113.2) is amended to read as follows:

**C.52:18A-113.2 Tax-deferred annuity, education employees; written agreement to reduce salary.**

1. a. The Department of Education, the Commission on Higher Education, and the governing body of any public institution of education may enter into a written agreement with any of its employees to reduce the employee's annual salary for the purpose of investing in a tax-deferred annuity

for the employee pursuant to section 403(b) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.403(b)), as amended. Investments shall be (1) with an insurer or mutual fund company authorized to provide investment contracts under the alternate benefit program; (2) in investment contracts authorized under the program for supplemental retirement benefits which meet the requirements of section 403(b) of the federal Internal Revenue Code (26 U.S.C. s.403(b)), as amended; and (3) on the same terms and conditions provided for participants in the alternate benefit program.

b. An agreement (1) shall specify the amount and the effective date of the reduction; (2) shall be subject to filing with and approval by the State Treasurer or filing with and approval by the governing body of the institution of public higher education, as appropriate; and (3) shall be legally binding and irrevocable with respect to the amounts earned while the agreement is in effect. The total amount of the reduction in an employee's salary pursuant hereto, for any calendar year, shall not exceed the lesser of (a) the applicable dollar amount or (b) the participant's Includible Compensation for the calendar year. Includible Compensation is an employee's actual wages in box 1 of Form W-2 for a year for services to the employer, but subject to a maximum of \$200,000, or such higher maximum as may apply under section 401(a)(17) of the federal Internal Revenue Code (26 U.S.C. s.401(a)(17)), and increased up to the dollar maximum by any compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the federal Internal Revenue Code (26 U.S.C. s.125, 132(f), 401(k), 403(b), or 457(b)). The amount of Includible Compensation is determined without regard to any community property laws. The applicable dollar amount is the amount established under section 402(g)(1)(B) of the federal Internal Revenue Code (26 U.S.C. s.402(g)(1)(B)), which is \$16,500 for 2011, and is adjusted for cost-of-living after 2011 to the extent provided under section 415(d) of the federal Internal Revenue Code (26 U.S.C. s.415(d)). The total amount of the reduction in an employee's salary pursuant hereto, for any calendar year, when added to the contributions made in the year on behalf of the employee in accordance with section 7 of P.L.1963, c.123 (C.52:18A-113), shall not exceed the limitations set forth in section 415 (c) of the federal Internal Revenue Code (26 U.S.C.s.415 (c)). For the purposes of this section, if the participant is or has been a participant in one or more other plans under section 403(b) of the federal Internal Revenue Code (26 U.S.C. s.403(b)), and any other plan that permits elective deferrals under section 402(g) of the federal Internal Revenue Code (26 U.S.C. s.402(g)), then this plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations.

c. An agreement may be terminated at any time upon written notice by either the employee or the employer. Termination shall take effect at the beginning of the payroll period whose first day is nearest to the 30th day following the day on which notification of termination was (1) received by the employer, in the event termination is initiated by the employee, or (2) sent to the employee, in the event termination is initiated by the employer.

d. Amounts payable pursuant to this section by an employer on behalf of an employee for a payroll period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

e. The plan described in subsection a. of this section shall be known as the New Jersey Additional Contributions Tax-Sheltered Program.

71. Section 2 of P.L.1995, c.92 (C.52:18A-113.3) is amended to read as follows:

**C.52:18A-113.3 Reduction of employee's salary; benefits.**

2. Upon approval and filing, the State Treasurer or the applicable governing body of a public institution of education shall reduce an employee's salary pursuant to the agreement and shall pay an amount equal to the amount agreed upon for the salary reduction as an employer contribution to the issuer of the employee's annuity. Participation in a reduction of salary pursuant to this act shall not cause the employee to lose any benefits under a State-administered retirement system to which the employee would otherwise be entitled had the employee not agreed to a reduction in salary for the purpose of purchasing a tax-deferred annuity. Employee contributions and any survivor's benefit shall be paid on the basis of the employee's salary without regard to the reduction authorized by this act.

72. Section 3 of P.L.1995, c.92 (C.52:18A-113.4) is amended to read as follows:

**C.52:18A-113.4 Payments for annuity.**

3. Payments for tax-deferred annuities shall be made by the State Treasurer or the applicable governing body of a public institution of education to the issuers of the annuities out of moneys available for the salaries of employees who have entered into agreements pursuant to this act.

73. Section 1 of P.L.1996, c.77 (C.52:18A-113.6) is amended to read as follows:

**C.52:18A-113.6 Transfer of certain annuity funds.**

1. Employees of the Department of Education, the Commission on Higher Education, or the governing body of any public institution of education who are participants in the Supplemental Annuity Collective Trust pursuant to section 403(b) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.403(b)), as amended, shall transfer all funds that they may have invested as participants in the Supplemental Annuity Collective Trust to a tax-deferred annuity with an insurer or mutual fund company authorized to provide investment contracts under the alternate benefit program pursuant to the provisions of P.L.1995, c.92 (C.52:18A-113.2 et seq.).

74. Section 9 of P.L.1963, c.123 (C.52:18A-115) is amended to read as follows:

**C.52:18A-115 Investment of assets of Variable Division.**

9. The assets of the Variable Division shall be invested and reinvested principally in common stocks and securities which are convertible into common stocks. Such common stocks and securities shall be traded on a securities exchange in the United States or over-the-counter market.

**C.52:18A-170.1 Amendment, termination of Supplemental Annuity Collective Trust.**

75. With respect to the portion of the Supplemental Annuity Collective Trust that is subject to section 403(b) of the federal Internal Revenue Code (26 U.S.C. s.403(b)), the State may terminate the Supplemental Annuity Collective Trust as provided in this section.

a. The State enacted P.L.1963, c.123 (C.52:18A-107 et seq.) with the intention and expectation that contributions would be continued to the Supplemental Annuity Collective Trust program indefinitely. The State, however, has no obligation or liability whatsoever to maintain the program for any length of time and may discontinue contributions under the program at any time without any liability hereunder for any discontinuance.

b. The State reserves the authority to amend or terminate the Supplemental Annuity Collective Trust program at any time and for any reason.

c. The State may provide that, in connection with a termination of the program, all accounts will be distributed, provided that the State and any related employer on the date of termination do not make contributions to an alternative plan or program subject to the rules under section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. s.403(b)), as amended, that is not part of the program during the period beginning on the date of termination and ending 12 months after the distribution of all assets from the Sup-

plemental Annuity Collective Trust program, except as permitted by the applicable regulations of the United States Department of the Treasury.

**C.52:14-17.29q Definitions.**

76. a. As used in this section:

“emergency care” means immediate treatment provided in response to a sudden, acute and unanticipated medical crisis in order to avoid injury, impairment, or death.

“in-State health care provider” means an individual or entity, including, but not limited to, a physician or other health care professional licensed pursuant to Title 45 of the Revised Statutes, and a hospital or other health care facility licensed pursuant to Title 26 of the Revised Statutes that is not an out-of-State health care provider.

“out-of-State health care provider” means an individual or entity providing health care services at a location outside the geographic boundaries of this State.

“primary care” means the provision of preventive, diagnostic, treatment, management, and reassessment services to individuals in facilities providing family practice, general internal medicine, general pediatrics, and routine obstetrics/gynecology.

“reasonably proximate” means a geographic distance from the covered person's place of residence that does not exceed 25 miles.

“tertiary care” means specialized care performed by specialists working in an inpatient or outpatient facility for special investigation and treatment of complex diseases or conditions.

b. Notwithstanding the provisions of any other law to the contrary, a carrier which offers health benefits coverage under the State Health Benefits Program, School Employees’ Health Benefits Program, or any self-insured plan or plan offered to public employees or retirees outside the State Health Benefits Program or the School Employees’ Health Benefits Program, to an employee or retiree and any dependent eligible for such health care benefits coverage, shall only provide coverage for medically necessary health care services provided by an out-of-State health care provider as specified in subsection c. of this subsection, except for coverage authorized pursuant to subsection f. or g. of this section.

c. Medically necessary tertiary health care services may be performed by an out-of-State specialty or subspecialty health care provider when there is no in-State health care provider reasonably available to treat the particular condition based on an expedited determination by the carrier and the State Health Benefits Commission, the School Employees’ Health Benefits

Commission or the plan administrator, as the case may be, in consultation with the Department of Health and Senior Services, that such service is not otherwise available through an in-State health care provider or where there is no in-network provider who is reasonably proximate to the covered person's place of residence.

d. (1) The out-of-State health care provider shall receive reimbursement for out-of-network charges at the lesser of the contractual rate or a rate equal to 150% of the Medicare fee schedule for those same services.

(2) The employee or retiree shall be responsible for the entire balance of the out-of-State health provider's charges that exceed the applicable out-of-network reimbursement.

e. The carrier shall establish preauthorization or review requirements of the health benefits plan regarding the determination of medical necessity for the employee, retiree, or covered dependent to access out-of-State benefits, as set forth in writing pursuant to section 5 of P.L.1997, c.192 (C.26:2S-5), with which the covered person shall comply as a condition of receiving benefits pursuant to this section.

f. This section shall not apply to: (1) emergency care; (2) primary care; (3) an employee, retiree, or covered dependent who has his or her principal residence outside of this State or is enrolled as a full-time student at a school located outside this State and resides outside this State while attending that school, or (4) such other unusual and compelling circumstance determined by the State Health Benefits Commission, School Employees' Health Benefits Commission or the plan administrator, as the case may be, in consultation with the Department of Health and Senior Services, that warrants an individualized exception from the requirements of this section. For the purposes of this subsection, a person will be deemed to have his principal residence outside this State if all of the following conditions are met: the person spends the majority of his or her nonworking time outside the State, and resides at a location outside the State which is clearly the center of his or her domestic life, and has designated the out-of-State residence as his or her legal address and legal residence for voting.

g. This section shall not apply to cases when it is medically necessary for the employee, retiree, or covered dependent to continue current treatment with the out-of-State health care provider or under the following circumstances: (1) in cases of the pregnancy through the postpartum evaluation, up to six weeks after delivery; (2) in the case of post-operative care, up to six months following the surgical procedure; (3) in the case of oncological treatment, up to one year following the first date of treatment; and

(4) in the case of psychiatric treatment, up to one year following the first date of treatment.

h. Notwithstanding the provisions of another law to the contrary, the State Health Benefits Plan Design Committee, the School Employees' Health Benefits Plan Design Committee, and any public employer shall provide to employees the option to select a single plan that shall not limit coverage for medically necessary health care services provided by an out-of-State health care provider pursuant to this section. Each employee or retiree who selects coverage under the plan shall pay the additional portion of the premium or periodic charge associated with selecting a plan that does not limit coverage for medically necessary health care services provided by an out-of-State health care provider for health care benefits provided to the employee, retiree, and dependents covered under the plan.

i. This section shall be operative January 1, 2012.

**C.52:14-17.28e Negotiations concerning contributions for health care benefits.**

77. A public employer and employees who are in negotiations for the next collective negotiations agreement to be executed after the employees in that unit have reached full implementation of the premium share set forth in section 39 of P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations concerning contributions for health care benefits as if the full premium share was included in the prior contract. The public employers and public employees shall remain bound by the provisions of sections 39, 40, and 43 of P.L.2011, c.78 (C.52:14-17.28c, C.52:14-17.28d, and C.52:14-17.34a), notwithstanding the expiration of those sections, until the full amount of the contribution required by section 39 has been implemented in accordance with the schedule set forth in section 40.

Employees subject to any collective negotiations agreement in effect on the effective date of P.L.2011, c.78, that has an expiration date on or after the expiration of sections 39 through 44, inclusive, of P.L.2011, c.78 (C.52:14-17.28c et al.), shall be subject, upon expiration of that collective negotiations agreement, to sections 39, 40, and 43 until the health care contribution schedule set forth in section 40 is fully implemented.

After full implementation, those contribution levels shall become part of the parties' collective negotiations and shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties.

A public employee whose amount of contribution in retirement was determined in accordance with section 40 or 43 shall be required to contribute in retirement the amount so determined pursuant to section 40 or 43 notwithstanding that section 40 or 43 has expired, with the retirement al-

lowance, and any future cost of living adjustment thereto, used to identify the percentage of the cost of coverage.

**C.18A:16-17.2 Negotiations for benefits as if full premium share included in prior contract.**

78. A public employer and employees who are in negotiations for the next collective negotiations agreement to be executed after the employees in that unit have reached full implementation of the premium share set forth in section 39 of P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations concerning contributions for health care benefits as if the full premium share was included in the prior contract. The public employers and public employees shall remain bound by the provisions of sections 39 and 41 of P.L.2011, c.78 (C.52:14-17.28c and C.18A:16-17.1), notwithstanding the expiration of those sections, until the full amount of the contribution required by section 39 has been implemented in accordance with the schedule set forth in section 41.

Employees subject to any collective negotiations agreement in effect on the effective date of P.L.2011, c.78, that has an expiration date on or after the expiration of sections 39 through 44, inclusive, of P.L.2011, c.78 (C.52:14-17.28c et al.), shall be subject, upon expiration of that collective negotiations agreement, to sections 39 and 41 until the health care contribution schedule set forth in section 41 is fully implemented.

After full implementation, those contribution levels shall become part of the parties' collective negotiations and shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties.

**C.40A:10-21.2 Negotiations for next collective agreement.**

79. A public employer and employees who are in negotiations for the next collective negotiation agreement to be executed after the employees in that unit have reached full implementation of the premium share set forth in section 39 of P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations concerning contributions for health care benefits as if the full premium share was included in the prior contract. The public employers and public employees shall remain bound by the provisions of sections 39, 42, and 44 of P.L.2011, c.78 (C.52:14-17.28c, C.40A:10-21.1, and C.40A:5A-11.1), notwithstanding the expiration of those sections, until the full amount of the contribution required by section 39 has been implemented in accordance with the schedule set forth in section 42.

Employees subject to any collective negotiations agreement in effect on the effective date of P.L.2011, c.78, that has an expiration date on or af-

ter the expiration of sections 39 through 44, inclusive, of P.L.2011, c.78, shall be subject, upon expiration of that collective negotiations agreement, to sections 39, 42, and 44 until the health care contribution schedule set forth in section 42 is fully implemented.

After full implementation, those contribution levels shall become part of the parties' collective negotiations and shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties.

A public employee whose amount of contribution in retirement was determined in accordance with section 42 or 44 shall be required to contribute in retirement the amount so determined pursuant to section 42 or 44 notwithstanding that section 42 or 44 has expired, with the retirement allowance, and any future cost of living adjustment thereto, used to identify the percentage of the cost of coverage.

80. Notwithstanding any other provision of this amendatory and supplementary act, P.L.2011, c.78 to the contrary, the increases in the employee contributions under the amendatory sections 8 through 16, inclusive, and the contributions required under sections 39 through 44, inclusive, shall begin upon the implementation of necessary administrative actions for collection and shall not be applied retroactively to this act's effective date. Nothing contained in this section shall affect the implementation of any other provision of this act.

81. If any provision of P.L.2011, c.78 or its application to any particular person or circumstance is held invalid, that provision or its application shall be severable and shall not affect the validity of other provisions or applications of this act.

**Repealer.**

82. The following are repealed:

Section 2 of P.L.1989, c.6 (C.52:14-17.28a);

Section 1 of P.L.1985, c.414 (C.43:15A-47.2); and

Section 1 of P.L.1999, c.96 (C.43:16A-5.1).

83. This act shall take effect immediately, and sections 39 through 44, inclusive, shall expire four years after the effective date.

Approved June 28, 2011.

## CHAPTER 79

AN ACT concerning the provision of health care benefits to public employees and repealing section 76 of P.L.2011, c.78.

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

**Repealer.**

1. Section 76 of P.L.2011, c.78 (C.52:14-17.29q) is repealed.
2. This act shall take effect immediately.

Approved June 28, 2011.

## CHAPTER 80

AN ACT concerning the forfeiture of certain contraband tobacco products and cigarettes, supplementing P.L.1990, c.39 (C.54:40B-1 et seq.), and amending P.L.1948, c.65 and N.J.S.2C:64-1.

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

**C.54:40B-13.1 Seizure of certain contraband tobacco products and cigarettes.**

1. a. All tobacco products subject to the tax imposed under P.L.1990, c.39 (C.54:40B-1 et seq.), on which the tax has not been paid as required by section 4 or section 5 of P.L.1990, c.39 (C.54:40B-4 and 54:40B-5), found in any place in this State are declared to be prima facie contraband goods and may be seized by the director, the director's agents or employees, or by any peace officer of this State, when so ordered by the director, without a warrant.

b. The director may order the return of any seized tobacco product when the director shall have reason to believe, upon the presentation of satisfactory proof, that the owner has not willfully or intentionally evaded any tax imposed by P.L.1990, c.39 (C.54:40B-1 et seq.). Any tobacco product seized under the provisions of this section shall be disposed of according to law.

c. (1) Except as otherwise provided in this section, the director shall destroy any seized untaxed tobacco product not subject to other disposition pursuant to P.L.1990, c.39 (C.54:40B-1 et seq.).

(2) As an alternative to destruction, the director may resell any untaxed tobacco product to the manufacturer of that tobacco product, but such tobacco product shall be resold only for export or destruction.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the director may authorize the use for law enforcement purposes of any untaxed tobacco products forfeited in accordance with this section.

d. The seizure and sale of any untaxed tobacco product under the provisions of this section shall not relieve any person from a fine, imprisonment or other penalty for violation of any of the provisions of P.L.1990, c.39 (C.54:40B-1 et seq.). The director, the director's agents or employees, and any peace officer of this State, when so ordered, shall not in any way be responsible in any court for the seizure or the confiscation of any untaxed tobacco product.

2. Section 607 of P.L.1948, c.65 (C.54:40A-30) is amended to read as follows:

**C.54:40A-30 Unstamped cigarettes subject to confiscation.**

607. Unstamped cigarettes subject to confiscation.

a. All cigarettes, subject to the tax imposed by this act, to which stamps have not been affixed, as required by this act, and all cigarettes stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15) found in any place in this State are declared to be prima facie contraband goods and may be seized by the director, the director's agents or employees, or by any peace officer of this State, when directed by the director so to do, without a warrant.

b. The director may upon satisfactory proof direct the return of any unstamped confiscated cigarettes when the director shall have reason to believe that the owner thereof has not willfully or intentionally evaded any tax imposed by this act. Any purchaser of such cigarettes shall be required to affix stamps as required by this act.

c. (1) Except as otherwise provided in this section, the director shall destroy any seized unstamped cigarettes or cigarettes that have been stamped in violation of subsection b. of section 405 of P.L.1948, c.65 (C.54:40A-15). The director may, prior to the destruction of such cigarettes, permit the true holder of the trademark rights in the cigarette brand to inspect the cigarettes, in order to assist the director in any investigation regarding such cigarettes.

(2) As an alternative to destruction, the director may resell such cigarettes to the manufacturer of those cigarettes, but such cigarettes shall be resold only for export or destruction.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, the director may authorize the use for law enforcement purposes of cigarettes forfeited in accordance with this section.

d. The seizure and sale of any unstamped or illegally stamped cigarettes or any other contraband cigarettes under the provisions of this section shall not relieve any person from a fine, imprisonment or other penalty for violation of any of the provisions of this act. The director, the director's agents, employees, and any peace officer of this State, when directed so to do, shall not in any way be responsible in any court for the seizure or the confiscation of any unstamped or illegally stamped packages of cigarettes or any other contraband cigarettes.

3. Section 602 of P.L.1948, c.65 (C.54:40A-25) is amended to read as follows:

**C.54:40A-25 Possessing cigarettes not bearing required revenue stamps.**

602. Possessing cigarettes not bearing required revenue stamps.

Any wholesale dealer or retail dealer who violates the provisions of section four hundred six of this act, and any consumer who fails to report and remit the tax due as provided by section two hundred five of this act, shall be liable to a penalty of not more than two-hundred and fifty dollars (\$250) for each individual carton of unstamped or illegally stamped cigarettes in the dealer's possession, which penalty shall be sued for and recovered in the same manner as provided for the penalties imposed by section six hundred one of this act.

4. N.J.S.2C:64-1 is amended to read as follows:

**Property subject to forfeiture.**

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices, untaxed or otherwise contraband cigarettes or tobacco products, untaxed special fuel, unlawful sound recordings and audiovisual works and items bearing a counterfeit mark. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Items bearing a counterfeit mark" means items bearing a counterfeit mark as defined in N.J.S.2C:21-32.

"Unlawful sound recordings and audiovisual works" means sound recordings and audiovisual works as those terms are defined in N.J.S.2C:21-21 which were produced in violation of N.J.S.2C:21-21.

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

5. This act shall take effect immediately.

Approved June 29, 2011.

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## CHAPTER 81

AN ACT concerning employer contributions to the unemployment compensation fund and amending R.S.43:21-7.

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

1. R.S.43:21-7 is amended to read as follows:

**Contributions.**

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first \$4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predeces-

sor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessors, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first \$4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the "Federal Unemployment Tax Act," chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or

employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, notification shall be promptly provided to each employer included in the unemployment insurance monetary calculation of benefits. Such notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said benefit payment applies.

An annual summary statement of unemployment benefits charged to the employer's account shall be provided.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. s.3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1)  $2\frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S.43:21-19);

(2)  $2\frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3)  $1\frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4)  $1\frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5)  $1\frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2)  $4\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3)  $4\frac{6}{10}\%$ , if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates.

(i) If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows:

if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and

if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(ii) If, following the purchase of a corporation with little or no activity, known as a corporate shell, the resulting employing unit operates a new or different business activity, the employing unit shall be assigned a new employer rate.

(iii) Entities operating under common ownership, management or control, when the operation of the entities is not identifiable, distinguishable and severable, shall be considered a single employer for the purposes of this chapter (R.S.43:21-1 et seq.).

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by  $\frac{3}{10}$  of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds  $2\frac{1}{2}\%$  but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by  $\frac{6}{10}$  of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than  $2\frac{1}{2}\%$  of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer:

(1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i)  $\frac{6}{10}$  of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of  $\frac{1}{10}\%$  if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by  $\frac{6}{10}$  of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of  $\frac{1}{10}\%$  if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42 U.S.C. s.1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Fund Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

(E) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2001, c.152).

(iii) (Deleted by amendment, P.L.2003, c.107).

(iv) (Deleted by amendment, P.L.2004, c.45).

(v) (Deleted by amendment, P.L.2008, c.17).

(vi) With respect to experience rating years beginning on or after July 1, 2004, and before July 1, 2011, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Re-

serve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

## EXPERIENCE RATING TAX TABLE

Fund Reserve Ratio<sup>1</sup>

| Employer<br>Reserve<br>Ratio <sup>2</sup> | 1.40%<br>and<br>Over<br>A | 1.00%<br>to<br>1.39%<br>B | 0.75%<br>to<br>0.99%<br>C | 0.50%<br>to<br>0.74%<br>D | 0.49%<br>and<br>Under<br>E |
|-------------------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|----------------------------|
| Positive Reserve Ratio:                   |                           |                           |                           |                           |                            |
| 17% and over                              | 0.3                       | 0.4                       | 0.5                       | 0.6                       | 1.2                        |
| 16.00% to 16.99%                          | 0.4                       | 0.5                       | 0.6                       | 0.6                       | 1.2                        |
| 15.00% to 15.99%                          | 0.4                       | 0.6                       | 0.7                       | 0.7                       | 1.2                        |
| 14.00% to 14.99%                          | 0.5                       | 0.6                       | 0.7                       | 0.8                       | 1.2                        |
| 13.00% to 13.99%                          | 0.6                       | 0.7                       | 0.8                       | 0.9                       | 1.2                        |
| 12.00% to 12.99%                          | 0.6                       | 0.8                       | 0.9                       | 1.0                       | 1.2                        |
| 11.00% to 11.99%                          | 0.7                       | 0.8                       | 1.0                       | 1.1                       | 1.2                        |
| 10.00% to 10.99%                          | 0.9                       | 1.1                       | 1.3                       | 1.5                       | 1.6                        |
| 9.00% to 9.99%                            | 1.0                       | 1.3                       | 1.6                       | 1.7                       | 1.9                        |
| 8.00% to 8.99%                            | 1.3                       | 1.6                       | 1.9                       | 2.1                       | 2.3                        |
| 7.00% to 7.99%                            | 1.4                       | 1.8                       | 2.2                       | 2.4                       | 2.6                        |
| 6.00% to 6.99%                            | 1.7                       | 2.1                       | 2.5                       | 2.8                       | 3.0                        |
| 5.00% to 5.99%                            | 1.9                       | 2.4                       | 2.8                       | 3.1                       | 3.4                        |
| 4.00% to 4.99%                            | 2.0                       | 2.6                       | 3.1                       | 3.4                       | 3.7                        |
| 3.00% to 3.99%                            | 2.1                       | 2.7                       | 3.2                       | 3.6                       | 3.9                        |
| 2.00% to 2.99%                            | 2.2                       | 2.8                       | 3.3                       | 3.7                       | 4.0                        |
| 1.00% to 1.99%                            | 2.3                       | 2.9                       | 3.4                       | 3.8                       | 4.1                        |
| 0.00% to 0.99%                            | 2.4                       | 3.0                       | 3.6                       | 4.0                       | 4.3                        |
| Deficit Reserve Ratio:                    |                           |                           |                           |                           |                            |
| -0.00% to -2.99%                          | 3.4                       | 4.3                       | 5.1                       | 5.6                       | 6.1                        |
| -3.00% to -5.99%                          | 3.4                       | 4.3                       | 5.1                       | 5.7                       | 6.2                        |
| -6.00% to -8.99%                          | 3.5                       | 4.4                       | 5.2                       | 5.8                       | 6.3                        |
| -9.00% to -11.99%                         | 3.5                       | 4.5                       | 5.3                       | 5.9                       | 6.4                        |
| -12.00% to -14.99%                        | 3.6                       | 4.6                       | 5.4                       | 6.0                       | 6.5                        |
| -15.00% to -19.99%                        | 3.6                       | 4.6                       | 5.5                       | 6.1                       | 6.6                        |
| -20.00% to -24.99%                        | 3.7                       | 4.7                       | 5.6                       | 6.2                       | 6.7                        |
| -25.00% to -29.99%                        | 3.7                       | 4.8                       | 5.6                       | 6.3                       | 6.8                        |
| -30.00% to -34.99%                        | 3.8                       | 4.8                       | 5.7                       | 6.3                       | 6.9                        |

|                   |     |     |     |     |     |
|-------------------|-----|-----|-----|-----|-----|
| -35.00% and under | 5.4 | 5.4 | 5.8 | 6.4 | 7.0 |
| New Employer Rate | 2.8 | 2.8 | 2.8 | 3.1 | 3.4 |

<sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(vii) With respect to experience rating years beginning on or after July 1, 2011, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

## EXPERIENCE RATING TAX TABLE

Fund Reserve Ratio<sup>1</sup>

| Employer<br>Reserve<br>Ratio <sup>2</sup> | 3.50%<br>and<br>Over<br>A | 3.00%<br>to<br>3.49%<br>B | 2.5%<br>to<br>2.99%<br>C | 2.0%<br>to<br>2.49%<br>D | 1.99%<br>and<br>Under<br>E |
|-------------------------------------------|---------------------------|---------------------------|--------------------------|--------------------------|----------------------------|
| Positive Reserve Ratio:                   |                           |                           |                          |                          |                            |
| 17% and over                              | 0.3                       | 0.4                       | 0.5                      | 0.6                      | 1.2                        |
| 16.00% to 16.99%                          | 0.4                       | 0.5                       | 0.6                      | 0.6                      | 1.2                        |
| 15.00% to 15.99%                          | 0.4                       | 0.6                       | 0.7                      | 0.7                      | 1.2                        |
| 14.00% to 14.99%                          | 0.5                       | 0.6                       | 0.7                      | 0.8                      | 1.2                        |
| 13.00% to 13.99%                          | 0.6                       | 0.7                       | 0.8                      | 0.9                      | 1.2                        |
| 12.00% to 12.99%                          | 0.6                       | 0.8                       | 0.9                      | 1.0                      | 1.2                        |
| 11.00% to 11.99%                          | 0.7                       | 0.8                       | 1.0                      | 1.1                      | 1.2                        |
| 10.00% to 10.99%                          | 0.9                       | 1.1                       | 1.3                      | 1.5                      | 1.6                        |
| 9.00% to 9.99%                            | 1.0                       | 1.3                       | 1.6                      | 1.7                      | 1.9                        |
| 8.00% to 8.99%                            | 1.3                       | 1.6                       | 1.9                      | 2.1                      | 2.3                        |
| 7.00% to 7.99%                            | 1.4                       | 1.8                       | 2.2                      | 2.4                      | 2.6                        |
| 6.00% to 6.99%                            | 1.7                       | 2.1                       | 2.5                      | 2.8                      | 3.0                        |
| 5.00% to 5.99%                            | 1.9                       | 2.4                       | 2.8                      | 3.1                      | 3.4                        |
| 4.00% to 4.99%                            | 2.0                       | 2.6                       | 3.1                      | 3.4                      | 3.7                        |
| 3.00% to 3.99%                            | 2.1                       | 2.7                       | 3.2                      | 3.6                      | 3.9                        |
| 2.00% to 2.99%                            | 2.2                       | 2.8                       | 3.3                      | 3.7                      | 4.0                        |
| 1.00% to 1.99%                            | 2.3                       | 2.9                       | 3.4                      | 3.8                      | 4.1                        |

|                        |     |     |     |     |     |
|------------------------|-----|-----|-----|-----|-----|
| 0.00% to 0.99%         | 2.4 | 3.0 | 3.6 | 4.0 | 4.3 |
| Deficit Reserve Ratio: |     |     |     |     |     |
| -0.00% to -2.99%       | 3.4 | 4.3 | 5.1 | 5.6 | 6.1 |
| -3.00% to -5.99%       | 3.4 | 4.3 | 5.1 | 5.7 | 6.2 |
| -6.00% to -8.99%       | 3.5 | 4.4 | 5.2 | 5.8 | 6.3 |
| -9.00% to -11.99%      | 3.5 | 4.5 | 5.3 | 5.9 | 6.4 |
| -12.00% to -14.99%     | 3.6 | 4.6 | 5.4 | 6.0 | 6.5 |
| -15.00% to -19.99%     | 3.6 | 4.6 | 5.5 | 6.1 | 6.6 |
| -20.00% to -24.99%     | 3.7 | 4.7 | 5.6 | 6.2 | 6.7 |
| -25.00% to -29.99%     | 3.7 | 4.8 | 5.6 | 6.3 | 6.8 |
| -30.00% to -34.99%     | 3.8 | 4.8 | 5.7 | 6.3 | 6.9 |
| -35.00% and under      | 5.4 | 5.4 | 5.8 | 6.4 | 7.0 |
| New Employer Rate      | 2.8 | 2.8 | 2.8 | 3.1 | 3.4 |

<sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2008, c.17).

(iii) With respect to experience rating years beginning on or after July 1, 2004 and before July 1, 2011, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 0.50%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(iv) With respect to experience rating years beginning on or after July 1, 2011, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the

contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2006, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;

From January 1, 1999 until December 31, 1999, a factor of 10%;

From January 1, 2000 until December 31, 2000, a factor of 7%;

From January 1, 2002 until March 31, 2002, a factor of 36%;

From April 1, 2002 until June 30, 2002, a factor of 85%;

From July 1, 2002 until June 30, 2003, a factor of 15%;

From July 1, 2003 until June 30, 2004, a factor of 15%;

From July 1, 2004 until June 30, 2005, a factor of 7%;

From July 1, 2005 until December 31, 2005, a factor of 16%; and

From January 1, 2006 until June 30, 2006, a factor of 34%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) (Deleted by amendment, P.L.2008, c.17).

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to

less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(K) With respect to experience rating years beginning on or after July 1, 2009, if the fund reserve ratio, based on the fund balance as of the prior March 31, is:

(i) Equal to or greater than 5.00% but less than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 25% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under ;

(ii) Equal to or greater than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 50% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(L) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2011, the rates set by column "C" of the table in that subparagraph.

(M) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2012, the rates set by column "D" of the table in that subparagraph.

(N) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2013, the rates set by column "E" of the table in that subparagraph.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made, except that, following a transfer as described under

R.S.43:21-7(c)(7)(D), neither the predecessor nor successor in interest shall be eligible to make a voluntary payment of additional contributions during the year the transfer occurs and the next full calendar year. Any such additional contribution shall be made during the 30-day period following the notification to the employer of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, liable for a penalty of 5% thereof or \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest,

including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(D) If an employer transfers in whole or in part his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise and both the employer and successor in interest are at the time of the transfer under common ownership, management or control, then the employment experience attributable to the transferred business shall also be transferred to and combined with the employment experience of the successor in interest. The transfer of the employment experience is mandatory and not subject to appeal or protest.

(E) The transfer of part of an employer's employment experience to a successor in interest shall become effective as of the first day of the calendar quarter following the acquisition by the successor in interest. As of the effective date, the successor in interest shall have its employer rate recalculated by merging its existing employment experience, if any, with the employment experience acquired. If the successor in interest is not an employer as of the date of acquisition, it shall be assigned the new employer rate until the effective date of the transfer of employment experience.

(F) Upon the transfer in whole or in part of the organization, trade, assets or business to a successor in interest, the employment experience shall not be transferred if the successor in interest is not an employer at the time of the acquisition and the controller finds that the successor in interest acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

(d) Contributions of workers to the unemployment compensation fund and the State disability benefits fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) (i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contribu-

tions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(ii) (Deleted by amendment, P.L.1995, c.422.)

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending March 31, 1996, contribute to the unemployment compensation fund 0.60% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19

with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2000 until December 31, 2001, contribute to the unemployment compensation fund 0.20% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall

be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2004, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be

liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(G) (i) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or non-governmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that law (C.43:21-31) or any other provision of that law.

(ii) Each worker shall contribute to the State disability benefits fund, in addition to any amount contributed pursuant to subparagraph (i) of this paragraph (1)(G), an amount equal to, during calendar year 2009, 0.09%, and during calendar year 2010 0.12%, of wages paid with respect to the worker's employment with any covered employer, including a governmental employer which is an employer as defined under R.S.43:21-19(h)(5), unless the employer is covered by an approved private disability plan for benefits during periods of family temporary disability leave. The contributions made pursuant to this subparagraph (ii) to the State disability benefits fund shall be deposited into an account of that fund reserved for the payment of benefits during periods of family temporary disability leave as defined in section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the administration of those payments and shall not be used for any other purpose. This account shall be known as the "Family Temporary Disability Leave Account." For calendar year 2011 and each subsequent calendar year, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding year. Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to

section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding \$25 million may be transferred to that account from the revenues received in the State disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration, including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) (Deleted by amendment, P.L.1994, c.112.)

(D) (Deleted by amendment, P.L.1994, c.112.)

(E) (i) (Deleted by amendment, P.L.1994, c.112.)

(ii) (Deleted by amendment, P.L.1996, c.28.)

(iii) (Deleted by amendment, P.L.1994, c.112.)

(3) (A) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976, the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest

shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(B) If an employee receives wages from more than one employer during any calendar year, and the sum of his contributions deposited in the "Family Temporary Disability Leave Account" of the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of family temporary disability leave benefits under one or more approved private plans under the provisions of the "Temporary Disability Benefits Law" (C.43:21-25 et al.) and deducted from his wages, exceeds an amount equal to, during calendar year 2009, 0.09% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3), or during calendar year 2010, 0.12% of those wages, or, during calendar year 2011 or any subsequent calendar year, the percentage of those wages set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (ii) of paragraph(1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to the refund. The refund shall be made by the controller from the "Family Temporary Disability Leave Account" of the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount

of the refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33), with that determination based upon the ratio of the amount of such wages exempt from contributions to the fund, as provided in paragraph (1)(B) of this subsection (d) with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the "Family Temporary Disability Leave Account" of the State disability benefits fund, as provided in subparagraph (ii) of paragraph (1)(G) of this subsection (d). The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the prorated amount. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the "Family Temporary Disability Leave Account" of the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to the State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in subsection (a) of section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by paragraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in paragraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts

paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be  $\frac{1}{2}$  of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than \$500.00, such preliminary rate shall be as follows:

(i)  $\frac{2}{10}$  of 1% if such excess over \$500.00 exceeds 1% but is less than  $1\frac{1}{4}\%$  of his average annual payroll as defined in this chapter (R.S.43:21-1 et seq.);

(ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{4}\%$  but is less than  $1\frac{1}{2}\%$  of his average annual payroll;

(iii)  $\frac{1}{10}$  of 1% if such excess over \$500.00 equals or exceeds  $1\frac{1}{2}\%$  of his average annual payroll.

(3) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than \$500.00 plus 1% of his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than \$500.00, the preliminary rate shall be  $\frac{1}{4}$  of 1%.

(4) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than \$500.00, such preliminary rate shall be as follows:

(i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of 1% of his average annual payroll;

(ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

(iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

(iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds 3/4 of 1% but is less than 1% of his average annual payroll;

(v) 75/100 of 1% if such excess over \$500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in subparagraphs (D)(2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for the preceding year in accordance with subparagraphs (D) (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such preceding calendar year of the unemployment disability account as defined in section 22 of said law (C.43:21-46), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in subparagraph (D) hereof, as follows:

(i) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the final employer rates shall be the preliminary rates determined as provided in subparagraph (D) hereof, except that if the employer's preliminary rate is determined as provided in subparagraph (D)(2) or subparagraph (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest 5/100 of 1%, but in no case shall such final rate be less than 1/10 of 1%.

(ii) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph equals or exceeds  $\frac{3}{4}$  of 1% and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph is less than  $\frac{3}{4}$  of 1%, but in excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the preliminary employer rates determined as provided in subparagraph (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however, that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in subparagraph (E)(1) of this paragraph is equal to or less than  $\frac{1}{4}$  of 1%, then the final rate shall be  $\frac{2}{5}$  of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(2) hereof,  $\frac{7}{10}$  of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

(F) Notwithstanding any other provisions of this subsection (e), the rate of contribution paid to the State disability benefits fund by each covered employer as defined in paragraph (1) of subsection (a) of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as if:

(i) No disability benefits have been paid with respect to periods of family temporary disability leave;

(ii) No worker paid any contributions to the State disability benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of this section; and

(iii) No amounts were transferred from the State disability benefits fund to the "Family Temporary Disability Leave Account" pursuant to paragraph (1)(G)(ii) of subsection (d) of this section.

2. This act shall take effect immediately.

Approved June 29, 2011.

## CHAPTER 82

AN ACT amending and supplementing the Fiscal Year 2011 annual appropriations act, P.L.2010, c.35.

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

1. The following items in section 1 of P.L.2010, c.35, the annual appropriations act for State fiscal year 2011, are amended to read as follows:

**54 DEPARTMENT OF HUMAN SERVICES**

***20 Physical and Mental Health***

***23 Mental Health Services***

***7700 Division of Mental Health and Addiction Services***

**GRANTS-IN-AID**

The unexpended balance in the Community Care Account at the end of the preceding fiscal year in an amount not to exceed \$4,500,000 is appropriated for a capital project to St. Clare's Health System, subject to the approval of the Director of the Division of Budget and Accounting for a project consisting of capital improvements to remediate life safety problems at Saint Clare's Hospital-Boonton, subject to the entering of a capital agreement between the Department of Human Services and St. Clare's Health System which shall provide, among other things, that the provision of the State monies is contingent upon St. Clare's Health System providing an amount of its own funds sufficient to complete the project subject to approval by the Department of Human Services.

**DEBT SERVICE**

**82 DEPARTMENT OF THE TREASURY**

***70 Government Direction, Management, and Control***

***76 Management and Administration***

|         |                                   |                      |
|---------|-----------------------------------|----------------------|
| 99-2000 | Bond Redemption .....             | <u>\$181,540,000</u> |
|         | Total Debt Service Appropriation, |                      |
|         | Department of the Treasury.....   | <u>\$181,540,000</u> |

***Debt Service:***

Special Purpose:

Redemption: Refunding Bonds (P.L.1985, c.74, as

amended by P.L.1992, c.182) .....(\$181,540,000)

## Total Debt Service Appropriation,

Department of the Treasury.....\$181,540,000Total Appropriation, All State Funds .....\$181,540,000

2. In addition to the amounts appropriated under P.L.2010, c.35, the annual appropriations act for State fiscal year 2011, there are appropriated out of the General Fund the following sums for the purposes specified:

**16 DEPARTMENT OF CHILDREN AND FAMILIES***50 Economic Planning, Development, and Security**55 Social Services Programs***GRANTS-IN-AID**02-1620 Child Behavioral Health Services.....\$4,142,000

Total Grants-in-Aid Appropriation,

Social Services Programs.....\$4,142,000***Grants-in-Aid:***

02 Treatment Homes and Emergency

Behavioral Health Services..... (\$4,142,000)

Department of Children and Families,

Total State Appropriation .....\$4,142,000**34 DEPARTMENT OF EDUCATION***30 Educational, Cultural, and Intellectual Development**34 Educational Support Services***STATE AID**38-5120 Facilities Planning and School Building Aid.....\$82,000,000

Total State Aid Appropriation, Educational Support

Services.....\$82,000,000***State Aid:***

38 School Construction and Renovation Fund ..... (\$82,000,000)

Department of Education, Total State Appropriation .....\$82,000,000**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES***20 Physical and Mental Health**22 Health Planning and Evaluation***GRANTS-IN-AID**07-4270 Health Care Systems Analysis.....\$58,063,000

## Total Grants-in-Aid Appropriation, Health

Planning and Evaluation ..... \$58,063,000***Grants-in-Aid:***

07 Health Care Subsidy Fund Payments.....(\$58,063,000)

***26 Senior Services*****GRANTS-IN-AID**22-4275 Medical Services for the Aged ..... \$89,182,000

## Total Grants-in-Aid Appropriation,

Senior Services ..... \$89,182,000***Grants-in-Aid:***

22 Medical Day Care Services .....(\$10,000,000)

22 Payments for Medical Assistance

Recipients – Nursing Homes .....(64,182,000)

22 Global Budget for Long Term Care.....(15,000,000)

## Department of Health and Senior Services,

Total State Appropriation ..... \$147,245,000**54 DEPARTMENT OF HUMAN SERVICES*****20 Physical and Mental Health******23 Mental Health Services*****DIRECT STATE SERVICES**

10-7710 Patient Care and Health Services..... \$801,000

99-7710 Administration and Support Services ..... 8,854,000

## Total State Appropriation, Mental Health

Services..... \$9,655,000***Direct State Services:***

## Personal Services:

Salaries and Wages.....(\$5,904,000)

Materials and Supplies..... (3,576,000)

## Special Purpose:

10 Interim Assistance ..... (175,000)

***24 Special Health Services******7540 Division of Medical Assistance and Health Services*****GRANTS-IN-AID**22-7540 General Medical Services..... \$146,835,000

Total Grants-in-Aid Appropriation, Division of  
 Medical Assistance and Health Service ..... \$146,835,000

***Grants-in-Aid:***

22 Payments for Medical Assistance Recipients –  
     Medicare Premiums ..... (\$107,300,000)  
 22 General Assistance Medical Services ..... (39,535,000)

***30 Educational, Cultural, and Intellectual Development***

***32 Operation and Support of Educational Institutions***

**DIRECT STATE SERVICES**

05-7610 Residential Care and Habilitation Services ..... \$21,733,000  
 99-7610 Administration and Support Services ..... 12,571,000  
 Total Direct State Services Appropriation,  
     Operation and Support of Educational  
     Institutions ..... \$34,304,000

***Direct State Services:***

Personal Services:

    Salaries and Wages ..... (\$20,675,000)  
     Materials and Supplies ..... (12,571,000)  
     Additions, Improvements and Equipment..... (1,058,000)

***7600 Division of Developmental Disabilities***

**DIRECT STATE SERVICES**

99-7600 Administration and Support Services ..... \$69,000  
 Total Direct State Services Appropriation,  
     Division of Developmental Disabilities ..... \$69,000

***Direct State Services:***

Special Purpose:

99 Developmental Disabilities Council ..... (\$69,000)

***7601 Community Programs***

**DIRECT STATE SERVICES**

01-7601 Purchased Residential Care ..... \$2,971,000  
 Total Direct State Services Appropriation,  
     Community Programs ..... \$2,971,000

***Direct State Services:***

Services Other Than Personal.....(\$2,971,000)

#### **GRANTS-IN-AID**

01-7601 Purchased Residential Care ..... \$22,439,000

Total Grants-in-Aid Appropriation, Community

Programs..... \$22,439,000

#### ***Grants-in-Aid:***

01 Group Homes..... (\$22,439,000)

Department of Human Services, Total State

Appropriation..... \$216,273,000

### **62 DEPARTMENT OF LABOR AND**

#### **WORKFORCE DEVELOPMENT**

*50 Economic Planning, Development, and Security*

*53 Economic Assistance and Security*

#### **DIRECT STATE SERVICES**

06-4530 Special Compensation ..... \$17,500,000

Total Direct State Services Appropriation,

Economic Assistance and Security ..... \$17,500,000

#### ***Direct State Services:***

Personal Services:

Salaries and Wages ..... (\$17,500,000)

Department of Labor and Workforce Development,

Total State Appropriations..... \$17,500,000

### **66 DEPARTMENT OF LAW AND PUBLIC SAFETY**

*10 Public Safety and Criminal Justice*

*12 Law Enforcement*

#### **DIRECT STATE SERVICES**

06-1200 State Police Operations ..... \$6,423,000

Total Direct State Services Appropriation, Law

Enforcement..... \$6,423,000

#### ***Direct State Services:***

Personal Services:

Salaries and Wages.....(\$6,423,000)

Department of Law and Public Safety, Total State  
Appropriation.....\$6,423,000

## **78 DEPARTMENT OF TRANSPORTATION**

### ***60 Transportation Programs***

### ***61 State and Local Highway Facilities***

#### **DIRECT STATE SERVICES**

06-6100 Maintenance and Operations .....\$26,000,000

Total Direct State Services Appropriation, State  
and Local Highway Facilities .....\$26,000,000

#### ***Direct State Services:***

Maintenance and Fixed Charges ..... (\$26,000,000)

Department of Transportation, Total State  
Appropriation.....\$26,000,000

## **82 DEPARTMENT OF THE TREASURY**

### ***70 Government Direction, Management, and Control***

### ***75 State Subsidies and Financial Aid***

#### **STATE AID**

28-2078 County Boards of Taxation.....\$80,000

Total State Aid Appropriation, State Subsidies and  
Financial Aid .....\$80,000

#### ***State Aid:***

28 County Boards of Taxation .....(\$80,000)

### ***80 Special Government Services***

### ***82 Protection of Citizens' Rights***

### ***2097 Division of Elder Advocacy***

#### **DIRECT STATE SERVICES**

81-2097 Elder Advocacy .....\$500,000

Total Direct State Services Appropriation,  
Division of Elder Advocacy.....\$500,000

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages ..... (\$500,000)

Department of the Treasury, Total State  
Appropriation.....\$580,000

Total Appropriation, General Fund ..... \$500,163,000

3. In addition to the amounts appropriated under P.L.2010, c.35, the annual appropriations act for State fiscal year 2011, there are appropriated out of the Property Tax Relief Fund the following sums for the purposes specified:

### **34 DEPARTMENT OF EDUCATION**

#### ***30 Educational, Cultural, and Intellectual Development***

#### ***34 Educational Support Services***

#### **STATE AID**

38-5120 Facilities Planning and School Building Aid..... \$285,558,000

39-5095 Teachers' Pension and Annuity Assistance ..... 100,435,000

Total State Aid Appropriation, Educational Support

Services..... \$385,993,000

#### ***State Aid:***

38 School Construction and Renovation

Fund (PTRF).....(\$285,558,000)

39 Debt Service on Pension Obligation

Bonds (PTRF).....(100,435,000)

Department of Education, Total State Appropriation (PTRF) . \$385,993,000

Total Appropriation, Property Tax Relief Fund..... \$385,993,000

Total Appropriation, All State Funds..... \$886,156,000

4. 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**

### **16 DEPARTMENT OF CHILDREN AND FAMILIES**

#### ***50 Economic Planning, Development, and Security***

#### ***55 Social Services Programs***

01-1610 Child Protective and Permanency Services..... \$25,698,000

Total Appropriation, Social Services

Programs..... \$25,698,000

#### ***State Aid and Grants:***

|                                                    |                      |
|----------------------------------------------------|----------------------|
| Title IV-E Foster Grant.....                       | (\$25,698,000)       |
| Department of Children And Families, Total Federal |                      |
| Appropriation.....                                 | <u>\$25,698,000</u>  |
| Total Appropriation, Federal Funds.....            | <u>\$25,698,000</u>  |
| Grand Total Appropriation, All Funds.....          | <u>\$911,854,000</u> |

5. This act shall take effect immediately.

Approved June 30, 2011.

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## CHAPTER 83

AN ACT eliminating a limit on the application of the research expense credit allowed pursuant to the corporation business tax, amending P.L.1993, c.175.

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

1. Section 1 of P.L.1993, c.175 (C.54:10A-5.24) is amended to read as follows:

**C.54:10A-5.24 Taxpayer credit for certain research activities.**

1. a. A taxpayer shall be allowed a credit, subject to the provisions of subsection b. of this section, against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to

(1) 10% of the excess of the qualified research expenses for the privilege period over the base amount; and

(2) 10% of the basic research payments for the privilege period determined in accordance with section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41, as in effect on June 30, 1992, and provided that subsection (h) of 26 U.S.C. s.41 relating to termination shall not apply. Provided however, that the terms "qualified research expenses," "base amount," "qualified organization base amount period," "basic research" and any other terms determined by the Director of the Division of Taxation to affect the calculation of the credit shall include only expenditures for research conducted in this State.

b. No credit shall be allowed under section 42 of P.L.1987, c.102 (C.54:10A-5.3), or under the "Manufacturing Equipment and Employment Investment Tax Credit Act," P.L.1993, c.171 (C.54:10A-5.16 et al.), or un-

der P.L.1993, c.170 (C.54:10A-5.4 et seq.), for property or expenditures for which a credit is allowed, or which are includable in the calculation of a credit allowed, under this section.

The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law shall be as prescribed by the director. Credits allowable pursuant to this section shall be applied in the order of the privilege periods for which the credits were allowed.

For privilege periods beginning before January 1, 2012, the amount of the credits applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for the privilege period shall not exceed 50% of the tax liability otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

For privilege periods beginning on or after January 1, 2012, the amount of the credits applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for the privilege period shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

The amount of credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection may be carried over, if necessary, to the seven privilege periods following a credit's privilege period.

2. This act shall take effect immediately.

Approved June 30, 2011.

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## CHAPTER 84

AN ACT decreasing the minimum corporation business tax on certain New Jersey subchapter S corporations, amending P.L.1945, c.162.

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

1. Section 5 of P.L.1945, c.162 (C.54:10A-5) is amended to read as follows:

**C.54:10A-5 Franchise tax.**

5. The franchise tax to be annually assessed to and paid by each taxpayer shall be the greater of the amount computed pursuant to this section or the alternative minimum assessment computed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a); provided however, that in the case of a taxpayer that is a New Jersey S corporation, an investment company, a professional corporation organized pursuant to P.L.1969, c.232 (C.14A:17-1 et seq.) or a similar corporation for profit organized for the purpose of rendering professional services under the laws of another state, or a person operating on a cooperative basis under Part I of Subchapter T of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1381 et seq., there shall be no alternative minimum assessment computed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a).

The amount computed pursuant to this section shall be the sum of the amount computed under subsection (a) hereof, or in the alternative to the amount computed under subsection (a) hereof, the amount computed under subsection (f) hereof, and the amount computed under subsection (c) hereof:

(a) That portion of its entire net worth as may be allocable to this State as provided in section 6, multiplied by the following rates: 2 mills per dollar on the first \$100,000,000.00 of allocated net worth; 4/10 of a mill per dollar on the second \$100,000,000.00; 3/10 of a mill per dollar on the third \$100,000,000.00; and 2/10 of a mill per dollar on all amounts of allocated net worth in excess of \$300,000,000.00; provided, however, that with respect to reports covering accounting or privilege periods set forth below, the rate shall be that percentage of the rate set forth in this subsection for the appropriate year:

| Accounting or Privilege<br>Periods Beginning on or after: | The Percentage of the Rate<br>to be Imposed Shall be: |
|-----------------------------------------------------------|-------------------------------------------------------|
| April 1, 1983                                             | 75%                                                   |
| July 1, 1984                                              | 50%                                                   |
| July 1, 1985                                              | 25%                                                   |
| July 1, 1986                                              | 0                                                     |

(b) (Deleted by amendment, P.L.1968, c.250, s.2.)

(c) (1) For a taxpayer that is not a New Jersey S corporation, 3 1/4% of its entire net income or such portion thereof as may be allocable to this State as provided in section 6 of P.L.1945, c.162 (C.54:10A-6) plus such portion thereof as is specifically assigned to this State as provided in section 5 of P.L.1993, c.173 (C.54:10A-6.1); provided, however, that with respect to reports covering accounting or privilege periods or parts thereof

ending after December 31, 1967, the rate shall be 4 1/4%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1971, the rate shall be 5 1/2%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1974, the rate shall be 7 1/2%; and that with respect to reports covering privilege periods or parts thereof ending after December 31, 1979, the rate shall be 9%; provided however, that for a taxpayer that has entire net income of \$100,000 or less for a privilege period and is not a partnership the rate for that privilege period shall be 7 1/2% and provided further that for a taxpayer that has entire net income of \$50,000 or less for a privilege period and is not a partnership the rate for that privilege period shall be 6 1/2%.

(2) For a taxpayer that is a New Jersey S corporation:

(i) for privilege periods ending on or before June 30, 1998 the rate determined by subtracting the maximum tax bracket rate provided under N.J.S.54A:2-1 for the privilege period from the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period; and

(ii) For a taxpayer that has entire net income in excess of \$100,000 for the privilege period, for privilege periods ending on or after July 1, 1998, but on or before June 30, 2001, the rate shall be 2%,

for privilege periods ending on or after July 1, 2001, but on or before June 30, 2006, the rate shall be 1.33%,

for privilege periods ending on or after July 1, 2006, but on or before June 30, 2007, the rate shall be 0.67%, and

for privilege periods ending on or after July 1, 2007 there shall be no rate of tax imposed under this paragraph; and

(iii) For a taxpayer that has entire net income of \$100,000 or less for privilege periods ending on or after July 1, 1998, but on or before June 30, 2001 the rate for that privilege period shall be 0.5%, and for privilege periods ending on or after July 1, 2001 there shall be no rate of tax imposed under this paragraph.

(iv) The taxpayer's rate determined under subparagraph (i), (ii) or (iii) of this paragraph shall be multiplied by its entire net income that is not subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10) plus such portion thereof as is specifically assigned to this State as provided in section 5 of P.L.1993, c.173 (C.54:10A-6.1).

(3) For a taxpayer that is a New Jersey S corporation, in addition to the amount, if any, determined under paragraph (2) of this subsection, the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period multiplied by its entire net income that is subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10).

(d) Provided, however, that the franchise tax to be annually assessed to and paid by any investment company or real estate investment trust, which has elected to report as such and has filed its return in the form and within the time provided in this act and the rules and regulations promulgated in connection therewith, shall, in the case of an investment company, be measured by 40% of its entire net income and 40% of its entire net worth, and in the case of a real estate investment trust, by 4% of its entire net income and 15% of its entire net worth, at the rates hereinbefore set forth for the computation of tax on net income and net worth, respectively, but in no case less than \$250, and further provided, however, that the franchise tax to be annually assessed to and paid by a regulated investment company which for a period covered by its report satisfies the requirements of Chapter 1, Subchapter M, Part I, Section 852(a) of the federal Internal Revenue Code shall be \$250.

(e) The tax assessed to any taxpayer pursuant to this section shall not be less than \$25 in the case of a domestic corporation, \$50 in the case of a foreign corporation, or \$250 in the case of an investment company or regulated investment company. Provided however, that for privilege periods beginning in calendar year 1994 and thereafter the minimum taxes for taxpayers other than an investment company or a regulated investment company shall be as provided in the following schedule:

| Period Beginning<br>In Calendar Year | Domestic<br>Corporation<br>Minimum Tax | Foreign<br>Corporation<br>Minimum Tax |
|--------------------------------------|----------------------------------------|---------------------------------------|
| 1994                                 | \$50                                   | \$100                                 |
| 1995                                 | \$100                                  | \$200                                 |
| 1996                                 | \$150                                  | \$200                                 |
| 1997                                 | \$200                                  | \$200                                 |
| 1998                                 | \$200                                  | \$200                                 |
| 1999                                 | \$200                                  | \$200                                 |
| 2000                                 | \$200                                  | \$200                                 |
| 2001                                 | \$210                                  | \$210                                 |

and for calendar years 2002 through 2005 the minimum tax for all taxpayers shall be \$500, and for calendar year 2006 through calendar year 2011 the minimum tax for all corporations, and for privilege periods beginning in calendar year 2012 and thereafter the minimum tax for corporations that are not New Jersey S corporations shall be based on the New Jersey gross receipts, as defined for the purposes of this section pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a), of the taxpayer pursuant to the following schedule:

| New Jersey Gross Receipts:                           | Minimum Tax: |
|------------------------------------------------------|--------------|
| Less than \$100,000 .....                            | \$500        |
| \$100,000 or more but<br>less than \$250,000 .....   | \$750        |
| \$250,000 or more but<br>less than \$500,000 .....   | \$1,000      |
| \$500,000 or more but<br>less than \$1,000,000 ..... | \$1,500      |
| \$1,000,000 or more.....                             | \$2,000      |

and for privilege periods beginning in calendar year 2012 and thereafter the minimum tax for corporations that are New Jersey S corporations shall be based on the New Jersey gross receipts, as defined for the purposes of this section pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a), of the taxpayer pursuant to the following schedule:

| New Jersey Gross Receipts:                           | Minimum Tax: |
|------------------------------------------------------|--------------|
| Less than \$100,000 .....                            | \$375        |
| \$100,000 or more but<br>less than \$250,000 .....   | \$562.50     |
| \$250,000 or more but<br>less than \$500,000 .....   | \$750        |
| \$500,000 or more but<br>less than \$1,000,000 ..... | \$1,125      |
| \$1,000,000 or more.....                             | \$1,500      |

provided however, that for a taxpayer that is a member of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563, and whose group has total payroll of \$5,000,000 or more for the privilege period, the minimum tax shall be \$2,000 for the privilege period.

(f) In lieu of the portion of the tax based on net worth and to be computed under subsection (a) of this section, any taxpayer, the value of whose total assets everywhere, less reasonable reserves for depreciation, as of the close of the period covered by its report, amounts to less than \$150,000, may elect to pay the tax shown in a table which shall be promulgated by the director.

(g) Provided however, that for privilege periods beginning on or after January 1, 2001 but before January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer:

(1) that is a limited liability company or foreign limited liability company classified as a partnership for federal income tax purposes shall be the amount determined pursuant to the provisions of section 3 of P.L.2001, c.136 (C.54:10A-15.6); or

(2) that is a limited partnership or foreign limited partnership classified as a partnership for federal income tax purposes shall be the amount determined pursuant to the provisions of section 4 of P.L.2001, c.136 (C.54:10A-15.7).

(h) Provided however, that for privilege periods beginning on or after January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer that is a partnership shall be the amount determined pursuant to the provisions of section 12 of P.L.2002, c.40 (C.54:10A-15.11).

(i) (Deleted by amendment, P.L.2008, c.120)

2. This act shall take effect immediately.

Approved June 30, 2011.

**CHAPTER 85**

AN ACT making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2012 and regulating the disbursement thereof.

**ANTICIPATED RESOURCES  
FOR THE FISCAL YEAR 2011-2012  
GENERAL FUND**

Undesignated Fund Balance, July 1, 2011 .....\$692,950,000

***Major Taxes***

|                                                   |                             |
|---------------------------------------------------|-----------------------------|
| Sales.....                                        | \$8,153,000,000             |
| <b><i>Less: Sales Tax Dedication .....</i></b>    | <b><i>(628,000,000)</i></b> |
| Sales - Energy.....                               | 368,400,000                 |
| Corporation Business.....                         | 2,261,000,000               |
| Corporation Business - Energy.....                | 79,700,000                  |
| Motor Fuels .....                                 | 535,000,000                 |
| Motor Vehicle Fees .....                          | 492,731,000                 |
| Transfer Inheritance.....                         | 666,900,000                 |
| Insurance Premium .....                           | 499,197,000                 |
| Cigarette .....                                   | 205,500,000                 |
| Petroleum Products Gross Receipts.....            | 222,800,000                 |
| Public Utility Excise (Reform) .....              | 13,500,000                  |
| Corporation Banks and Financial Institutions..... | 201,900,000                 |
| Alcoholic Beverage Excise.....                    | 93,357,000                  |
| Realty Transfer .....                             | 191,050,000                 |
| Tobacco Products Wholesale Sales .....            | 20,427,000                  |
| Total - Major Taxes .....                         | <u>\$13,376,462,000</u>     |

***Miscellaneous Taxes, Fees, and Revenues***

|                                                            |              |
|------------------------------------------------------------|--------------|
| Assessment on Real Property Greater Than \$1 Million ..... | \$64,250,000 |
| Medicaid Uncompensated Care .....                          | 441,524,000  |
| Good Driver.....                                           | 71,800,000   |
| Hotel/Motel Occupancy Tax.....                             | 75,000,000   |

**EXPLANATION** - Anticipated Resources reflect Governor's Revenue Certification of June 24, 2011. The certification did not address the detailed State Anticipated Resources section of S-4000, which therefore is not included herein.

Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Governor's line-item changes of June 30, 2011.

Matter within summary of appropriations displays in shaded boxes is not enacted as part of the law and is intended to be for the purpose of displaying summaries of the items of appropriations set forth within the bill.

|                                                       |                        |
|-------------------------------------------------------|------------------------|
| Public Utility GRFT .....                             | 105,000,000            |
| TEFA .....                                            | 178,700,000            |
| Fringe Benefit Recoveries .....                       | 485,796,000            |
| Other Miscellaneous Revenue .....                     | 1,122,489,000          |
| Total - Miscellaneous Taxes, Fees, and Revenues ..... | <u>\$2,544,559,000</u> |

***Interfund Transfers***

|                                         |                         |
|-----------------------------------------|-------------------------|
| State Lottery Fund .....                | \$1,030,000,000         |
| Tobacco Settlement/Securitization ..... | 54,564,000              |
| Other Funds .....                       | 555,617,000             |
| Total - Interfund Transfers.....        | <u>\$1,640,181,000</u>  |
| Total State Revenues General Fund.....  | <u>\$17,561,202,000</u> |
| Total Resources, General Fund.....      | <u>\$18,254,152,000</u> |

***Property Tax Relief Fund***

|                                                |                         |
|------------------------------------------------|-------------------------|
| Gross Income Tax.....                          | \$11,132,000,000        |
| Sales Tax Dedication .....                     | 645,500,000             |
| Total Resources, Property Tax Relief Fund..... | <u>\$11,777,500,000</u> |

***Surplus Revenue Fund***

|                                               |            |
|-----------------------------------------------|------------|
| Undesignated Fund Balance, July 1, 2011 ..... | \$0        |
| Total Resources, Surplus Revenue Fund .....   | <u>\$0</u> |

***Casino Control Fund***

|                                               |                     |
|-----------------------------------------------|---------------------|
| Undesignated Fund Balance, July 1, 2011 ..... | \$2,716,000         |
| All Revenues.....                             | <u>53,146,000</u>   |
| Total Resources, Casino Control Fund .....    | <u>\$55,862,000</u> |

***Casino Revenue Fund***

|                                               |                      |
|-----------------------------------------------|----------------------|
| Undesignated Fund Balance, July 1, 2011 ..... | \$0                  |
| All Revenues.....                             | <u>248,149,000</u>   |
| Total Resources, Casino Revenue Fund .....    | <u>\$248,149,000</u> |

***Gubernatorial Elections Fund***

|                                                     |                         |
|-----------------------------------------------------|-------------------------|
| Undesignated Fund Balance, July 1, 2011 .....       | \$700,000               |
| All Revenues.....                                   | <u>700,000</u>          |
| Total Resources, Gubernatorial Elections Fund ..... | <u>\$1,400,000</u>      |
| TOTAL STATE REVENUES.....                           | <u>\$29,640,697,000</u> |
| GRAND TOTAL, ALL STATE FUNDS.....                   | <u>\$30,337,063,000</u> |

**FEDERAL FUNDS**

|                                           |          |
|-------------------------------------------|----------|
| Executive Branch -                        |          |
| Department of Agriculture:                |          |
| Agricultural Mediation Grant – USDA ..... | \$25,000 |

|                                                    |                      |
|----------------------------------------------------|----------------------|
| Asian Longhorned Beetle Monitoring.....            | 1,500,000            |
| Child Care .....                                   | 76,040,000           |
| Child Nutrition - Equipment Assistance for         |                      |
| School Food Authorities .....                      | 100,000              |
| Child Nutrition - School Breakfast.....            | 52,000,000           |
| Child Nutrition - School Lunch.....                | 257,000,000          |
| Child Nutrition - Special Milk.....                | 1,300,000            |
| Child Nutrition - Summer Programs .....            | 9,635,000            |
| Child Nutrition Administration .....               | 5,790,000            |
| Cooperative Gypsy Moth Suppression.....            | 400,000              |
| Farm Risk Management Education Program.....        | 272,000              |
| Farmland Preservation.....                         | 4,500,000            |
| Fish Inspection Service .....                      | 100,000              |
| Food Stamp - The Emergency Food                    |                      |
| Assistance Program (TEFAP) .....                   | 2,300,000            |
| Fresh Fruit and Vegetable Program.....             | 3,350,000            |
| Indemnities - Avian Influenza .....                | 450,000              |
| Specialty Crop Block Grant Program.....            | 1,600,000            |
| Various Federal Programs and Accruals .....        | 1,337,000            |
| Subtotal, Department of Agriculture.....           | <u>\$417,699,000</u> |
| Department of Banking and Insurance:               |                      |
| Affordable Care Act – Consumer.....                | \$1,736,000          |
| Affordable Care Act Exchange .....                 | 5,750,000            |
| Patient Protections and Affordable Care Act .....  | 1,750,000            |
| Subtotal, Department of Banking and Insurance..... | <u>\$9,236,000</u>   |
| Department of Children and Families:               |                      |
| Restricted Federal Grants .....                    | \$11,670,000         |
| Title IV-B Child Welfare Services .....            | 5,500,000            |
| Title IV-E Foster Care.....                        | 138,510,000          |
| Subtotal, Department of Children and Families..... | <u>\$155,680,000</u> |
| Department of Community Affairs:                   |                      |
| Community Services Block Grant.....                | \$20,000,000         |
| Emergency Shelter Grants Program .....             | 2,300,000            |
| Family Unification Program.....                    | 200,000              |
| Healthy Homes Production Program.....              | 2,000,000            |
| Lead-Based Paint Hazard Control Grant.....         | 3,150,000            |
| Low Income Home Energy Assistance Program.....     | 150,000,000          |
| Moderate Rehabilitation Housing Assistance.....    | 13,434,000           |
| National Affordable Housing - HOME Investment      |                      |
| Partnerships.....                                  | 8,489,000            |
| Neighborhood Stabilization Program .....           | 7,000,000            |
| Rental Assistance for Non-Elderly Persons          |                      |
| With Disabilities.....                             | 1,900,000            |

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| Section 8 Housing Voucher Program .....                       | 217,637,000          |
| Shelter Plus Care Program.....                                | 4,965,000            |
| Small Cities Block Grant Program .....                        | 8,360,000            |
| Transitional Housing – Homeless.....                          | 70,000               |
| Veterans’ Affairs Supportive Housing Initiative .....         | 1,900,000            |
| Violence Against Women Act Sexual Assault Services Grant..... | 325,000              |
| Weatherization Assistance Program .....                       | 5,000,000            |
| Subtotal, Department of Community Affairs .....               | <u>\$446,730,000</u> |
| Department of Corrections:                                    |                      |
| Central Communications Upgrade - US                           |                      |
| Department of Commerce .....                                  | \$1,000,000          |
| Central Communications Upgrade - US Department                |                      |
| of Homeland Security.....                                     | 1,000,000            |
| Community Mental Health Partnership - Second Chance .....     | 250,000              |
| Federal Re-Entry Initiative .....                             | 500,000              |
| Inmate Vocational Certifications.....                         | 173,000              |
| Justice and Mental Health Collaboration Program –             |                      |
| Department of Justice .....                                   | 200,000              |
| National Institute of Justice Grant for Corrections           |                      |
| Research-Escape Study .....                                   | 300,000              |
| Prisoner Re-Entry Initiative Grant - Camden County .....      | 300,000              |
| Project In-Side.....                                          | 386,000              |
| Promoting Responsible Fatherhood.....                         | 395,000              |
| State Criminal Alien Assistance Program .....                 | 5,097,000            |
| Technology Enhancements.....                                  | 500,000              |
| Subtotal, Department of Corrections.....                      | <u>\$10,101,000</u>  |
| Department of Education:                                      |                      |
| 21 <sup>st</sup> Century Schools.....                         | \$23,060,000         |
| AIDS Prevention Education .....                               | 700,000              |
| Bilingual and Compensatory Education - Homeless               |                      |
| Children and Youth .....                                      | 1,331,000            |
| Enhancing Education Through Technology .....                  | 1,900,000            |
| Head Start Collaboration .....                                | 305,000              |
| Improving America’s Schools Act - Consolidated                |                      |
| Administration.....                                           | 5,244,000            |
| Improving Teacher Quality - Higher Education.....             | 1,698,000            |
| Individuals with Disabilities Education Act Basic             |                      |
| State Grants .....                                            | 360,000,000          |
| Individuals with Disabilities Education Act                   |                      |
| Preschool Grants .....                                        | 11,198,000           |
| Language Acquisition Discretionary Admin .....                | 19,996,000           |
| Mathematics and Science Partnership Grants.....               | 3,050,000            |
| Migrant Education - Administration/Discretionary .....        | 2,022,000            |

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| Public Charter Schools .....                                    | 4,200,000            |
| School Improvement Grants.....                                  | 10,480,000           |
| State Assessments .....                                         | 9,665,000            |
| State Grants for Improving Teacher Quality .....                | 63,029,000           |
| Title I - Grants to Local Education Agencies .....              | 297,400,000          |
| Title I - Part D, Neglected and Delinquent.....                 | 2,465,000            |
| Various Federal Programs and Accruals .....                     | 1,717,000            |
| Vocational Education -Basic Grants – Administration .....       | 24,000,000           |
| Vocational Education Technical Preparation Title III-E .....    | 2,188,000            |
| Subtotal, Department of Education .....                         | <u>\$845,648,000</u> |
| Department of Environmental Protection:                         |                      |
| Air Pollution Maintenance Program.....                          | \$10,500,000         |
| Artificial Reef Program - PSE&G/NJPDES Permit Fees .....        | 1,400,000            |
| Asian Longhorned Beetle Project.....                            | 2,300,000            |
| Assistance to Firefighters - Wildfire and Arson Prevention..... | 200,000              |
| Atlantic Coastal Fisheries.....                                 | 300,000              |
| Avian Influenza .....                                           | 150,000              |
| Beach Monitoring and Notification .....                         | 700,000              |
| BioWatch Monitoring .....                                       | 750,000              |
| Boat Access (Fish and Wildlife).....                            | 1,000,000            |
| Brownfields .....                                               | 2,000,000            |
| Chronic Wasting Disease .....                                   | 150,000              |
| Clean Diesel Retrofit.....                                      | 400,000              |
| Clean Vessels .....                                             | 1,000,000            |
| Clean Water State Revolving Fund .....                          | 86,000,000           |
| Coastal Estuarine Land Program.....                             | 4,000,000            |
| Coastal Zone Management Implementation.....                     | 3,400,000            |
| Community Assistance Program .....                              | 250,000              |
| Consolidated Forest Management .....                            | 1,080,000            |
| Cooperative Technical Partnership.....                          | 5,000,000            |
| Defensible Space .....                                          | 400,000              |
| Drinking Water State Revolving Fund .....                       | 33,200,000           |
| Electronic Vessel Trip Reporting .....                          | 170,000              |
| Endangered Species.....                                         | 95,000               |
| Endangered and Nongame Species Program State                    |                      |
| Wildlife Grants.....                                            | 1,000,000            |
| Firewise in the Pines .....                                     | 200,000              |
| Fish and Wildlife Action Plan .....                             | 75,000               |
| Fish and Wildlife Health .....                                  | 100,000              |
| Fish and Wildlife Technical Guidance .....                      | 200,000              |
| Forest Legacy .....                                             | 6,040,000            |
| Forest Resource Management - Cooperative Forest                 |                      |
| Fire Control .....                                              | 1,750,000            |

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| Gypsy Moth Suppression .....                              | 420,000              |
| Hazardous Waste - Resource Conservation Recovery Act..... | 4,895,000            |
| Historic Preservation Survey and Planning .....           | 950,000              |
| Hudson River Walkway .....                                | 4,000,000            |
| Hunters' and Anglers' License Fund.....                   | 8,925,000            |
| Land and Water Conservation Fund .....                    | 6,000,000            |
| Marine Fisheries Investigation and Management.....        | 1,400,000            |
| Multimedia .....                                          | 750,000              |
| National Coastal Wetlands Conservation .....              | 4,000,000            |
| National Dam Safety Program (FEMA).....                   | 110,000              |
| National Geologic Mapping Program.....                    | 250,000              |
| National Recreational Trails.....                         | 1,900,000            |
| New Jersey's Landscape Project .....                      | 400,000              |
| Nonpoint Source Implementation (319H) .....               | 4,010,000            |
| Northeast Wildlife Teamwork Strategy.....                 | 60,000               |
| Offshore Beach Replenishment .....                        | 100,000              |
| Particulate Monitoring Grant.....                         | 1,000,000            |
| Pesticide Technology.....                                 | 550,000              |
| Pinelands Grant – Acquisition .....                       | 1,000,000            |
| Preliminary Assessments/Site Inspections .....            | 1,900,000            |
| Radon Program.....                                        | 500,000              |
| Remedial Planning Support Agency Assistance.....          | 1,000,000            |
| Scenic Byways .....                                       | 3,500,000            |
| Southern Pine Beetle .....                                | 100,000              |
| State Recreational Trails.....                            | 4,975,000            |
| State Wetlands Conservation Plan.....                     | 550,000              |
| State Wildlife Grant Projects.....                        | 1,000,000            |
| State and EPA Data Management Grant .....                 | 2,300,000            |
| Superfund Grants.....                                     | 25,450,000           |
| Underground Storage Tank Program Standard                 |                      |
| Compliance Inspections .....                              | 1,250,000            |
| Underground Storage Tanks .....                           | 2,500,000            |
| Urban Community Air Toxics Program .....                  | 800,000              |
| Various Federal Programs and Accruals .....               | 1,025,000            |
| Water Monitoring and Planning .....                       | 1,050,000            |
| Water Pollution Control Program.....                      | 4,275,000            |
| Water Pollution S106 Enhancements .....                   | 300,000              |
| Wildland and Urban Interface II.....                      | 100,000              |
| Wildlife Habitat Incentives Program (WHIP) .....          | 150,000              |
| Subtotal, Department of Environmental Protection.....     | <u>\$257,255,000</u> |
| Department of Health and Senior Services:                 |                      |
| AIDS Drug Assistance Program Relief .....                 | \$1,300,000          |
| AIDS Drug Distribution Program.....                       | 4,000,000            |

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| Abstinence Education - Family Health Services (FHS) .....      | 914,000    |
| Adult Viral Hepatitis Prevention .....                         | 200,000    |
| Asthma Surveillance and Coalition Building .....               | 769,000    |
| Bioterrorism Hospital Emergency Preparedness .....             | 15,000,000 |
| Birth Defects Surveillance Program .....                       | 508,000    |
| Breastfeeding Peer Counseling .....                            | 300,000    |
| CDC Nutrition - Physical Activity & Obesity (NPAO) .....       | 820,000    |
| Childhood Lead Poisoning .....                                 | 1,400,000  |
| Chronic Disease Prevention and Health Promotion                |            |
| Programs - Public Health .....                                 | 3,350,000  |
| Clinical Laboratory Improvement Amendments Program .....       | 490,000    |
| Comprehensive AIDS Resources Grant .....                       | 49,550,000 |
| Core Injury Prevention and Control Program .....               | 300,000    |
| Demonstration Program to Conduct Health Assessments .....      | 627,000    |
| Early Hearing Detection and Intervention (EHDI)                |            |
| Tracking, Research .....                                       | 210,000    |
| Early Intervention for Infants and Toddlers with Disabilities  |            |
| (Part H) Multimedia .....                                      | 13,000,000 |
| Elderly Nutrition (Meals on Wheels) - Federal                  |            |
| Economic Stimulus .....                                        | 1,097,000  |
| Eliminating Disparities in Perinatal Health .....              | 500,000    |
| Emergency Medical Services for Children (EMSC)                 |            |
| Partnership Grants .....                                       | 226,000    |
| Emergency Preparedness for Bioterrorism .....                  | 30,886,000 |
| Enhanced HIV/AIDS Surveillance-Perinatal .....                 | 213,000    |
| Enhancing & Making Programs & Outcomes                         |            |
| Work to End Rape .....                                         | 100,000    |
| Environmental Tools for Dementia Care .....                    | 150,000    |
| Family Planning Program - Title X .....                        | 4,200,000  |
| Federal Lead Abatement Program .....                           | 440,000    |
| Food Emergency Response Network - E. Coli in                   |            |
| Ground Beef .....                                              | 165,000    |
| Food Inspection .....                                          | 477,000    |
| Fundamental & Expanded Occupational Health .....               | 985,000    |
| H1N1 Public Health Emergency Response .....                    | 18,404,000 |
| HIV/AIDS Events without Care in New Jersey .....               | 373,000    |
| HIV/AIDS Prevention and Education Grant .....                  | 15,000,000 |
| HIV/AIDS Surveillance Grant .....                              | 3,175,000  |
| Heart Disease and Stroke Prevention .....                      | 450,000    |
| Housing Opportunities for Persons with AIDS .....              | 2,264,000  |
| Housing Opportunities for Incarcerated Persons with AIDS ..... | 2,101,000  |
| Immunization Project .....                                     | 8,774,000  |
| Immunization Project - Federal Economic Stimulus .....         | 2,871,000  |

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| Lead Training and Certification Enforcement Program .....                                | 83,000               |
| Maternal and Child Health (MCH) Early Childhood<br>Comprehensive System .....            | 140,000              |
| Maternal and Child Health Block Grant.....                                               | 13,000,000           |
| Medicare/Medicaid Inspections of Nursing Facilities .....                                | 16,672,000           |
| Minority AIDS Demo.....                                                                  | 67,000               |
| Morbidity and Risk Behavior Surveillance .....                                           | 725,000              |
| National Cancer Prevention and Control - Public Health.....                              | 6,889,000            |
| National Family Caregiver Program.....                                                   | 5,200,000            |
| National HIV/AIDS Behavioral Surveillance.....                                           | 512,000              |
| New Jersey's Reducing Health Disparities Initiative .....                                | 160,000              |
| Nurse Aid Certification Program.....                                                     | 1,000,000            |
| Nursing Facilities Transition Grant .....                                                | 600,000              |
| Older Americans Act - Title III .....                                                    | 34,059,000           |
| Pandemic Influenza Healthcare Preparedness .....                                         | 1,935,000            |
| Pediatric AIDS Health Care Demonstration Project.....                                    | 2,850,000            |
| Pregnancy Risk Assessment Monitoring System .....                                        | 750,000              |
| Preventative Health and Health Services Block Grant .....                                | 4,056,000            |
| Public Employees Occupational Safety and<br>Health - State Plan.....                     | 900,000              |
| Public Health Laboratory Biomonitoring Planning.....                                     | 2,156,000            |
| Rape Prevention and Education Program .....                                              | 1,080,000            |
| Ryan White Supplemental - Part B.....                                                    | 1,500,000            |
| Senior Farmers Market Nutrition Program.....                                             | 1,000,000            |
| Supplemental Food - Women, Infants and Children<br>(WIC) Federal Economic Stimulus ..... | 6,000,000            |
| Supplemental Food Program - Women, Infants, and<br>Children (WIC) .....                  | 142,000,000          |
| Surveillance, Epidemiology and End Results (SEER) .....                                  | 1,319,000            |
| Tuberculosis Control Program.....                                                        | 6,095,000            |
| United States Department of Agriculture (USDA)<br>Older Americans ACT - Title III.....   | 4,350,000            |
| Universal Newborn Hearing Screening .....                                                | 250,000              |
| Various Federal Programs and Accruals .....                                              | 13,005,000           |
| Venereal Disease Project.....                                                            | 3,882,000            |
| Vital Statistics Component.....                                                          | 1,100,000            |
| West Nile Virus – Laboratory .....                                                       | 200,000              |
| West Nile Virus - Public Health .....                                                    | 1,942,000            |
| Women, Infants, and Children (WIC) Farmer's<br>Market Nutrition.....                     | 2,600,000            |
| Subtotal, Department of Health and<br>Human Services .....                               | <u>\$463,666,000</u> |
| Department of Human Services:                                                            |                      |

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| Block Grant Mental Health Services .....                            | \$11,561,000           |
| Child Care Block Grant .....                                        | 108,269,000            |
| Child Support Enforcement Program .....                             | 178,709,000            |
| Developmental Disabilities Council .....                            | 1,636,000              |
| Federal Independent Living .....                                    | 1,079,000              |
| Food Stamp Program .....                                            | 128,371,000            |
| Medicaid Emergency Diversion Grant .....                            | 2,328,000              |
| Projects for Assistance in Transition from<br>Homeless (PATH) ..... | 2,349,000              |
| Refugee Resettlement Program .....                                  | 3,389,000              |
| Social Services Block Grant .....                                   | 48,591,000             |
| Substance Abuse Block Grant .....                                   | 51,882,000             |
| Temporary Assistance to Needy Families Block Grant .....            | 445,807,000            |
| Title XIX Child Residential .....                                   | 91,441,000             |
| Title XIX Community Care Waiver .....                               | 353,425,000            |
| Title XIX ICF/MR .....                                              | 345,584,000            |
| Title XIX Medical Assistance .....                                  | 4,436,845,000          |
| Title XIX Children's Health Insurance Program .....                 | 730,577,000            |
| Various Federal Programs and Accruals .....                         | 10,697,000             |
| Vocational Rehabilitation Act, Section 120 .....                    | 11,894,000             |
| Subtotal, Department of Human Services .....                        | <u>\$6,964,434,000</u> |
| Department of Labor and Workforce Development:                      |                        |
| Adult Continuing Education - Workforce                              |                        |
| Investment Act .....                                                | \$20,970,000           |
| Comprehensive Services for Independent Living .....                 | 600,000                |
| Current Employee Statistics .....                                   | 2,913,000              |
| Disability Determination Services .....                             | 65,771,000             |
| Disabled Determination Services .....                               | 3,000,000              |
| Employment Services .....                                           | 27,159,000             |
| Employment Services Cost Reimbursable Grants –                      |                        |
| Migrant Housing .....                                               | 50,000                 |
| Employee Services Grants - Alien Labor Certification .....          | 2,221,000              |
| Local Veterans' Employment Representatives .....                    | 1,600,000              |
| National Council on Aging - Senior Community                        |                        |
| Services Employment Project .....                                   | 5,000,000              |
| Occupational Safety Health Act - On-Site Consultation .....         | 2,600,000              |
| Old Age and Survivor Insurance Disability                           |                        |
| Determination Services .....                                        | 1,000,000              |
| One Stop Labor Market Information .....                             | 1,068,000              |
| Public Employees Occupational Safety and Health Act .....           | 2,250,000              |
| Redesigned Occupational Safety and Health (ROSH) .....              | 269,000                |
| Rehabilitation of Supplemental Security                             |                        |
| Income Beneficiaries .....                                          | 2,000,000              |

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| Supported Employment .....                                 | 975,000              |
| Technical Assistance Training.....                         | 1,700,000            |
| Technology Related Assistance Project.....                 | 550,000              |
| Trade Adjustment Assistance Project.....                   | 4,200,000            |
| Unemployment Insurance.....                                | 185,065,000          |
| Various Federal Programs and Accruals .....                | 190,000              |
| Vocational Rehabilitation Act of 1973 .....                | 50,325,000           |
| Work Opportunity Tax Credit .....                          | 750,000              |
| Workforce Investment Act .....                             | 92,943,000           |
| Workforce Investment Act Title IIID                        |                      |
| Discretionary Funding.....                                 | 8,000,000            |
| Subtotal, Department of Labor and                          |                      |
| Workforce Development.....                                 | <u>\$483,169,000</u> |
| Department of Law and Public Safety:                       |                      |
| Anti Trafficking Task Force .....                          | \$300,000            |
| Bulletproof Vest Partnership .....                         | 500,000              |
| Byrne Discretionary Grant - Statewide Response to          |                      |
| Violent Crime Reduction.....                               | 600,000              |
| COPS Hiring Program .....                                  | 14,000,000           |
| Child Safety/Child Booster Seats .....                     | 4,000,000            |
| Citizen Corps Program .....                                | 242,000              |
| Distracted Driver Incentive .....                          | 1,200,000            |
| Domestic Marijuana Eradication Suppression Program.....    | 75,000               |
| Drunk Driver Prevention .....                              | 8,507,000            |
| Emergency Management Performance Grant –                   |                      |
| Non Terrorism .....                                        | 9,000,000            |
| Enforcing Underage Drinking Laws.....                      | 360,000              |
| Enhancement of Data Analysis Center.....                   | 50,000               |
| Equal Employment Opportunity Commission.....               | 375,000              |
| Fatality Analysis Reporting System (FARS).....             | 240,000              |
| Flood Mitigation Assistance .....                          | 8,000,000            |
| Forensic Casework DNA Backlog Reduction .....              | 1,400,000            |
| Hazardous Materials Emergency Preparedness .....           | 600,000              |
| Hazardous Materials Transportation .....                   | 500,000              |
| Highway Traffic Safety .....                               | 9,890,000            |
| Homeland Security Grant Program .....                      | 11,903,000           |
| Incident Command .....                                     | 1,500,000            |
| Internet Crimes Against Children.....                      | 400,000              |
| Justice Assistance Grant (JAG) .....                       | 10,000,000           |
| Juvenile Accountability Incentive Block Grant (JAIBG)..... | 1,152,000            |
| Juvenile Justice Delinquency Prevention .....              | 1,524,000            |
| Medicaid Fraud Unit.....                                   | 4,745,000            |
| Metropolitan Medical Response System .....                 | 564,000              |

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| Motorcycle Incentive.....                                                   | 150,000              |
| Motorcycle Safety .....                                                     | 800,000              |
| National Criminal History Program - Office of<br>the Attorney General ..... | 4,000,000            |
| Occupant Protection Grant .....                                             | 4,500,000            |
| Paul Coverdell National Forensic Science Improvement .....                  | 500,000              |
| Port Security - Delaware Bay (South) .....                                  | 1,700,000            |
| Port Security - New York/New Jersey (North) .....                           | 3,450,000            |
| Pre-Disaster Mitigation Grant (Competitive) .....                           | 3,000,000            |
| Project Safe Neighborhoods .....                                            | 500,000              |
| Recreational Boating Safety .....                                           | 4,000,000            |
| Regional Catastrophic Preparedness Grant .....                              | 1,283,000            |
| Repetitive Flood Claim Program – FEMA .....                                 | 750,000              |
| Residential Treatment for Substance Abuse .....                             | 750,000              |
| Safety Belt Performance Grants .....                                        | 8,992,000            |
| Severe Repetitive Loss – FEMA .....                                         | 27,451,000           |
| Sex Offender Registration and Notification Act (SORNA) .....                | 400,000              |
| Solving Cold Cases .....                                                    | 310,000              |
| State Traffic Safety Information System .....                               | 1,500,000            |
| Title V Funding .....                                                       | 35,000               |
| UASI Nonprofit Security Grant Program (NSGP) .....                          | 1,600,000            |
| Urban Area Security Initiative.....                                         | 37,293,000           |
| Various Federal Programs and Accruals .....                                 | 625,000              |
| Victim Assistance Grants .....                                              | 13,000,000           |
| Victim Compensation Award .....                                             | 3,677,000            |
| Violence Against Women Act-Criminal Justice.....                            | 4,000,000            |
| Subtotal, Department of Law and Public Safety .....                         | <u>\$215,893,000</u> |
| Department of Military and Veterans' Affairs:                               |                      |
| Administrative Services Activities .....                                    | \$60,000             |
| Antiterrorism Program Manager .....                                         | 110,000              |
| Armory Renovations and Improvements.....                                    | 4,500,000            |
| Army Facilities Service Contracts.....                                      | 2,877,000            |
| Army National Guard Electronic Security System.....                         | 100,000              |
| Army National Guard Statewide Security Agreement .....                      | 600,000              |
| Army National Guard Sustainable Range Problem .....                         | 100,000              |
| Army Training and Technology Lab .....                                      | 950,000              |
| Atlantic City Air Base - Service Contracts.....                             | 3,400,000            |
| Atlantic City Environmental .....                                           | 90,000               |
| Atlantic City Operations and Maintenance .....                              | 150,000              |
| Atlantic City Sustainment, Restoration and Modernization .....              | 750,000              |
| Brigadier General Doyle Memorial Cemetery<br>Building Project .....         | 7,000,000            |
| Combined Logistics Facilities .....                                         | 4,545,000            |

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| Coyle Field Atlantic City.....                            | 40,000              |
| Dining Facility Operations .....                          | 150,000             |
| Electronic Healthcare Records Conversion Project.....     | 2,520,000           |
| Facilities Support Contract.....                          | 9,000,000           |
| Federal Distance Learning Program .....                   | 180,000             |
| Fire Fighter/Crash Rescue Service Cooperative             |                     |
| Funding Agreement.....                                    | 2,000,000           |
| Hazardous Waste Environmental Protection Program .....    | 800,000             |
| McGuire Air Force Base - Service Contracts .....          | 3,315,000           |
| McGuire Air Force Base Environmental.....                 | 90,000              |
| McGuire Operations and Maintenance .....                  | 135,000             |
| Medical Clinic - Sea Girt.....                            | 32,000,000          |
| Medicare Part A Receipts for Resident Care and            |                     |
| Operational Costs .....                                   | 8,400,000           |
| National Guard Communications Agreement .....             | 950,000             |
| Natural and Cultural Resources Management .....           | 5,000               |
| New Jersey National Guard Challenge Youth Program .....   | 3,750,000           |
| Training Site Facilities Maintenance Agreements.....      | 70,000              |
| Training and Equipment - Pool Sites.....                  | 550,000             |
| Transitional Housing .....                                | 360,000             |
| Various Federal Programs and Accruals .....               | 4,000,000           |
| Veterans' Education Monitoring .....                      | 600,000             |
| Warren Grove Sustainment Restoration & Modernization..... | 7,000               |
| Warren Grove/Coyle Field .....                            | <u>70,000</u>       |
| Subtotal, Department of Military and                      |                     |
| Veterans' Affairs .....                                   | <u>\$94,224,000</u> |
| Department of State:                                      |                     |
| Americorps Grants.....                                    | \$4,850,000         |
| College Access Challenge Grant Program .....              | 2,191,000           |
| Election Assistance for Persons with Disabilities.....    | 325,000             |
| Foster Grandparent Program .....                          | 800,000             |
| Gaining Early Awareness and Readiness for                 |                     |
| Undergraduate Programs (GEAR UP) .....                    | 5,000,000           |
| Help America Vote Act.....                                | 5,000,000           |
| National Endowment for the Arts Partnership.....          | 1,000,000           |
| National Health Service Corps - Student Loan              |                     |
| Repayment Program.....                                    | 240,000             |
| Office of Faith-Based Initiatives - Compassion Capital    |                     |
| Fund Grant .....                                          | 500,000             |
| Student Loan Administrative Cost Deduction                |                     |
| and Allowance.....                                        | <u>13,658,000</u>   |
| Subtotal, Department of State.....                        | <u>\$33,564,000</u> |
| Department of Transportation:                             |                     |

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| Airport Fund.....                                                        | \$1,500,000             |
| Boating Infrastructure Program (New Jersey<br>Maritime Program).....     | 1,600,000               |
| Commercial Drivers' License Program.....                                 | 2,500,000               |
| Driver's License Security Program .....                                  | 1,200,000               |
| Motor Carrier Safety Assistance Program.....                             | 10,500,000              |
| National Oceanic and Atmospheric Administration<br>Geodetic Survey ..... | 325,000                 |
| New Jersey Maritime Program - Ferry Boat .....                           | 5,000,000               |
| Subtotal, Department of Transportation.....                              | <u>\$22,625,000</u>     |
| Special Transportation Trust Fund:                                       |                         |
| Department of Transportation                                             |                         |
| Federal Highway Administration .....                                     | \$1,302,129,665         |
| Federal Transit Administration.....                                      | <u>395,593,000</u>      |
| Subtotal, Special Transportation Trust Fund.....                         | <u>\$1,697,722,665</u>  |
| Department of the Treasury:                                              |                         |
| Diamond Shamrock Oil Overcharge Settlement .....                         | \$717,000               |
| Division of Gas Expansion.....                                           | 600,000                 |
| State Energy Conservation Program .....                                  | 2,675,000               |
| Various Federal Programs and Accruals .....                              | <u>200,000</u>          |
| Subtotal, Department of the Treasury .....                               | <u>\$4,192,000</u>      |
| The Judiciary:                                                           |                         |
| Various Federal Programs and Accruals .....                              | <u>\$6,625,000</u>      |
| Subtotal, The Judiciary.....                                             | <u>\$6,625,000</u>      |
| Total - Federal Revenue .....                                            | <u>\$12,128,463,665</u> |
| Grand Total Resources, All Funds .....                                   | <u>\$42,465,526,665</u> |

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

1. The appropriations herein or so much thereof as may be necessary are hereby appropriated out of the General Fund, or such other sources of funds specifically indicated or as may be applicable, for the respective public officers and spending agencies and for the several purposes herein specified for the fiscal year ending on June 30, 2012. Unless otherwise provided, the appropriations herein made shall be available during said fiscal year and for a period of one month thereafter for expenditures applicable to said fiscal year. Unless otherwise provided, at the expiration of said one-month period, all unexpended balances shall lapse into the State Treasury or to the credit of trust, dedicated or non-State funds as applicable, except those balances held by encumbrances on file as of June 30, 2012 with the Director of the Division of Budget and Accounting or held by pre-encumbrances on file as of June 30, 2012 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing

of all pre-encumbrances outstanding as of July 31, 2012 together with an explanation of their status. Nothing contained in this section or in this act shall be construed to prohibit the payment due upon any encumbrance or pre-encumbrance made under any appropriation contained in any appropriation act of the previous year or years. Furthermore, balances held by pre-encumbrances as of June 30, 2011 are available for payments applicable to fiscal year 2011 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2011 together with an explanation of their status. On or before December 1, 2011, the State Treasurer, in accordance with the provisions of section 37 of article 3 of P.L.1944, c.112 (C.52:27B-46), shall transmit to the Legislature the Annual Financial Report of the State of New Jersey for the fiscal year ending June 30, 2011, depicting the financial condition of the State and the results of operation for the fiscal year ending June 30, 2011.

# **01 LEGISLATURE**

## **70 Government Direction, Management, and Control**

### **70 Legislative Activities**

#### **0001 Senate**

#### **DIRECT STATE SERVICES**

|                                                         |                    |
|---------------------------------------------------------|--------------------|
| 01-0001 Senate .....                                    | <u>\$8,965,000</u> |
| Total Direct State Services Appropriation, Senate ..... | <u>\$8,965,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                             |               |
|---------------------------------------------|---------------|
| Senators (40).....                          | (\$1,990,000) |
| Salaries and Wages.....                     | (1,855,000)   |
| Members' Staff Services .....               | (4,400,000)   |
| Materials and Supplies.....                 | (135,000)     |
| Services Other Than Personal.....           | (486,000)     |
| Maintenance and Fixed Charges .....         | (72,000)      |
| Additions, Improvements and Equipment ..... | (27,000)      |

The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

#### **0002 General Assembly**

#### **DIRECT STATE SERVICES**

|                                            |                     |
|--------------------------------------------|---------------------|
| 2-0002 General Assembly .....              | <u>\$17,045,000</u> |
| Total Direct State Services Appropriation, |                     |
| General Assembly .....                     | <u>\$17,045,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                            |               |
|----------------------------|---------------|
| Assemblypersons (80) ..... | (\$3,937,000) |
|----------------------------|---------------|

Salaries and Wages.....(3,530,000)  
 Members' Staff Services .....(8,800,000)  
 Materials and Supplies.....(108,000)  
 Services Other Than Personal.....(576,000)  
 Maintenance and Fixed Charges ..... (90,000)  
 Additions, Improvements and Equipment .....(4,000)  
 The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

***0003 Office of Legislative Services***

**DIRECT STATE SERVICES**

03-0003 Legislative Support Services .....\$30,088,000  
 Total Direct State Services Appropriation,  
 Office of Legislative Services .....\$30,088,000

***Direct State Services:***

Personal Services:

Salaries and Wages..... (\$23,000,000)  
 Materials and Supplies.....(1,065,000)  
 Services Other Than Personal.....(2,527,000)  
 Maintenance and Fixed Charges.....(3,181,000)

Special Purpose:

03 State House Express Civics  
 Education Program.....(30,000)  
 03 Affirmative Action and Equal  
 Employment Opportunity.....(29,000)

Additions, Improvements and Equipment .....(256,000)

Such sums as may be required for the cost of information system audits performed by the State Auditor are funded from the departmental data processing accounts of the department in which the audits are performed.

Such sums as are required, as determined by the Technology Executive Group of the Legislative Information Systems Committee of the Legislative Services Commission, for the continuation and expansion of existing and emerging computer and information technologies for the Legislature including but not limited to interactive video conferencing, telecommunication capabilities, electronic copying and facsimile transmissions, training and such other technologies in order to sustain a coordinated and comprehensive legislative technology infrastructure that the Legislature deems necessary are appropriated. No amounts so determined shall be obligated, expended or otherwise made available without the written prior authorization of the Senate President and the Speaker of the General Assembly.

Such sums as are required for Master Lease payments are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Receipts derived from fees and charges for public access to legislative information systems and the unexpended balance at the end of the preceding fiscal year of such receipts are appropriated and shall be credited to a non-lapsing revolving fund established in and administered by the Office of Legislative Services for the purpose of continuing to modernize, maintain, and expand the dissemination and availability of legislative information.

The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

**77 Legislative Commissions and Committees**

**DIRECT STATE SERVICES**

|                                                        |                     |
|--------------------------------------------------------|---------------------|
| 09-0010 Intergovernmental Relations Commission.....    | \$400,000           |
| 09-0014 Joint Committee on Public Schools.....         | 335,000             |
| 09-0018 State Commission of Investigation.....         | 4,555,000           |
| 09-0053 New Jersey Law Revision Commission .....       | 321,000             |
| 09-0058 State Capitol Joint Management Commission..... | <u>9,832,000</u>    |
| Total Direct State Services Appropriation,             |                     |
| Legislative Commissions and Committees.....            | <u>\$15,443,000</u> |

***Direct State Services:***

Intergovernmental Relations Commission:

|                                                    |             |
|----------------------------------------------------|-------------|
| 09 The Council of State Governments.....           | (\$155,000) |
| 09 National Conference of State Legislatures ..... | (184,000)   |
| 09 Eastern Trade Council - The Council             |             |
| of State Governments .....                         | (36,000)    |
| 09 Northeast States Association for                |             |
| Agriculture Stewardship - The Council of           |             |
| State Governments.....                             | (25,000)    |

Joint Committee on Public Schools:

|                                |           |
|--------------------------------|-----------|
| 09 Expenses of Commission..... | (335,000) |
|--------------------------------|-----------|

State Commission of Investigation:

|                                |             |
|--------------------------------|-------------|
| 09 Expenses of Commission..... | (4,555,000) |
|--------------------------------|-------------|

New Jersey Law Revision Commission:

|                                |           |
|--------------------------------|-----------|
| 09 Expenses of Commission..... | (321,000) |
|--------------------------------|-----------|

State Capitol Joint Management Commission:

|                                |             |
|--------------------------------|-------------|
| 09 Expenses of Commission..... | (9,832,000) |
|--------------------------------|-------------|

The unexpended balances at the end of the preceding fiscal year in these accounts are appropriated.

Receipts from the rental of the Cafeteria and the Welcome Center and any other facility under the jurisdiction of the State Capitol Joint Management Commission are appropriated to defray custodial, security, maintenance and other related costs of these facilities. Such sums as are required for the establishment and operation of the Apportionment Commission and the Legislative Redistricting Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Legislature, Total State Appropriation ..... \$71,541,000

***Summary of Legislature Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services..... \$71,541,000

***Appropriations by Fund:***

General Fund ..... \$71,541,000

**06 OFFICE OF THE CHIEF EXECUTIVE**

**70 Government Direction, Management, and Control**

**76 Management and Administration**

**DIRECT STATE SERVICES**

01-0300 Executive Management ..... \$5,681,000

Total Direct State Services Appropriation, Management

and Administration ..... \$5,681,000

***Direct State Services:***

Personal Services:

Salaries and Wages..... (\$4,854,000)

Special Purpose:

01 National Governors' Association ..... (158,000)

01 Education Commission of the States ..... (108,000)

01 National Conference of Commissioners  
on Uniform State Laws..... (42,000)

01 Brian Stack Intern Program ..... (10,000)

01 Allowance to the Governor of Funds Not  
Otherwise Appropriated, For Official  
Reception on Behalf of the State, Operation  
of an Official Residence and

Other Expenses..... (95,000)

Materials and Supplies..... (89,000)

Services Other Than Personal..... (284,000)

Maintenance and Fixed Charges..... (41,000)

The unexpended balance at the end of the preceding fiscal year in this account is  
appropriated.

Office of the Chief Executive, Total, State Appropriation ..... \$5,681,000

***Summary of The Office of the Chief Executive Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services..... \$5,681,000

***Appropriations by Fund:***

General Fund ..... \$5,681,000

**10 DEPARTMENT OF AGRICULTURE****40 Community Development and Environmental Management****49 Agricultural Resources, Planning, and Regulation****DIRECT STATE SERVICES**

|                                                                                                      |                    |
|------------------------------------------------------------------------------------------------------|--------------------|
| 01-3310 Animal Disease Control.....                                                                  | \$1,111,000        |
| 02-3320 Plant Pest and Disease Control.....                                                          | 1,638,000          |
| 03-3330 Agriculture and Natural Resources.....                                                       | 515,000            |
| 05-3350 Food and Nutrition Services.....                                                             | 343,000            |
| 06-3360 Marketing and Development Services.....                                                      | 801,000            |
| 08-3380 Farmland Preservation.....                                                                   | 1,963,000          |
| 99-3370 Administration and Support Services.....                                                     | 785,000            |
| Total Direct State Services Appropriation, Agricultural<br>Resources, Planning, and Regulation ..... | <u>\$7,156,000</u> |

**Direct State Services:****Personal Services:**

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$4,294,000) |
| Materials and Supplies.....        | (88,000)      |
| Services Other Than Personal.....  | (156,000)     |
| Maintenance and Fixed Charges..... | (162,000)     |

**Special Purpose:**

|                                                   |             |
|---------------------------------------------------|-------------|
| 05 The Emergency Food Assistance<br>Program ..... | (343,000)   |
| 06 Promotion/Market Development .....             | (150,000)   |
| 08 Agricultural Right-to-Farm Program.....        | (85,000)    |
| 08 Open Space Administrative Costs .....          | (1,878,000) |

Receipts from laboratory test fees are appropriated to support the Animal Health Laboratory program. The unexpended balance at the end of the preceding fiscal year in the Animal Health Laboratory receipt account is appropriated for the same purpose.

Receipts from the seed laboratory testing and certification programs are appropriated for the cost of these programs. The unexpended balance at the end of the preceding fiscal year in the seed laboratory testing and certification receipt account is appropriated for the same purpose.

Receipts from Nursery Inspection fees are appropriated for the cost of that program. The unexpended balance at the end of the preceding fiscal year in the Nursery Inspection program is appropriated for the same purpose.

Receipts from the sale or studies of beneficial insects are appropriated to support the Beneficial Insect Laboratory. The unexpended balance at the end of the preceding fiscal year in the Sale of Insects account is appropriated for the same purpose.

Receipts from Stormwater Discharge Permit program fees are appropriated for the cost of that program. The unexpended balance at the end of the preceding fiscal year in the Stormwater Discharge Permit program account is appropriated for the same purpose.

Receipts from dairy licenses and inspections are appropriated for the cost of that program.

Receipts in excess of the amount anticipated from feed, fertilizer, and liming material registrations and inspections are appropriated for the cost of that program.

Receipts from agriculture chemistry fees not to exceed \$75,000 are appropriated to support the organic certification program.

Receipts from organic certification program fees are appropriated for the cost of that program.

Receipts from inspection fees derived from fruit, vegetable, fish, red meat, and poultry inspections are appropriated for the cost of conducting fruit, vegetable, fish, red meat, and poultry inspections.

An amount equal to receipts generated at the rate of \$0.47 per gallon of wine, vermouth, and sparkling wine sold by plenary winery and farm winery licensees licensed pursuant to R.S.33:1-10, and certified by the Director of the Division of Taxation, are appropriated to the Department of Agriculture from the alcoholic beverage excise tax for expenses of the Wine Promotion Program.

Receipts derived from the distribution of commodities, sale of containers, and salvage of commodities, in accordance with applicable federal regulations, are appropriated for Commodity Distribution expenses.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Open Space Administrative Costs account is transferred from the Garden State Farmland Preservation Trust Fund to the General Fund, together with an amount not to exceed \$1,029,000, and is appropriated to the Department of Agriculture for the State Agriculture Development Committee's administration of the Farmland Preservation program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$278,000, are appropriated to support the Agro-Terrorism program within the Department of Agriculture.

Notwithstanding the provisions of any law or regulation to the contrary, an amount not to exceed \$200,000 shall be transferred from the appropriate funds established in the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, to the State Transfer of Development Rights Bank account and is appropriated to the State Agriculture Development Committee for Transfer of Development Rights administrative costs.

#### **GRANTS-IN-AID**

|                                                 |                    |
|-------------------------------------------------|--------------------|
| 05-3350 Food and Nutrition Services.....        | <u>\$6,818,000</u> |
| Total Grants-in-Aid Appropriation, Agricultural |                    |
| Resources, Planning, and Regulation .....       | <u>\$6,818,000</u> |
| <b><i>Grants-in-Aid:</i></b>                    |                    |
| 05 Hunger Initiative/Food                       |                    |
| Assistance Program .....                        | (\$6,818,000)      |

Notwithstanding the provisions of any law or regulation to the contrary, \$540,000 shall be transferred from the Department of Environmental Protection's Water Resources Monitoring and Planning - Constitutional Dedication special purpose account and is appropriated to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2011. Further additional sums may be transferred pursuant to a Memorandum of Understanding between the Department of Environmental Protection and the Department of Agriculture from the Department of Environmental Protection's Water Resources Monitoring and Planning - Constitutional Dedication special purpose account to support nonpoint source pollution control programs in the Department of Agriculture, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of this program at the end of the preceding fiscal year is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The expenditure of funds for the Conservation Cost Share program hereinabove appropriated shall be based upon an expenditure plan, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances at the end of the preceding fiscal year in the Conservation Assistance Program are appropriated for the same purpose.

Notwithstanding the provisions of any law or regulation to the contrary, \$250,000 shall be transferred from the Department of Environmental Protection's Water Resources Monitoring and Planning - Constitutional Dedication special purpose account and is appropriated for the Animal Waste Management portion of the Conservation Assistance Program in the Division of Agricultural and Natural Resources in the Department of Agriculture.

#### **STATE AID**

|                                                                                         |                    |
|-----------------------------------------------------------------------------------------|--------------------|
| 05-3350 Food and Nutrition Services .....                                               | \$5,613,000        |
| 08-3380 Farmland Preservation.....                                                      | <u>10,000</u>      |
| Total State Aid Appropriation, Agricultural Resources,<br>Planning, and Regulation..... | <u>\$5,623,000</u> |

***State Aid:***

|                                             |               |
|---------------------------------------------|---------------|
| 05 School Lunch Aid- State Aid Grants ..... | (\$5,613,000) |
| 08 Payments in Lieu of Taxes .....          | (10,000)      |

Of the amounts hereinabove appropriated for the Department of Agriculture, such sums as the Director of the Division of Budget and Accounting shall determine from the amount listed under School Nutrition in the Department of Agriculture schedule included in the Governor's Budget Message and Recommendations shall first be charged to the State Lottery Fund.

The unexpended balances at the end of the preceding fiscal year in the School Lunch Aid - State Aid Grants accounts are appropriated for the same purpose.

Notwithstanding the provisions of any law or regulation to the contrary, the amount necessary to reimburse State and local government entities for participating in

the School Lunch Program shall be paid from the School Lunch Aid - State Aid Grants account, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Agriculture, Total State Appropriation.....\$19,597,000

***Summary of Department of Agriculture Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services..... \$7,156,000  
Grants-in-Aid..... 6,818,000  
State Aid..... 5,623,000

***Appropriations by Fund:***

General Fund.....\$19,597,000

**14 DEPARTMENT OF BANKING AND INSURANCE**

**50 Economic Planning, Development, and Security**

**52 Economic Regulation**

**DIRECT STATE SERVICES**

01-3110 Consumer Protection Services and Solvency Regulation....\$20,632,000  
02-3120 Actuarial Services.....5,887,000  
03-3130 Regulation of the Real Estate Industry .....3,157,000  
04-3110 Public Affairs, Legislative and Regulatory Services .....2,260,000  
06-3110 Bureau of Fraud Deterrence .....22,786,000  
07-3170 Supervision and Examination of Financial Institutions.....4,018,000  
99-3150 Administration and Support Services .....4,230,000  
Total Direct State Services Appropriation,  
Economic Regulation.....\$62,970,000

***Direct State Services:***

Personal Services:

Salaries and Wages.....(\$41,577,000)  
Materials and Supplies.....(306,000)  
Services Other Than Personal.....(7,095,000)  
Maintenance and Fixed Charges.....(208,000)

Special Purpose:

01 Rate Counsel-Insurance.....(149,000)  
02 Actuarial Services.....(600,000)  
06 Insurance Fraud Prosecution Services .....(12,896,000)  
Additions, Improvements and Equipment .....(139,000)

The unexpended balance at the end of the preceding fiscal year in the Public Adjusters' Licensing account, together with receipts derived from the "Public Adjusters' Licensing Act," P.L.1993, c.66 (C.17:22B-1 et seq.), are appropriated for the administration of the act, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the investigation of out-of-State land sales are appropriated for the conduct of those investigations.

There are appropriated from the Real Estate Guaranty Fund such sums as may be necessary to pay claims.

There are appropriated from the assessments imposed by the New Jersey Individual Health Coverage Program Board, created pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.), and by the New Jersey Small Employer Health Benefits Program Board, created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), those sums as may be necessary to carry out the provisions of those acts, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of anticipated revenues from licensing fees, bank assessments, fines and penalties, and the unexpended balances at the end of the preceding fiscal year, not to exceed \$400,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.

Proceeds from the sale of credits by the Pinelands Development Credit Bank pursuant to P.L.1985, c.310 (C.13:18A-30 et seq.) are appropriated to the Pinelands Development Credit Bank to administer the Pinelands Development Credit Bank Act. The unexpended balance at the end of the preceding fiscal year in the Pinelands Development Credit Bank is appropriated to administer the operations of the bank.

In addition to the amounts hereinabove appropriated, such other sums, as the Director of the Division of Budget and Accounting shall determine, are appropriated from the assessments of the insurance industry pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.) and from the assessments of the banking and consumer finance industries pursuant to P.L.2005, c.199 (C.17:1C-33 et seq.) for the purpose of implementing the requirements of those statutes.

The amount hereinabove appropriated for the Division of Insurance accounts is payable from receipts received from the Special Purpose Assessment of insurance companies pursuant to section 2 of P.L.1995, c.156 (C.17:1C-20). If the Special Purpose Assessment cap calculation is less than the amount hereinabove appropriated for this purpose for the Division of Insurance, the appropriation shall be reduced to the level of funding supported by the Special Purpose Assessment cap calculation.

Department of Banking and Insurance,

Total State Appropriation ..... \$62,970,000

***Summary of Department of Banking and Insurance Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services..... \$62,970,000

***Appropriations by Fund:***

General Fund ..... \$62,970,000

**16 DEPARTMENT OF CHILDREN AND FAMILIES****50 Economic Planning, Development, and Security****55 Social Services Programs****DIRECT STATE SERVICES**

|                                                                              |                             |
|------------------------------------------------------------------------------|-----------------------------|
| 01-1610 Child Protective and Permanency Services .....                       | \$442,147,000               |
| <i>(From General Fund.....</i>                                               | <i>\$240,246,000)</i>       |
| <i>(From Federal Funds.....</i>                                              | <i>201,489,000)</i>         |
| <i>(From All Other Funds .....</i>                                           | <i>412,000)</i>             |
| 02-1620 Child Behavioral Health Services.....                                | 1,473,000                   |
| <i>(From General Fund.....</i>                                               | <i>1,265,000)</i>           |
| <i>(From Federal Funds.....</i>                                              | <i>208,000)</i>             |
| 03-1630 Prevention and Community Partnership<br>Services .....               | 1,585,000                   |
| <i>(From General Fund.....</i>                                               | <i>1,585,000)</i>           |
| 04-1600 Education Services .....                                             | 35,099,000                  |
| <i>(From General Fund .....</i>                                              | <i>10,113,000)</i>          |
| <i>(From Federal Funds.....</i>                                              | <i>2,286,000)</i>           |
| <i>(From All Other Funds .....</i>                                           | <i>22,700,000)</i>          |
| 05-1600 Child Welfare Training Academy Services<br>and Operations.....       | 9,149,000                   |
| <i>(From General Fund.....</i>                                               | <i>7,090,000)</i>           |
| <i>(From Federal Funds.....</i>                                              | <i>2,059,000)</i>           |
| 06-1600 Safety and Security Services .....                                   | 4,475,000                   |
| 99-1600 Administration and Support Services .....                            | <u>67,307,000</u>           |
| <i>(From General Fund.....</i>                                               | <i>50,377,000)</i>          |
| <i>(From Federal Funds.....</i>                                              | <i>16,930,000)</i>          |
| Total Appropriation, State, Federal and All Other Funds.....                 | <u>\$561,235,000</u>        |
| <i>(From General Fund.....</i>                                               | <i>\$315,151,000)</i>       |
| <i>(From Federal Funds.....</i>                                              | <i>222,972,000)</i>         |
| <i>(From All Other Funds .....</i>                                           | <i>23,112,000)</i>          |
| <b>Less:</b>                                                                 |                             |
| <i>Federal Funds .....</i>                                                   | <i>\$222,972,000</i>        |
| <i>All Other Funds.....</i>                                                  | <i>23,112,000</i>           |
| <i>Total Deductions.....</i>                                                 | <u><i>\$246,084,000</i></u> |
| Total Direct State Services Appropriation,<br>Social Services Programs ..... | <u>\$315,151,000</u>        |

**Direct State Services:**

## Personal Services:

|                                    |                 |
|------------------------------------|-----------------|
| Salaries and Wages.....            | (\$474,260,000) |
| Materials and Supplies.....        | (4,471,000)     |
| Services Other Than Personal.....  | (18,395,000)    |
| Maintenance and Fixed Charges..... | (37,069,000)    |
| Special Purpose:                   |                 |

|                                                  |              |
|--------------------------------------------------|--------------|
| 05 NJ Partnership for Public Child Welfare ..... | (3,500,000)  |
| 06 Safety and Security Services .....            | (4,475,000)  |
| 99 Information Technology .....                  | (1,524,000)  |
| 99 Safety and Permanency in the Courts .....     | (11,345,000) |
| Additions, Improvements and Equipment .....      | (6,196,000)  |

**Less:**

|                              |                    |
|------------------------------|--------------------|
| <b>Federal Funds</b> .....   | <b>222,972,000</b> |
| <b>All Other Funds</b> ..... | <b>23,112,000</b>  |

Of the amounts hereinabove appropriated for Salaries and Wages for the Child Welfare Training Academy Services and Operations, such sums as may be necessary shall be used to train the Department of Children and Families staff who serve children and families in the field, who have not already received training in cultural competence, in cultural competency. The Department of Children and Families shall also offer training opportunities in cultural competency to staff of community-based organizations serving children and families under contract to the Department of Children and Families.

Of the amount hereinabove appropriated for Safety and Permanency in the Courts, an amount not to exceed \$10,845,000 shall be reimbursed to the Department of Law and Public Safety and is appropriated for legal services implementing the approved child welfare settlement with the federal court, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

|                                                              |                       |
|--------------------------------------------------------------|-----------------------|
| 01-1610 Child Protective and Permanency Services .....       | \$487,508,000         |
| <i>(From General Fund.....</i>                               | <i>\$419,071,000)</i> |
| <i>(From Federal Fund.....</i>                               | <i>64,583,000)</i>    |
| <i>(From All Other Funds .....</i>                           | <i>3,854,000)</i>     |
| 02-1620 Child Behavioral Health Services.....                | 403,693,000           |
| <i>(From General Fund.....</i>                               | <i>265,408,000)</i>   |
| <i>(From Federal Fund.....</i>                               | <i>138,285,000)</i>   |
| 03-1630 Prevention and Community Partnership Services.....   | 71,831,000            |
| <i>(From General Fun.....</i>                                | <i>58,816,000)</i>    |
| <i>(From Federal Funds.....</i>                              | <i>12,780,000)</i>    |
| <i>(From All Other Funds .....</i>                           | <i>235,000)</i>       |
| 04-1600 Education Services .....                             | 30,030,000            |
| <i>(From Federal Fund.....</i>                               | <i>1,458,000)</i>     |
| <i>(From All Other Funds .....</i>                           | <i>28,572,000)</i>    |
| 99-1610 Administration and Support Services .....            | 698,000               |
| <i>(From Federal Fund.....</i>                               | <i>698,000)</i>       |
| Total Appropriation, State, Federal and All Other Funds..... | <u>\$993,760,000</u>  |
| <i>(From General Fund .....</i>                              | <i>\$743,295,000)</i> |
| <i>(From Federal Funds.....</i>                              | <i>217,804,000)</i>   |
| <i>(From All Other Fund.....</i>                             | <i>32,661,000)</i>    |

**Less:**

|                                                                      |                             |
|----------------------------------------------------------------------|-----------------------------|
| <b>Federal Funds .....</b>                                           | <b>\$217,804,000</b>        |
| <b>All Other Funds.....</b>                                          | <b>32,661,000</b>           |
| <b>Total Deductions.....</b>                                         | <b><u>\$250,465,000</u></b> |
| Total Grants-in-Aid Appropriation, Social<br>Services Programs ..... | <u>\$743,295,000</u>        |

**Grants-in-Aid:**

|                                                                                            |                |
|--------------------------------------------------------------------------------------------|----------------|
| 01 Substance Abuse Services .....                                                          | (\$14,000,000) |
| 01 Court Appointed Special Advocates.....                                                  | (861,000)      |
| 01 Group Homes .....                                                                       | (6,322,000)    |
| 01 Treatment Homes .....                                                                   | (2,976,000)    |
| 01 Public Awareness for Child Abuse<br>Prevention Program.....                             | (172,000)      |
| 01 Independent Living and Shelter Care .....                                               | (16,068,000)   |
| 01 Residential Placements .....                                                            | (20,345,000)   |
| 01 Family Support Services.....                                                            | (74,074,000)   |
| 01 Child Abuse Prevention.....                                                             | (12,324,000)   |
| 01 Foster Care .....                                                                       | (90,152,000)   |
| 01 Subsidized Adoption .....                                                               | (126,431,000)  |
| 01 Foster Care and Permanency Initiative.....                                              | (7,558,000)    |
| 01 County Human Services Advisory Board -<br>Formula Funding.....                          | (4,798,000)    |
| 01 New Jersey Homeless Youth Act .....                                                     | (1,556,000)    |
| 01 Purchase of Social Services.....                                                        | (61,286,000)   |
| 01 Child Health Units.....                                                                 | (35,516,000)   |
| 01 Restricted Federal Grants .....                                                         | (8,546,000)    |
| 01 State Match.....                                                                        | (4,523,000)    |
| 02 Care Management Organizations .....                                                     | (48,830,000)   |
| 02 Treatment Homes and Emergency<br>Behavioral Health Services .....                       | (229,585,000)  |
| 02 Youth Case Managers.....                                                                | (14,428,000)   |
| 02 Family Support Organizations.....                                                       | (5,386,000)    |
| 02 Mobile Response .....                                                                   | (14,982,000)   |
| 02 Intensive In-Home Behavioral<br>Assistance.....                                         | (38,808,000)   |
| 02 Youth Incentive Program.....                                                            | (7,908,000)    |
| 02 Outpatient .....                                                                        | (5,907,000)    |
| 02 Partial Care .....                                                                      | (7,096,000)    |
| 02 Contracted Systems Administrator.....                                                   | (7,799,000)    |
| 02 State Children's Health Insurance<br>Program for Care Management<br>Organizations ..... | (4,046,000)    |

|                                               |              |
|-----------------------------------------------|--------------|
| 02 State Children's Health Insurance          |              |
| Program for Residential Services .....        | (7,863,000)  |
| 02 State Children's Health Insurance          |              |
| Program for Youth Case Management .....       | (557,000)    |
| 02 State Children's Health Insurance          |              |
| Program Administration .....                  | (2,300,000)  |
| 02 State Children's Health Insurance          |              |
| Program for Mobile Response .....             | (1,724,000)  |
| 02 State Children's Health Insurance          |              |
| Program for Behavioral Assistance .....       | (6,474,000)  |
| 03 Early Childhood Services .....             | (4,220,000)  |
| 03 School Linked Services Program.....        | (32,040,000) |
| 03 Family Support Services.....               | (17,186,000) |
| 03 Domestic Violence Prevention Service ..... | (14,373,000) |
| 03 Community Based Child Abuse                |              |
| Prevention .....                              | (2,669,000)  |
| 03 Children's Trust Fund.....                 | (235,000)    |
| 03 State Match Restricted Grants .....        | (650,000)    |
| 03 Children's Justice Act.....                | (458,000)    |
| 04 Educational Program Services .....         | (30,030,000) |
| 99 National Center for Child Abuse            |              |
| and Neglect .....                             | (698,000)    |

**Less:**

**Federal Funds..... 217,804,000**

**All Other Funds..... 32,661,000**

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated in the Residential Placements account is subject to the following condition: amounts that become available as a result of the return of persons from in-State and out-of-State residential placements to community programs within the State may be transferred from the Residential Placements account to the appropriate Child Protective and Permanency Services account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the sums hereinabove appropriated for the Residential Placements, Group Homes, Treatment Homes, Other Residential Services, Foster Care, Subsidized Adoption, and Family Support Services accounts are available for the payment of obligations applicable to prior fiscal years.

The amounts hereinabove appropriated for Foster Care and Subsidized Adoption are subject to the following condition: any change by the Department of Children and Families in the rates paid for foster care and adoption subsidy programs shall be approved by the Director of the Division of Budget and Accounting.

Receipts in the Marriage and Civil Union License Fee Fund in excess of the amount anticipated are appropriated for Domestic Violence Prevention Services.

Funds recovered under P.L.1951, c.138 (C.30:4C-1 et seq.) during the current fiscal year are appropriated for resource families and other out-of-home placements.

Receipts from counties for persons under the care and supervision of the Division of Youth and Family Services are appropriated for the purpose of providing State Aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Purchase of Social Services account, \$1,000,000 is appropriated for the programs administered under the "New Jersey Homeless Youth Act," P.L.1999, c.224 (C.9:12A-2 et seq.), and the Division of Youth and Family Services shall prioritize the expenditure of this allocation to address transitional living services in the division's region that is experiencing the most severe over-capacity.

Notwithstanding the provisions of any law or regulation to the contrary, no funds hereinabove appropriated for Treatment Homes and Emergency Behavioral Health Services, Youth Case Managers, Care Management Organizations, Youth Incentive Program, and Mobile Response shall be expended for any individual served by the Division of Child Behavioral Health Services, with the exception of court-ordered placements or to ensure services necessary to prevent risk of harm to the individual or others, unless that individual makes a full and complete application for Medicaid or NJ FamilyCare, as applicable. Individuals receiving services from appropriations covered by the exceptions above shall apply for Medicaid or NJ FamilyCare, as applicable, in a timely manner, as shall be defined by the Commissioner of Children and Families, after receiving services.

Of the amounts hereinabove appropriated for the School Linked Services Program, there shall be available \$400,000 for the After School Reading Initiative, \$200,000 for the After School Start-Up Fund, \$400,000 for School Health Clinics, and \$530,000 for Positive Youth Development.

The amounts hereinabove appropriated for Family Support Services for county-based Differential Response programs funded by the Department of Children and Families to prevent child abuse and neglect, shall be used to provide services to families and follow intervention strategies that are defined with the participation of local community-based organizations, and shall assure cultural competency to serve families within their respective counties.

Of the amount hereinabove appropriated for the Domestic Violence Prevention Services, \$1,260,000 is payable out of the Marriage and Civil Union License Fee Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced by the amount of the shortfall.

Department of Children and Families,

Total State Appropriation.....\$1,058,446,000

Of the amounts hereinabove appropriated for Substance Abuse Services, an amount not to exceed \$14,000,000 shall be transferred to the Department of Human Ser-

vices Division of Mental Health and Addiction Services to fund the Division of Youth and Family Services Child Welfare Substance Abuse Treatment Services contracts as specified in the Memorandum of Agreement between the Department of Children and Families and the Department of Human Services Division of Mental Health and Addiction Services, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for the Purchase of Social Services, an amount as specified in the Memorandum of Agreement between the Department of Children and Families and the Department of Human Services Division of Family Development shall be transferred to the Department of Human Services Division of Family Development to fund the Post Adoption Child Care Program, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for Early Childhood Services, an amount as specified in the Memorandum of Agreement between the Department of Children and Families and the Department of Human Services Division of Family Development shall be transferred to the Department of Human Services Division of Family Development to fund the Strengthening Families Initiative Training Program, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Children and Families Appropriation  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |               |
|----------------------------|---------------|
| Direct State Services..... | \$315,151,000 |
| Grants-in-Aid.....         | 743,295,000   |

***Appropriations by Fund:***

|                    |                 |
|--------------------|-----------------|
| General Fund ..... | \$1,058,446,000 |
|--------------------|-----------------|

**22 DEPARTMENT OF COMMUNITY AFFAIRS**

***40 Community Development and Environmental Management***

***41 Community Development Management***

**DIRECT STATE SERVICES**

|                                                                                     |                     |
|-------------------------------------------------------------------------------------|---------------------|
| 01-8010 Housing Code Enforcement.....                                               | \$7,795,000         |
| 02-8020 Housing Services .....                                                      | 3,021,000           |
| 06-8015 Uniform Construction Code .....                                             | 11,577,000          |
| 13-8027 Codes and Standards.....                                                    | 385,000             |
| 18-8017 Uniform Fire Code .....                                                     | <u>7,057,000</u>    |
| Total Direct State Services Appropriation, Community<br>Development Management..... | <u>\$29,835,000</u> |

***Direct State Services:***

Personal Services:

|                         |                |
|-------------------------|----------------|
| Salaries and Wages..... | (\$25,385,000) |
|-------------------------|----------------|

|                                    |           |
|------------------------------------|-----------|
| Employee Benefits .....            | (100,000) |
| Materials and Supplies.....        | (86,000)  |
| Services Other Than Personal.....  | (563,000) |
| Maintenance and Fixed Charges..... | (363,000) |

## Special Purpose:

|                                        |             |
|----------------------------------------|-------------|
| 02 Affordable Housing .....            | (1,716,000) |
| 02 Council on Affordable Housing ..... | (1,247,000) |
| 18 Local Fire Fighters' Training ..... | (375,000)   |

The amount hereinabove appropriated for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. The unexpended balance at the end of the preceding fiscal year, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove appropriated for the Uniform Construction Code program classification is payable out of the fees and penalties derived from code enforcement activities. The unexpended balance at the end of the preceding fiscal year, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance at the end of the preceding fiscal year in the Planned Real Estate Development Full Disclosure Act fees account, together with any receipts in excess of the amount anticipated, is appropriated for code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts received by the Uniform Construction Code Revolving Fund attributable to that portion of the surcharge fee in excess of \$0.0006, and to surcharges on other construction, shall be dedicated to the general support of the Uniform Construction Code program and, notwithstanding the provisions of section 2 of P.L.1979, c.121 (C.52:27D-124.1), shall be available for training and non-training purposes. Notwithstanding the provision of any law or regulation to the contrary, unexpended balances at the end of the preceding fiscal year in the Uniform Construction Code Revolving Fund are appropriated for expenses of code enforcement activities.

Such sums as may be required for the registration of builders and reviewing and paying claims under the "New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), are appropriated from the New Home Warranty Security Fund in accordance with section 7 of P.L.1977, c.467 (C.46:3B-7), subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Uniform Fire Code program classification is payable out of the fees and penalties derived from code enforcement activities. The unexpended balance at the end of the preceding fiscal year, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from fees associated with the Fire Protection Contractor's Certification program pursuant to P.L.2001, c.289 (C.52:27D-25n et seq.), are appropriated to the Department of Community Affairs Division of Fire Safety, in such sums as are necessary to operate the program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the Division of Fire Safety may transfer within its own Division between a Direct State Services appropriations account and a Grants-In-Aid appropriations account, such sums as are necessary for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Council on Affordable Housing and Affordable Housing accounts shall be payable from the receipts of the portion of the realty transfer fee directed to be credited to the New Jersey Affordable Housing Trust Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer fee directed to be credited to the New Jersey Affordable Housing Trust Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). Any receipts in excess of the amount anticipated, and any unexpended balance at the end of the preceding fiscal year are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the Division of Housing and Community Resources may transfer between the Affordable Housing State Aid appropriations account, the Council on Affordable Housing Direct State Services appropriations account and the Affordable Housing Direct State Services appropriations account, such sums as are necessary, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide written notice of such a transfer to the Joint Budget Oversight Committee within 10 working days of making such a transfer.

Pursuant to section 15 of P.L.1983, c.530 (C.55:14K-15), the Commissioner of Community Affairs shall determine, at least annually, the eligibility of each boarding house resident for rental assistance payments; and notwithstanding the provisions of P.L.1983, c.530 (C.55:14K-1 et seq.) to the contrary, moneys held in the Boarding House Rental Assistance Fund that were originally appropriated from the General Fund may be used by the Commissioner for the purpose

of providing life safety improvement loans, and any moneys held in the Boarding House Rental Assistance Fund may be used for the purpose of providing rental assistance for repayment of such loans. Notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.), the Commissioner shall have authority to disburse funds from the Boarding House Rental Assistance Fund established pursuant to section 14 of P.L.1983, c.530 (C.55:14K-14) for the purpose of repaying, through rental assistance or otherwise, loans made to the boarding house owners for the purpose of rehabilitating boarding houses.

The unexpended balance at the end of the preceding fiscal year in the Truth in Renting account, and receipts from the sale of truth in renting statements, including fees, fines, and penalties, are appropriated for the Truth in Renting program, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from the Petroleum Overcharge Reimbursement Fund the sum of \$300,000 for the expenses of the Green Homes Office in the Division of Housing and Community Resources, subject to the approval of the Director of the Division of Budget and Accounting.

Any receipts from the Boarding Home Regulation and Assistance program, including fees, fines, and penalties, are appropriated for the Boarding Home Regulation and Assistance program.

Notwithstanding the provisions of any law or regulation to the contrary, receipts appropriated from the Department of Community Affairs' code enforcement activities in excess of the amount anticipated and in excess of the amounts required to support the code enforcement activity for which they were collected may be transferred as necessary to cover shortfalls in other Department of Community Affairs' code enforcement accounts, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                              |                     |
|----------------------------------------------|---------------------|
| 01-8010 Housing Code Enforcement .....       | \$919,000           |
| 02-8020 Housing Services.....                | 6,660,000           |
| 18-8017 Uniform Fire Code .....              | <u>8,571,000</u>    |
| Total Grants-in-Aid Appropriation, Community |                     |
| Development Management.....                  | <u>\$16,150,000</u> |

#### ***Grants-in-Aid:***

|                                          |             |
|------------------------------------------|-------------|
| 01 Cooperative Housing Inspection .....  | (\$919,000) |
| 02 Shelter Assistance.....               | (2,300,000) |
| 02 Prevention of Homelessness.....       | (4,360,000) |
| 18 Uniform Fire Code - Local Enforcement |             |
| Agency Rebates.....                      | (8,425,000) |
| 18 Uniform Fire Code - Continuing        |             |
| Education .....                          | (146,000)   |

The amount hereinabove appropriated for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. The unexpended balance at the end of the preceding fiscal year, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove appropriated for the Uniform Fire Code program classification is payable out of the fees and penalties derived from code enforcement activities. The unexpended balance at the end of the preceding fiscal year, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

In addition to the amount hereinabove appropriated for the State Rental Assistance Program (SRAP), an amount not less than \$20,000,000 is appropriated from the New Jersey Affordable Housing Trust Fund to SRAP for the purposes of subsections a. and c. of section 1 of P.L.2004, c.140 (C.52:27D-287.1).

The unexpended balance at the end of the preceding fiscal year in the State Rental Assistance Program account is appropriated for the expenses of the State Rental Assistance Program.

Notwithstanding the provisions of any law or regulation to the contrary, such sums as may be received from the New Jersey Housing and Mortgage Finance Agency for the State Rental Assistance Program are appropriated to the Department of Community Affairs for the purposes of providing rental assistance.

The amount hereinabove appropriated for the Shelter Assistance program and the Prevention of Homelessness program shall be payable from the receipts of the portion of the realty transfer fee directed to be credited to the New Jersey Affordable Housing Trust Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer fee directed to be credited to the New Jersey Affordable Housing Trust Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

Upon determination by the Commissioner that all eligible shelter assistance projects have received funding from the amount appropriated for Shelter Assistance from receipts of the portions of the realty transfer fee dedicated to the New Jersey Affordable Housing Trust Fund, any available balance in the Shelter Assistance account may be transferred to the Affordable Housing account, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Revolving Housing Development and Demonstration Grant Fund an amount not to exceed 50% of the penalties derived from bureau activities in the Housing Code Enforcement program classification, subject to

the approval of the Director of the Division of Budget and Accounting.

Receipts from repayment of loans from the Downtown Business Improvement Loan Fund, together with the unexpended balance at the end of the preceding fiscal year of such loan fund and any interest thereon, are appropriated for the purposes of P.L.1998, c.115 (C.40:56-71.1 et seq.).

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to \$125,000 shall be withdrawn from the escrow accounts by the New Jersey Meadowlands Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the New Jersey Meadowlands Commission to cover operational costs of the Hackensack Meadowlands Municipal Committee.

Notwithstanding the provisions of any law or regulation to the contrary, Revolving Housing Development and Demonstration Grant funds are appropriated to support loans and grants to non-profit entities for the purpose of economic development and historic preservation.

Notwithstanding the provisions of any law or regulation to the contrary, such sums as are necessary shall be available from the Homelessness Prevention Program grants-in-aid appropriation for program administrative expenses, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

Notwithstanding the provisions of any law or regulation to the contrary, such amounts as may be required to fund relocation costs of boarding home residents are appropriated from the Boarding Home Rental Assistance Fund.

The unexpended balance at the end of the preceding fiscal year in the Relocation Assistance account, not to exceed \$250,000, is appropriated for the expenses of the Relocation Assistance program, subject to the approval of the Director of the Division of Budget and Accounting.

Of the sum hereinabove appropriated for the Affordable Housing program, a sum not to exceed \$400,000 may be used for matching, on a 50/50 basis, for the federal share of the administrative costs of the federal Community Development Block Grant.

Of the sum hereinabove appropriated for the New Jersey Affordable Housing Trust Fund, such sums as are necessary may be pledged as a match for the HOME Investment Partnership Program to ensure adherence to the federal matching requirements for affordable housing production.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Affordable Housing program may be used to provide technical assistance grants to non-profit housing organizations and authorities for creating and supporting affordable housing and community development opportunities.

Notwithstanding the provisions of any law or regulation to the contrary, funds appropriated for the Affordable Housing program may be provided directly to the housing project being assisted; provided, however, that any such project has the support by resolution of the governing body of the municipality in which it is located.

**50 Economic Planning, Development, and Security**

**51 Economic Planning and Development**

**DIRECT STATE SERVICES**

|                                                                                      |                  |
|--------------------------------------------------------------------------------------|------------------|
| 49-8049 Office of Smart Growth.....                                                  | <u>\$616,000</u> |
| Total Direct State Services Appropriation, Economic<br>Planning and Development..... | <u>\$616,000</u> |

***Direct State Services:***

Special Purpose:

    49 Historic Trust/Open Space Administrative Costs(\$616,000)

The amount hereinabove appropriated for the Historic Trust/Open Space Administrative Costs program is appropriated for all administrative costs and expenses pursuant to the "New Jersey Cultural Trust Act," P.L.2000, c.76 (C.52:16A-72 et seq.); the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.); the "Historic Preservation Revolving Loan Fund," P.L.1991, c.41 (C.13:1B-15.115a et seq.); the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88; the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204; the "Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007," P.L.2007, c.119, and the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009," P.L.2009, c.117, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove for the Historic Trust/Open Space Administrative Costs account is transferred from the Garden State Historic Preservation Trust Fund, the 1992 Historic Preservation Fund, and the 2007 Historic Preservation Fund to the General Fund, together with an amount not to exceed \$24,000, and is appropriated to the Department of Community Affairs for Historic Trust/Open Space Administrative Costs, subject to the approval of the Director of the Division of Budget and Accounting.

**55 Social Services Programs**

**DIRECT STATE SERVICES**

|                                                                              |                    |
|------------------------------------------------------------------------------|--------------------|
| 05-8050 Community Resources.....                                             | <u>\$100,000</u>   |
| 15-8051 Women's Programs .....                                               | <u>949,000</u>     |
| Total Direct State Services Appropriation, Social<br>Services Programs ..... | <u>\$1,049,000</u> |

***Direct State Services:*****Personal Services:**

|                                    |             |
|------------------------------------|-------------|
| Salaries and Wages.....            | (\$538,000) |
| Materials and Supplies.....        | (30,000)    |
| Services Other Than Personal.....  | (72,000)    |
| Maintenance and Fixed Charges..... | (1,000)     |

**Special Purpose:**

|                                                               |           |
|---------------------------------------------------------------|-----------|
| 15 Address Confidentiality Program .....                      | (93,000)  |
| 15 Expenses of the New Jersey Commission<br>on Women .....    | (7,000)   |
| 15 Office on the Prevention of Violence<br>Against Women..... | (308,000) |

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from the increases in divorce filing fees enacted in the amendment to N.J.S.22A:2-12 by section 41 of P.L.2003, c.117, are appropriated for transfer to the General Fund as general State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

Additional funds as may be allocated by the federal government for New Jersey's Low Income Home Energy Assistance Block Grant Program (LIHEAP) are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

|                                                                   |                    |
|-------------------------------------------------------------------|--------------------|
| 05-8050 Community Resources .....                                 | \$990,000          |
| 15-8051 Women's Programs.....                                     | <u>2,080,000</u>   |
| Total Grants-in-Aid Appropriation, Social Services Programs ..... | <u>\$3,070,000</u> |

***Grants-in-Aid:***

|                                              |             |
|----------------------------------------------|-------------|
| 05 Recreation for the Handicapped .....      | (\$585,000) |
| 05 Special Olympics.....                     | (405,000)   |
| 15 Women's Referral Central .....            | (25,000)    |
| 15 Rape Prevention .....                     | (900,000)   |
| 15 Grants to Women's Shelters.....           | (25,000)    |
| 15 Grants to Displaced Homemaker Centers.... | (1,130,000) |

Notwithstanding the provisions of P.L.2003, c.311 (C.52:27D-437.1 et seq.), or any law or regulation to the contrary, the amount hereinabove appropriated for the Lead Hazard Control Assistance Fund is payable from receipts of the portion of the sales tax directed to be credited to the Lead Hazard Control Assistance Fund pursuant to section 11 of P.L.2003, c.311 (C.52:27D-437.11), and there is further appropriated from such receipts an amount not to exceed \$8,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 4 of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.4), such sums as are necessary are appropriated from the Lead Hazard Control Assistance Fund for administrative

costs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 4 of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.4), from the Lead Hazard Control Assistance Fund a sum not to exceed \$1,000,000 is appropriated for the purchase of updated lead analysis and information technology equipment for distribution to local health departments and other health agencies, and \$500,000 is appropriated for use by the Bureau of Housing Inspection to locate and register one- and two-family rental properties requiring lead inspection in accordance with section 1 of P.L.2007, c.251 (C.55:13A-12.2).

## **70 Government Direction, Management, and Control**

### **75 State Subsidies and Financial Aid**

#### **DIRECT STATE SERVICES**

|                                                  |                    |
|--------------------------------------------------|--------------------|
| 04-8030 Local Government Services.....           | <u>\$2,949,000</u> |
| Total Direct State Services Appropriation, State |                    |
| Subsidies and Financial Aid .....                | <u>\$2,949,000</u> |

#### **Direct State Services:**

##### **Personal Services:**

|                                    |             |
|------------------------------------|-------------|
| Local Finance Board Members.....   | (\$84,000)  |
| Salaries and Wages .....           | (2,638,000) |
| Materials and Supplies.....        | (40,000)    |
| Services Other Than Personal.....  | (162,000)   |
| Maintenance and Fixed Charges..... | (25,000)    |

Receipts received by the Division of Local Government Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

|                                                          |                      |
|----------------------------------------------------------|----------------------|
| 04-8030 Local Government Services.....                   | <u>\$527,461,000</u> |
| <i>(From General Fund..... \$15,600,000)</i>             |                      |
| <i>(From Property Tax Relief Fund ..... 511,861,000)</i> |                      |
| Total State Aid Appropriation, State Subsidies and       |                      |
| Financial Aid .....                                      | <u>\$527,461,000</u> |
| <i>(From General Fund..... \$15,600,000)</i>             |                      |
| <i>(From Property Tax Relief Fund ..... 511,861,000)</i> |                      |

#### **State Aid:**

|                                         |                 |
|-----------------------------------------|-----------------|
| 04 Consolidated Municipal Property Tax  |                 |
| Relief Aid (PTRF).....                  | (\$505,387,000) |
| 04 County Prosecutors and Officials     |                 |
| Salary Increase (P.L.2007, c.350).....  | (1,600,000)     |
| 04 County Prosecutor Funding Initiative |                 |
| Pilot Program.....                      | (4,000,000)     |

04 Transitional Aid to Localities .....(10,000,000)

04 Open Space Payments in Lieu

of Taxes (PTRF) .....(6,474,000)

Notwithstanding the provisions of any law or regulation to the contrary, no appropriation shall be made for municipal aid from the amounts credited to the Extraordinary Aid account from receipts of the supplemental fee established pursuant to section 2 of P.L.2003, c.113 (C.46:15-7.1).

The amount hereinabove appropriated for the County Prosecutor Funding Initiative Pilot Program shall be distributed as follows: Camden County, \$895,000; Essex County, \$1,811,000; Hudson County, \$802,500; and Mercer County, \$491,500.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for Transitional Aid to Localities shall be allocated to provide short-term financial assistance where needed to help a municipality which is in serious fiscal distress to meet immediate budgetary needs and regain financial stability. A municipality shall be deemed to be eligible for transitional aid if the municipality is identified by the Director of the Division of Local Government Services (Director) as experiencing serious fiscal distress where the Director determines that, despite local officials having implemented substantive cost reduction strategies, there continues to exist conditions of serious fiscal distress, which may include but not be limited to, substantial structural or accumulated deficits, ongoing reliance on non-recurring revenues, limited ability to raise supplemental non-property tax revenues, extraordinary demands for public safety appropriations, and other factors indicating a constrained ability to raise sufficient revenues to meet budgetary requirements that substantially jeopardizes the fiscal integrity of the municipality. Municipalities seeking transitional aid shall file an application on a form prescribed by the Director which application, among other things, shall set forth the minimum criteria which must be met in order for an application to be considered by the Director for a determination of eligibility. The Director shall determine whether a municipality which files an application meeting such minimum criteria is in serious fiscal distress, and, if so, what amount of transitional aid should be provided to address the municipality's serious fiscal distress. The transitional aid shall be provided to the municipality subject to such conditions, requirements, orders, and oversight as the Director deems necessary including the implementation of government, administrative and operational efficiency and oversight measures necessary for the fiscal recovery of the municipality; provided, however, that an amount of Transitional Aid to Localities as determined by the Director of the Division of Local Government Services for a municipality may be deemed to constitute Consolidated Municipal Property Tax Relief Aid in an amount not in excess of the amount of Transitional Aid to Localities such municipality received in fiscal year 2011 and shall not reduce the amount of Consolidated Municipal Property Tax Relief Aid such municipality shall receive for fiscal year 2012. Provided however, if the Director of the Division of Local

Government Services deems an amount of Transitional Aid to Localities for a municipality as constituting Consolidated Municipal Property Tax Relief Aid pursuant to this provision that municipality is not relieved from compliance with the requirements for transitional aid.

The amount hereinabove appropriated for Transitional Aid to Localities is subject to the following condition: notwithstanding the provisions of R.S.43:21-14 or any other law or regulation to the contrary, the Commissioner of Labor and Workforce Development, in consultation with the Commissioner of Community Affairs, is authorized to enter into individualized payment plan agreements with municipalities that receive Transitional Aid for the reimbursement of unemployment benefits paid to former employees of such municipal government units, at reasonable interest rates based on current market conditions, and on such other terms and conditions as may be determined to be appropriate by the Commissioner of Labor and Workforce Development. Any municipality that enters into an individualized payment plan agreement pursuant to this section shall be required to expend all funds budgeted for this activity remaining as of the last day of its budget year for the repayment of outstanding obligations under the plan.

Notwithstanding the provisions of any law or regulation to the contrary, any qualified municipality, as defined in section 1 of P.L.1978, c.14 (C.52:27D-178) for the previous fiscal year, shall continue to be a qualified municipality thereunder during the current fiscal year.

The amount hereinabove appropriated for Consolidated Municipal Property Tax Relief Aid shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; December 1 for municipalities operating under a calendar fiscal year, 5% of the total amount due; and June 1 for municipalities operating under the State fiscal year, 5% of the total amount due.

Notwithstanding the provisions of any law or regulation to the contrary, from the amounts received from the appropriation to the Consolidated Municipal Property Tax Relief Aid program and received from amounts transferred from Consolidated Municipal Property Tax Relief Aid to the Energy Tax Receipts Property Tax Relief Fund account, each municipality shall be required to distribute to each fire district within its boundaries the amount received by the fire district from the Supplementary Aid for Fire Services program pursuant to the provisions of the fiscal year 1995 annual appropriations act, P.L.1994, c.67, less an amount proportional to reductions in the combined total amount received by the municipality from Consolidated Municipal Property Tax Relief Aid and from the Energy Tax Receipts Property Tax Relief Fund since fiscal year 2008.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for Consolidated Municipal Property Tax Relief Aid shall be distributed in the same amounts, and to the same municipalities which

received funding pursuant to the previous fiscal year's annual appropriations act, provided further, however, that from the amount hereinabove appropriated there is transferred to the Energy Tax Receipts Property Tax Relief Fund account such sums as were determined for fiscal year 2003, fiscal year 2006, fiscal year 2007, fiscal year 2008, fiscal year 2009, fiscal year 2010, and fiscal year 2012 pursuant to subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439) as amended by P.L.1999, c.168.

Notwithstanding the provisions of any law or regulation to the contrary, the Director of the Division of Local Government Services shall take such actions as may be necessary to ensure that proportional amounts of the Consolidated Municipal Property Tax Relief Aid and the amounts transferred from Consolidated Municipal Property Tax Relief Aid to the Energy Tax Receipts Property Tax Relief Fund account, appropriated to offset losses from business personal property tax that would have otherwise been used for the support of public schools, will be used to reduce the school property tax levy for those affected school districts with the remaining State Aid used as municipal property tax relief. The chief financial officer of the municipality shall pay to the school districts such amounts as may be due by December 31.

Notwithstanding the provisions of any law or regulation to the contrary, the release of the final 5% or \$500, whichever is greater, of the total annual amount due for the current fiscal year from Consolidated Municipal Property Tax Relief Aid to municipalities is subject to the following condition: the municipality shall submit to the Director of the Division of Local Government Services a report describing the municipality's compliance with the "Best Practices Inventory" established by the Director of the Division of Local Government Services and shall receive at least a minimum score on such inventory as determined by the Director of the Division of Local Government Services; provided, however, that the Director may take into account the particular circumstances of a municipality in computing such score. In preparing the Best Practices Inventory, the Director shall identify best municipal practices in the areas of general administration, fiscal management, and operational activities, as well as the particular circumstances of a municipality, in determining the minimum score acceptable for the release of the final 5% or \$500, whichever is greater, of the total annual amount due for the current fiscal year, but in no event shall amounts be withheld with respect to municipal practices occurring prior to the issuance of the Best Practices Inventory unless related to a municipal practice identified in the Best Practices Inventory established in 2010.

Notwithstanding the provisions of any law or regulation to the contrary, payments to municipalities in lieu of taxes for lands acquired by the State and non-profit organizations for recreation and conservation purposes shall be provided only to municipalities whose payments received in fiscal year 2010 exceeded \$5,000 and shall be provided at two-thirds of the payment amount provided in fiscal year 2010.

Notwithstanding the provisions of subsection d. of section 29 of P.L.1999, c.152 (C.13:8C-29) or subsection d. of section 30 of P.L.1999, c.152 (C.13:8C-30), or any law or regulation to the contrary, all payments to municipalities in lieu of taxes for lands acquired by the State and non-profit organizations for recreation and conservation purposes shall be retained by the municipality and not apportioned in the same manner as the general tax rate of the municipality.

In addition to the amounts hereinabove appropriated for the Department of Community Affairs, in the case of municipalities that consolidate pursuant to P.L.2007, c.63 (C.40A:65-25 et seq.) or a municipality that is wholly annexed by another municipality pursuant to N.J.S.40A:7-1 et seq.), there is appropriated such additional sums for non-recurring costs that the Director of the Division of Local Government Services determines necessary to implement such consolidation or annexation, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, whenever funds are appropriated as State Aid and payable to any municipality, which municipality requests and receives the approval of the Local Finance Board, such funds may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued pursuant to section 11 of P.L.2003, c.15 (C.40A:2-8.1) and any tax anticipation notes issued pursuant to N.J.S.40A:4-64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the Director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

The State Treasurer, in consultation with the Commissioner of Community Affairs, is empowered to direct the Director of the Division of Budget and Accounting to transfer appropriations from any State department to any other State department as may be necessary to provide a loan for a term not to exceed 30 days to a municipality faced with a fiscal crisis, including but not limited to a potential default on tax anticipation notes. Extension of the term of the loan shall be conditioned on the municipality being an "eligible municipality" pursuant to P.L.1987, c.75 (C.52:27D-118.24 et seq.).

The Director of the Division of Local Government Services shall permit any municipality that received Regional Efficiency Aid Program funds pursuant to the annual appropriations act for fiscal year 2010, P.L.2009, c.68, to use a portion of Consolidated Municipal Property Tax Relief Aid to provide Regional Efficiency Aid Program benefits pursuant to P.L.1999, c.61 (C.54:4-8.76 et seq.).

**76 Management and Administration****DIRECT STATE SERVICES**

99-8070 Administration and Support Services .....\$2,745,000

Total Direct State Services Appropriation, Management

and Administration .....\$2,745,000

**Direct State Services:****Personal Services:**

Salaries and Wages.....(\$2,020,000)

Materials and Supplies.....(8,000)

Services Other Than Personal.....(74,000)

Maintenance and Fixed Charges.....(21,000)

**Special Purpose:**

99 Government Records Council .....(622,000)

Department of Community Affairs,

Total State Appropriation .....\$583,875,000

All moneys comprising original bond proceeds or the repayment of loans or advances from the Mortgage Assistance Fund established under the "New Jersey Mortgage Assistance Bond Act of 1976," P.L.1976, c.94, are appropriated in accordance with the purposes set forth in section 5 of that act.

Notwithstanding the provisions of any law or regulation to the contrary, deposits of any funds into the Revolving Housing Development and Demonstration Grant Fund are subject to prior approval of the Director of the Division of Budget and Accounting.

**Summary of Department of Community Affairs Appropriations  
(For Display Purposes Only)**

**Appropriations by Category:**

Direct State Services..... \$37,194,000

Grants-in-Aid..... 19,220,000

State Aid..... 527,461,000

**Appropriations by Fund:**

General Fund ..... \$72,014,000

Property Tax Relief Fund ..... 511,861,000

**26 DEPARTMENT OF CORRECTIONS****10 Public Safety and Criminal Justice****16 Detention and Rehabilitation****DIRECT STATE SERVICES**

07-7025 Institutional Control and Supervision .....\$505,996,000

08-7025 Institutional Care and Treatment .....237,172,000

99-7025 Administration and Support Services .....77,329,000

Total Direct State Services Appropriation,

Detention and Rehabilitation .....\$820,497,000

***Direct State Services:***

## Personal Services:

|                                    |                 |
|------------------------------------|-----------------|
| Salaries and Wages.....            | (\$563,407,000) |
| Food in Lieu of Cash .....         | (2,475,000)     |
| Materials and Supplies.....        | (69,311,000)    |
| Services Other Than Personal.....  | (145,480,000)   |
| Maintenance and Fixed Charges..... | (10,732,000)    |

## Special Purpose:

|                                                                       |              |
|-----------------------------------------------------------------------|--------------|
| 07 Civilly Committed Sexual Offender<br>Program .....                 | (27,077,000) |
| 08 State Match - Residential Substance<br>Abuse Treatment Grant ..... | (26,000)     |
| 08 State Match - Social Services Block Grant.....                     | (33,000)     |
| 08 State Match - Violence Against<br>Women Grant .....                | (26,000)     |

Additions, Improvements and Equipment .....(1,930,000)

The unexpended balances at the end of the preceding fiscal year in the Civilly Committed Sexual Offender Program account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the Upholstery Program at the Albert C. Wagner Youth Correctional Facility, and any unexpended balance at the end of the preceding fiscal year are appropriated for the operation of the program with surplus funds being credited to the institution's Inmate Welfare Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated in the Detention and Rehabilitation various institutional accounts, an amount may be transferred to the Purchase of Community Services account or to other programs that reduce the number of inmates housed in State facilities, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for payment of inmate health care are available for the payment of obligations applicable to prior fiscal years.

***7025 System-Wide Program Support*****DIRECT STATE SERVICES**

|                                                                                |                     |
|--------------------------------------------------------------------------------|---------------------|
| 07-7025 Institutional Control and Supervision.....                             | \$27,492,000        |
| 13-7025 Institutional Program Support .....                                    | <u>33,406,000</u>   |
| Total Direct State Services Appropriation, System-Wide<br>Program Support..... | <u>\$60,898,000</u> |

***Direct State Services:***

## Personal Services:

|                             |                |
|-----------------------------|----------------|
| Salaries and Wages.....     | (\$39,692,000) |
| Materials and Supplies..... | (949,000)      |

|                                                        |             |
|--------------------------------------------------------|-------------|
| Services Other Than Personal.....                      | (8,453,000) |
| Special Purpose:                                       |             |
| 13 Integrated Information Systems.....                 | (8,288,000) |
| 13 State Match - Prison Rape<br>Elimination Grant..... | (200,000)   |
| 13 Offender Reentry Program .....                      | (1,000,000) |
| 13 Mutual Agreement Program .....                      | (1,162,000) |
| 13 DOC/DOT Work Details.....                           | (537,000)   |
| 13 Video Teleconferencing .....                        | (300,000)   |
| Additions, Improvements and Equipment .....            | (317,000)   |

**GRANTS-IN-AID**

|                                                                          |                     |
|--------------------------------------------------------------------------|---------------------|
| 13-7025 Institutional Program Support .....                              | <u>\$70,216,000</u> |
| Total Grants-in-Aid Appropriation, System-<br>Wide Program Support ..... | <u>\$70,216,000</u> |

**Grants-in-Aid:**

|                                                                                    |               |
|------------------------------------------------------------------------------------|---------------|
| 13 Purchase of Service for Inmates<br>Incarcerated in County Penal Facilities .... | (\$5,582,000) |
| 13 Purchase of Service for Inmates<br>Incarcerated in Out-of-State Facilities..... | (80,000)      |
| 13 Purchase of Community Services.....                                             | (64,554,000)  |

Of the amount hereinabove appropriated for Purchase of Service for Inmates Incarcerated in County Penal Facilities, an amount may be transferred for operational costs of State facilities for inmate housing, which become ready for occupancy and other programs which reduce the number of State inmates in county facilities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is appropriated for the same purpose.

**STATE AID**

|                                                                     |                     |
|---------------------------------------------------------------------|---------------------|
| 13-7025 Institutional Program Support .....                         | <u>\$20,500,000</u> |
| Total State Aid Appropriation, System-<br>Wide Program Support..... | <u>\$20,500,000</u> |

**State Aid:**

|                                                                 |                |
|-----------------------------------------------------------------|----------------|
| 13 Essex County - County Jail<br>Substance Abuse Programs ..... | (\$18,000,000) |
| 13 Union County Inmate Rehabilitation<br>Services .....         | (2,500,000)    |

**10 Public Safety and Criminal Justice****17 Parole****DIRECT STATE SERVICES**

|                                                        |                     |
|--------------------------------------------------------|---------------------|
| 03-7010 Parole.....                                    | \$47,196,000        |
| 05-7280 State Parole Board .....                       | 14,137,000          |
| 99-7280 Administration and Support Services .....      | <u>4,136,000</u>    |
| Total Direct State Services Appropriation, Parole..... | <u>\$65,469,000</u> |

**Direct State Services:**

## Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages .....           | (\$39,969,000) |
| Materials and Supplies.....        | (505,000)      |
| Services Other Than Personal.....  | (2,360,000)    |
| Maintenance and Fixed Charges..... | (1,009,000)    |

## Special Purpose:

|                                                                     |             |
|---------------------------------------------------------------------|-------------|
| 03 Parolee Electronic Monitoring Program .....                      | (4,533,000) |
| 03 Supervision, Surveillance, and<br>Gang Suppression Program ..... | (1,580,000) |
| 03 Sex Offender Management Unit .....                               | (9,082,000) |
| 03 Satellite-based Monitoring of<br>Sex Offenders .....             | (2,819,000) |
| 03 Parole Violator Assessment and<br>Treatment Program .....        | (3,562,000) |
| Additions, Improvements and Equipment .....                         | (50,000)    |

**GRANTS-IN-AID**

|                                                |                     |
|------------------------------------------------|---------------------|
| 03-7010 Parole.....                            | <u>\$36,082,000</u> |
| Total Grants-in-Aid Appropriation, Parole..... | <u>\$36,082,000</u> |

**Grants-in-Aid:**

|                                                               |               |
|---------------------------------------------------------------|---------------|
| 03 Re-Entry Substance Abuse Program.....                      | (\$8,889,000) |
| 03 Mutual Agreement Program (MAP) .....                       | (2,618,000)   |
| 03 Community Resource Center<br>Program (CRC).....            | (11,581,000)  |
| 03 Stages to Enhance Parolee Success<br>Program (STEPS) ..... | (12,994,000)  |

Any change by the Division of Parole in the per diem rates affecting Special Caseload accounts shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the New Jersey State Parole Board is authorized to expend the amounts appropriated for Re-Entry Substance Abuse Program, Stages to Enhance Parolee Success Program, Mutual Agreement Program and Community Resource Center Program to provide services to ex-offenders who are age 18 or older and under juvenile or adult parole supervision, subject to the approval of the Director of the Division of Budget and Accounting.

- Of the amounts hereinabove appropriated for the Mutual Agreement Program (MAP), the amount of \$175,000 shall be transferred to the Department of Human Services, Division of Addiction Services for the reimbursement of salaries and to fund other related administrative costs for the Mutual Agreement Program, subject to the approval of the Director of the Division of Budget and Accounting.
- To permit flexibility and ensure the appropriate levels of services are provided, appropriated amounts may be transferred between the following accounts: Parole Violator Assessment and Treatment Program, Re-Entry Substance Abuse Program, Mutual Agreement Program, Community Resource Center Program, and Stages to Enhance Parolee Success Program, subject to the approval of the Director of the Division of Budget and Accounting.
- Of the amounts hereinabove appropriated for the Community Resource Center Program, an amount not to exceed \$3,000,000 may be transferred to the Department of Labor and Workforce Development, Employment and Training Services Program, for parolee employment services from contracted providers, subject to the approval of the Director of the Division of Budget and Accounting.

**10 Public Safety and Criminal Justice**

**19 Central Planning, Direction and Management**

**DIRECT STATE SERVICES**

|                                                                                                |                     |
|------------------------------------------------------------------------------------------------|---------------------|
| 99-7000 Administration and Support Services .....                                              | <u>\$16,742,000</u> |
| Total Direct State Services Appropriation, Central<br>Planning, Direction and Management ..... | <u>\$16,742,000</u> |

**Direct State Services:**

Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$14,712,000) |
| Materials and Supplies.....        | (583,000)      |
| Services Other Than Personal.....  | (644,000)      |
| Maintenance and Fixed Charges..... | (676,000)      |

Special Purpose:

|                                             |          |
|---------------------------------------------|----------|
| 99 DOC State Match Account .....            | (50,000) |
| Additions, Improvements and Equipment ..... | (77,000) |

Receipts derived from the Culinary Arts Vocational Program, and any unexpended balance at the end of the preceding fiscal year in that account, are appropriated for the operation of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Corrections, Total State Appropriation.....\$1,090,404,000

The unexpended balance at the end of the preceding fiscal year of funds held for the benefit of inmates in the several institutions, and such funds as may be received, are appropriated for the benefit of such inmates.

Payments received by the State from employers of prisoners on their behalf, as part of any work release program, are appropriated for the purposes provided under P.L.1969, c.22 (C.30:4-91.4 et seq.).

**Summary of Department of Corrections Appropriations  
(For Display Purposes Only)**

**Appropriations by Category:**

|                            |               |
|----------------------------|---------------|
| Direct State Services..... | \$963,606,000 |
| Grants-in-Aid.....         | 106,298,000   |
| State Aid .....            | 20,500,000    |

**Appropriations by Fund:**

|                    |                 |
|--------------------|-----------------|
| General Fund ..... | \$1,090,404,000 |
|--------------------|-----------------|

**34 DEPARTMENT OF EDUCATION**

**30 Educational, Cultural, and Intellectual Development**

**31 Direct Educational Services and Assistance**

**GRANTS-IN-AID**

|                                                                                       |                 |
|---------------------------------------------------------------------------------------|-----------------|
| 03-5120 Miscellaneous Grants-In-Aid .....                                             | <u>\$30,000</u> |
| Total Grants-in-Aid Appropriation, Direct<br>Educational Services and Assistance..... | <u>\$30,000</u> |

**Grants-in-Aid:**

|                                                                                        |            |
|----------------------------------------------------------------------------------------|------------|
| 03 Community Relations Committee of the<br>United Jewish Federation of Metrowest ..... | (\$30,000) |
|----------------------------------------------------------------------------------------|------------|

**STATE AID**

|                                                                                   |                        |
|-----------------------------------------------------------------------------------|------------------------|
| 01-5120 General Formula Aid .....                                                 | \$7,541,901,000        |
| (From General Fund.....)                                                          | <u>\$315,932,000</u>   |
| (From Property Tax Relief Fund.....)                                              | <u>7,225,969,000</u>   |
| 02-5120 Nonpublic School Aid .....                                                | 79,503,000             |
| 03-5120 Miscellaneous Grants-In-Aid .....                                         | 51,536,000             |
| (From General Fund.....)                                                          | <u>38,436,000</u>      |
| (From Property Tax Relief Fund.....)                                              | <u>13,100,000</u>      |
| 07-5120 Special Education .....                                                   | <u>829,746,000</u>     |
| (From General Fund.....)                                                          | <u>50,000,000</u>      |
| (From Property Tax Relief Fund.....)                                              | <u>779,746,000</u>     |
| Total State Aid Appropriation, Direct Educational<br>Services and Assistance..... | <u>\$8,502,686,000</u> |
| (From General Fund.....)                                                          | <u>\$483,871,000</u>   |
| (From Property Tax Relief Fund.....)                                              | <u>8,018,815,000</u>   |

**Less:**

|                                       |                     |
|---------------------------------------|---------------------|
| Assessment of EDA Debt Service .....  | \$14,682,000        |
| Growth Savings - Payment Changes..... | <u>83,000,000</u>   |
| Total Deductions .....                | <u>\$97,682,000</u> |

Total State Aid Appropriation, Direct Educational  
Services and Assistance..... \$8,405,004,000

**(From General Fund..... \$483,871,000)**

**(From Property Tax Relief Fund..... 7,921,133,000 )**

**State Aid:**

01 Equalization Aid..... (\$315,932,000)  
 01 Equalization Aid (PTRF)..... (5,333,870,000)  
 01 Educational Adequacy Aid (PTRF)..... (24,674,000)  
 01 Security Aid (PTRF)..... (107,734,000)  
 01 Adjustment Aid (PTRF) ..... (510,023,000)  
 01 Preschool Education Aid (PTRF)..... (613,330,000)  
 01 School Choice (PTRF) ..... (22,268,000)  
 01 Additional Formula Aid - Abbott  
     Districts (PTRF) ..... (446,881,000)  
 01 Additional Formula Aid (PTRF) ..... (167,189,000)  
 02 Nonpublic Textbook Aid ..... (7,536,000)  
 02 Nonpublic Handicapped Aid ..... (27,154,000)  
 02 Nonpublic Auxiliary Services Aid..... (31,082,000)  
 02 Nonpublic Auxiliary/Handicapped  
     Transportation Aid ..... (3,101,000)  
 02 Nonpublic Nursing Services Aid ..... (10,630,000)  
 03 Charter School Aid (PTRF)..... (13,100,000)  
 03 Bridge Loan Interest and Approved  
     Borrowing Cost ..... (400,000)  
 03 Payments for Institutionalized Children -  
     Unknown District of Residence..... (38,036,000)  
 07 Special Education Categorical  
     Aid (PTRF)..... (667,015,000)  
 07 Extraordinary Special Education  
     Costs Aid ..... (50,000,000)  
 07 Extraordinary Special Education  
     Costs Aid (PTRF)..... (112,731,000)

**Less:**

**Deductions ..... 97,682,000**

Of the amount hereinabove appropriated for Equalization Aid, an amount equal to the total earnings of investments of the Fund for the Support of Free Public Schools shall first be charged to such fund.

Receipts from nonpublic schools handicapped and auxiliary recoveries are appropriated for the payment of additional aid in accordance with section 17 of P.L.1977, c.192 (C.18A:46A-14) and section 14 of P.L.1977, c.193 (C.18A:46-19.8).

Notwithstanding the provisions of section 14 of P.L.1977, c.193 (C.18A:46-19.8) for the purpose of computing Nonpublic Handicapped Aid for pupils requiring the

following services, the per pupil amounts for the 2011-2012 school year shall be: \$1,326.17 for an initial evaluation or reevaluation for examination and classification; \$380 for an annual review for examination and classification; \$930 for speech correction; and \$826 for supplementary instruction services, provided however, that the commissioner may adjust the per pupil amounts based upon the nonpublic pupil population and the need for services.

Notwithstanding the provisions of section 9 of P.L.1977, c.192 (C.18A:46A-9), the per pupil amount for compensatory education for the 2011-2012 school year for the purposes of computing Nonpublic Auxiliary Services Aid shall equal \$995.33 and the per pupil amount for providing the equivalent service to children of limited English-speaking ability shall be \$1,015, provided however, that the commissioner may adjust the per pupil amounts based upon the nonpublic pupil population and the need for services.

Notwithstanding the provisions of section 9 of P.L.1991, c.226 (C.18A:40-31), the amount hereinabove appropriated for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16, 2010 and the rate per pupil shall be \$77.20.

Notwithstanding the provisions of any law or regulation to the contrary, there are appropriated to the Emergency Fund account such additional sums as may be required, not to exceed \$650,000, to fund approved applications for emergency aid in accordance with the provisions of N.J.S.18A:58-11, subject to the approval of the Director of the Division of Budget and Accounting.

Such sums received in the "School District Deficit Relief Account," established pursuant to section 5 of P.L.2006, c.15 (C.18A:7A-58), including loan repayments, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1999, c.12 (C.54A:9-25.12 et seq.), there is appropriated from the Drug Abuse Education Fund, the sum of \$50,000, to be used for the NJSIAA Steroid Testing program.

The amount hereinabove appropriated for Extraordinary Special Education Costs Aid shall be charged first to receipts of the supplemental fee established pursuant to section 2 of P.L.2003, c.113 (C.46:15-7.1) credited to the Extraordinary Aid Account. Notwithstanding the provisions of that law to the contrary, the amount appropriated for Extraordinary Special Education Costs Aid from receipts deposited in the Extraordinary Aid Account shall not exceed the amount hereinabove appropriated. Notwithstanding the provisions of any law or regulation to the contrary, of the amount hereinabove appropriated for Extraordinary Special Education Costs Aid, such sums as the Director of the Division of Budget and Accounting may determine shall be charged first to the Property Tax Relief Fund instead of receipts deposited in the Extraordinary Aid Account.

Items purchased for the use of nonpublic school students with Nonpublic Technology Initiative funds in previous budget cycles shall remain the property of the

local education agency; provided however, that they shall remain on permanent loan for the use of nonpublic school students for the balance of the technologies' useful life.

Notwithstanding the provisions of any law or regulation to the contrary, the allocation of the amount hereinabove appropriated for Equalization Aid to an "SDA district" shall be reduced by the amount of proceeds received by the district from the sale of district surplus property, which shall be appropriated by the district for regular education operations. Surplus property means that property which is not being replaced by other property under a grant agreement with the New Jersey Schools Development Authority.

Notwithstanding the provisions of any law or regulation to the contrary, the preschool per pupil aid amounts set forth in subsection d. of section 12 of P.L.2007, c.260 (C.18A:7F-54) shall be adjusted by the geographic cost adjustment developed by the commissioner pursuant to P.L.2007, c.260.

Notwithstanding the provisions of any law or regulation to the contrary, amounts hereinabove appropriated for Preschool Education Aid shall be used for such sums as are necessary: 1) in the case of a district that received Early Launch to Learning Initiative aid in the 2007-2008 school year, an amount equal to the district's 2007-2008 allocation of Early Launch to Learning Initiative aid; 2) in the case of a school district that received a 2008-2009 allocation of Preschool Education Aid based on its 2007-2008 Early Childhood Program Aid allocation, an aid amount equal to the per pupil allocation of Preschool Education Aid used to determine the district's 2009-2010 aid allocation multiplied by the district's projected preschool enrollment; and 3) in the case of any other district with an allocation of Preschool Education Aid in the 2010-2011 school year calculated using the provisions of section 12 of P.L.2007, c.260 (C.18A:7F-54), an amount calculated in accordance with those provisions based upon 2011-2012 projected enrollments, where the CPI equals zero.

Notwithstanding the provisions of section 20 of P.L.2007, c.260 (C.18A:7F-62) to the contrary, a district allocation of the amount hereinabove appropriated for School Choice Aid shall be determined by multiplying the number of choice students as of October 15, 2010 by the district's 2010-2011 adequacy budget local levy per pupil amount, defined as the net of the district's 2010-2011 adequacy budget less the district's 2010-2011 stabilized equalization aid divided by the district's projected October 2010 resident enrollment. In the case of a choice school not in operation for the 2010-2011 school year ("expansion district"), the 2010-2011 adequacy budget local levy per pupil amount shall be multiplied by the district's anticipated choice student enrollment, approved by the Commissioner of Education. An "expansion district's" initial allocation of Adjustment Aid for the 2011-2012 school year will be reduced by amounts awarded as School Choice Aid. A district's allocation shall be adjusted upon receipt of resident enrollment as of October 14, 2011 as reflected on the Application for State School Aid for 2012-2013. In determining a district's alloca-

tion of School Choice Aid, the per pupil amount for any preschool choice student shall be set at zero.

Notwithstanding the provisions of any law or regulation to the contrary, amounts hereinabove appropriated for Charter School Aid shall be used for such sums as are necessary: 1) to provide that in the 2011-2012 school year, a charter school receives no less total support from the State and the resident district than the sum of the total 2007-2008 payments from the resident district and the 2007-2008 payments of Charter School Aid and Charter Schools - Council on Local Mandates Aid and to ensure that such total payments provide a 2011-2012 per pupil amount that is no less than the 2007-2008 per pupil amount based on average daily enrollment; and 2) to provide amounts pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12).

Notwithstanding the provisions of section 3 of P.L.1971, c.271 (C.18A:46-31), a portion of the district tuition amounts payable to a county special services school district operating an extended school year program may be transferred to the county special services school district prior to the first of September in the event the board shall file a written request with the Commissioner of Education stating the need for the funds. The commissioner shall review the board's request and determine whether to grant the request after an assessment of whether the district needs to spend the funds prior to September and after considering the availability of district surplus. The commissioner shall transfer the payment for the portion of the tuition payable for which need has been demonstrated.

From the amounts hereinabove appropriated for State aid, the Department of Education shall provide an amount of aid to each SDA district as is necessary to comply with Abbott v. Burke, No. M-1293-09, (N.J. May 24, 2011) (referred to as Abbott XXI).

The Commissioner of the Department of Education shall transfer amounts from the Additional Formula Aid line items to other Formula Aid Accounts as appropriate.

### ***32 Operation and Support of Educational Institutions***

#### **DIRECT STATE SERVICES**

|                                                               |                     |
|---------------------------------------------------------------|---------------------|
| 12-5011 Marie H. Katzenbach School for the Deaf.....          | \$14,508,000        |
| <i>(From General Fund.....</i>                                | <i>\$3,590,000)</i> |
| <i>(From All Other Funds .....</i>                            | <i>10,918,000)</i>  |
| 13-5011 Positive Learning Understanding Support Program ..... | 499,000             |
| <i>(From All Other Fund.....</i>                              | <i>499,000)</i>     |
| Total Appropriation, State and All Other Funds.....           | \$15,007,000        |
| <i>(From General Fund.....</i>                                | <i>\$3,590,000)</i> |
| <i>(From All Other Funds .....</i>                            | <i>11,417,000)</i>  |
| <b>Less:</b>                                                  |                     |
| <i>All Other Funds .....</i>                                  | <i>\$11,417,000</i> |
| <i>Total Deductions.....</i>                                  | <i>\$11,417,000</i> |

Total Direct State Services Appropriation, Operation and  
Support of Educational Institutions ..... \$3,590,000

***Direct State Services:***

Personal Services:

Salaries and Wages.....(\$12,784,000)  
Materials and Supplies.....(823,000)  
Services Other Than Personal.....(386,000)  
Maintenance and Fixed Charges.....(843,000)

Special Purpose:

12 Transportation Expenses for Students .....(40,000)  
Additions, Improvements and Equipment .....(131,000)

***Less:***

***All Other Funds..... 11,417,000***

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any law or regulation to the contrary, in addition to the amount hereinabove appropriated to the Marie H. Katzenbach School for the Deaf for the current academic year, payments from local boards of education to the school at an annual rate and payment schedule adopted by the Commissioner of Education and the Director of the Division of Budget and Accounting are appropriated.

Any income from the rental of vacant space at the Marie H. Katzenbach School for the Deaf is appropriated for the operation and maintenance cost of the facility and for capital costs at the school, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the receipt account of the Marie H. Katzenbach School for the Deaf is appropriated for expenses of operating the school.

The unexpended balance at the end of the preceding fiscal year in the receipt account of the Positive Learning Understanding Support (PLUS) program is appropriated for the expenses of operating the Marie H. Katzenbach School for the Deaf.

**CAPITAL CONSTRUCTION**

Notwithstanding the provisions of any law or regulation to the contrary, accumulated and current year interest earnings in the State Facilities for Handicapped Fund established pursuant to section 12 of P.L.1973, c.149 are appropriated for capital improvements and maintenance of facilities for the ten regional day schools throughout the State and the Marie H. Katzenbach School for the Deaf as authorized in the State Facilities for Handicapped Bond Act, P.L.1973, c.149, subject to the approval of the Director of the Division of Budget and Accounting.

***33 Supplemental Education and Training Programs***  
**DIRECT STATE SERVICES**

|                                                                                                  |                  |
|--------------------------------------------------------------------------------------------------|------------------|
| 20-5062 General Vocational Education .....                                                       | <u>\$450,000</u> |
| Total Direct State Services Appropriation,<br>Supplemental Education and Training Programs ..... | <u>\$450,000</u> |

***Direct State Services:***

## Personal Services:

|                                    |             |
|------------------------------------|-------------|
| Salaries and Wages .....           | (\$400,000) |
| Materials and Supplies .....       | (26,000)    |
| Services Other Than Personal ..... | (24,000)    |

**STATE AID**

|                                                                                      |                    |
|--------------------------------------------------------------------------------------|--------------------|
| 20-5062 General Vocational Education .....                                           | <u>\$4,860,000</u> |
| Total State Aid Appropriation, Supplemental<br>Education and Training Programs ..... | <u>\$4,860,000</u> |

***State Aid:***

|                               |               |
|-------------------------------|---------------|
| 20 Vocational Education ..... | (\$4,860,000) |
|-------------------------------|---------------|

Of the amount hereinabove appropriated for Vocational Education, an amount not to exceed \$367,000 is available for transfer to Direct State Services for the administration of vocational education programs, subject to the approval of the Director of the Division of Budget and Accounting.

***34 Educational Support Services*****DIRECT STATE SERVICES**

|                                                                                  |                     |
|----------------------------------------------------------------------------------|---------------------|
| 30-5063 Educational Programs and Assessment .....                                | \$22,959,000        |
| 31-5060 Grants Management .....                                                  | 538,000             |
| 32-5061 Professional Development and Licensure .....                             | 3,330,000           |
| 33-5067 Service to Local Districts .....                                         | 7,009,000           |
| 35-5069 Early Childhood Education .....                                          | 1,796,000           |
| 36-5120 Student Transportation .....                                             | 519,000             |
| 37-5069 District and School Improvement .....                                    | 5,040,000           |
| 38-5120 Facilities Planning and School Building Aid .....                        | 1,690,000           |
| 40-5064 Student Services .....                                                   | <u>842,000</u>      |
| Total Direct State Services Appropriation,<br>Educational Support Services ..... | <u>\$43,723,000</u> |

***Direct State Services:***

## Personal Services:

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$22,080,000) |
| Materials and Supplies .....        | (264,000)      |
| Services Other Than Personal .....  | (2,112,000)    |
| Maintenance and Fixed Charges ..... | (63,000)       |

## Special Purpose:

|                                                          |              |
|----------------------------------------------------------|--------------|
| 30 Statewide Assessment Program .....                    | (18,694,000) |
| 30 General Education Development .....                   | (351,000)    |
| 40 New Jersey Commission on<br>Holocaust Education ..... | (159,000)    |

Receipts from the State Board of Examiners' fees in excess of those anticipated, not to exceed \$1,200,000, and the unexpended program balances at the end of the preceding fiscal year, are appropriated for the operation of the Professional Development and Licensure programs.

#### GRANTS-IN-AID

|                                                   |                    |
|---------------------------------------------------|--------------------|
| 30-5063 Educational Programs and Assessment ..... | <u>\$1,635,000</u> |
| Total Grants-in-Aid Appropriation,                |                    |
| Educational Support Services.....                 | <u>\$1,635,000</u> |

#### **Grants-in-Aid:**

|                                         |               |
|-----------------------------------------|---------------|
| 30 Liberty Science Center -             |               |
| Educational Services .....              | (\$1,350,000) |
| 30 Governor's Literacy Initiative ..... | (270,000)     |
| 30 Teacher Preparation.....             | (15,000)      |

The amount hereinabove appropriated for the Liberty Science Center - Educational Services shall be used to provide educational services to districts with high concentrations of at-risk students in the science education component of the core curriculum content standards as established by law.

The amount hereinabove appropriated for the Governor's Literacy Initiative shall be used for a grant for the Learning Through Listening program at the New Jersey Unit of the Recording for the Blind and Dyslexic.

#### STATE AID

|                                                           |                        |
|-----------------------------------------------------------|------------------------|
| 36-5120 Student Transportation .....                      | \$107,092,000          |
| <i>(From Property Tax Relief Fund..... \$107,092,000)</i> |                        |
| 38-5120 Facilities Planning and School Building Aid.....  | 135,302,000            |
| <i>(From Property Tax Relief Fund..... 135,302,000)</i>   |                        |
| 39-5095 Teachers' Pension and Annuity Assistance.....     | <u>1,893,404,000</u>   |
| <i>(From Property Tax Relief Fund..... 1,893,404,000)</i> |                        |
| Total State Aid Appropriation, Educational                |                        |
| Support Services.....                                     | <u>\$2,135,798,000</u> |
| <i>(From Property Tax Relief Fund..... 2,135,798,000)</i> |                        |

#### **State Aid:**

|                                         |                 |
|-----------------------------------------|-----------------|
| 36 Transportation Aid (PTRF) .....      | (\$107,092,000) |
| 38 School Building Aid (PTRF).....      | (77,238,000)    |
| 38 School Construction Debt Service     |                 |
| Aid (PTRF) .....                        | (58,064,000)    |
| 39 Teachers' Pension and Annuity Fund - |                 |
| Post Retirement Medical (PTRF) .....    | (630,822,000)   |
| 39 Social Security Tax (PTRF) .....     | (763,000,000)   |
| 39 Teachers' Pension and Annuity        |                 |
| Fund (PTRF) .....                       | (289,715,000)   |

|                                                                                    |               |
|------------------------------------------------------------------------------------|---------------|
| 39 Teachers' Pension and Annuity Fund -<br>Non-contributory Insurance (PTRF) ..... | (35,639,000)  |
| 39 Post Retirement Medical Other<br>Than TPAF (PTRF).....                          | (131,246,000) |
| 39 Debt Service on Pension<br>Obligation Bonds (PTRF).....                         | (42,982,000)  |

In addition to the sum hereinabove appropriated for the School Construction and Renovation Fund account to make payments under the contracts authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), there are hereby appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance at the end of the preceding fiscal year in the School Construction and Renovation Fund account is appropriated for the same purpose.

Notwithstanding the provisions of section 1 of P.L.1997, c.53 (C.18A:39-11.1) districts shall not be reimbursed for administrative fees paid to Cooperative Transportation Service Agencies.

For any school district receiving amounts from the amount hereinabove appropriated for Transportation Aid, and notwithstanding the provisions of any law or regulation to the contrary, if the school district is located in a county of the third class or a county of the second class with a population of less than 235,000, according to the 1990 federal decennial census, transportation shall be provided to school pupils residing in this school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 30 miles from the residence of the pupil.

Notwithstanding the provisions of section 2 of P.L.1981, c.57 (C.18A:39-1a) or any other law or regulation to the contrary, the maximum amount of nonpublic school transportation costs per pupil provided for in N.J.S.18A:39-1 shall equal \$884.00.

Of the amounts hereinabove appropriated for School Building Aid and School Construction Debt Service Aid, the calculation of each eligible district's allocation shall include the amount based on school bond and lease purchase agreement payments for interest and principal payable during the 2011-2012 school year pursuant to sections 9 and 10 of P.L.2000, c.72 (C.18A:7G-9 and 10) and the adjustments required for prior years based on the difference between the amounts calculated using actual principal and interest amounts in a prior year and the amounts allocated and paid in that prior year.

Notwithstanding the provisions of any law or regulation to the contrary, an eligible district's allocation of the amounts hereinabove appropriated for School Construction Debt Service Aid and School Building Aid shall be 85% of the district's approved November 1, 2010 application amount.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated for School Building Aid, a district's district aid percentage calculated for purposes of the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10) shall equal the percentage calculated for the 2001-2002 school year.

Notwithstanding the provisions of any law or regulation to the contrary, when calculating a district's allocation of the amount hereinabove appropriated for School Construction Debt Service Aid, the provisions of subsection d. of section 9 of P.L.2000, c.72 (C.18A:7G-9) shall also be applicable for a school facilities project approved by the commissioner and by the voters in a referendum after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

Notwithstanding the provisions of section 9 of P.L.2000, c.72 (C.18A:7G-9) or any other law or regulation to the contrary, for the purpose of calculating a district's State debt service aid, "M", the maintenance factor, shall equal 1.

In addition to the sum hereinabove appropriated for the School Construction and Renovation Fund account to make payments under the contracts authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), there are hereby appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance at the end of the preceding fiscal year in the School Construction and Renovation Fund account is appropriated for the same purpose.

Such additional sums as may be required for Teachers' Pension and Annuity Fund - Post Retirement Medical are appropriated, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any law or regulation to the contrary, of the amount hereinabove appropriated for Social Security Tax, there is appropriated such amounts, as determined by the Director of the Division of Budget and Accounting, to make payments on behalf of school districts that do not receive sufficient State formula aid payments under this act, for amounts due and owing to the State including out-of-district placements and such amounts shall be recognized by the school district as State revenue.

In addition to the amounts hereinabove appropriated for Social Security Tax, there are appropriated such sums as are required for payment of Social Security Tax on behalf of members of the Teachers' Pension and Annuity Fund.

Such additional sums as may be required for the Teachers' Pension and Annuity Fund - Non-contributory Insurance and Post Retirement Medical Other Than TPAF are appropriated, as the Director of the Division of Budget and Accounting shall determine.

**35 Education Administration and Management**  
**DIRECT STATE SERVICES**

|                                                      |                     |
|------------------------------------------------------|---------------------|
| 42-5120 School Finance .....                         | \$4,039,000         |
| 43-5092 Compliance and Auditing.....                 | 2,950,000           |
| 99-5095 Administration and Support Services .....    | <u>11,500,000</u>   |
| Total Direct State Services Appropriation, Education |                     |
| Administration and Management .....                  | <u>\$18,489,000</u> |

***Direct State Services:***

## Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$16,756,000) |
| Materials and Supplies.....        | (184,000)      |
| Services Other Than Personal.....  | (963,000)      |
| Maintenance and Fixed Charges..... | (36,000)       |

## Special Purpose:

|                                           |           |
|-------------------------------------------|-----------|
| 43 Internal Auditing.....                 | (500,000) |
| 99 State Board of Education Expenses..... | (50,000)  |

Receipts derived from fees for school district personnel background checks and unexpended balances at the end of the preceding fiscal year of such receipts are appropriated for the operation of the criminal history review program.

The unexpended balance at the end of the preceding fiscal year in the Student Registration and Record System account is appropriated for the same purpose.

Costs attributable to EdSmart and EasyIEP, as well as required enhancements to the Statewide longitudinal data system, shall be paid from revenue received from the Special Education Medicaid Initiative (SEMI) program and are appropriated for these purposes to the Student Registration and Record System account upon recommendation from the Commissioner of Education, subject to the approval of the Director of the Division of Budget and Accounting.

In the event that revenues received from the Special Education Medicaid Initiative (SEMI) program are insufficient to satisfy costs attributable to EdSmart and EasyIEP, as well as required enhancements to the Statewide longitudinal data system, there are appropriated to the Student Registration and Record System account such sums as may be required as the Director of the Division of Budget and Accounting shall determine.

Department of Education, Total State Appropriation ..... \$10,613,579,000

Of the amount hereinabove appropriated from the General Fund for the Department of Education, or otherwise available from federal sources, there are appropriated funds to establish a School Security Planning and Assurance Unit within the Department of Education, staffed to plan, coordinate, and conduct an ongoing comprehensive security assessment and vulnerability reduction program for school sites Statewide, in collaboration with schools and law enforcement, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine

from the schedule included in the Governor's Budget Message and Recommendations shall first be charged to the State Lottery Fund.

In the event that sufficient funds are not appropriated to fully fund any State Aid item, the Commissioner of Education shall apportion such appropriation among the districts in proportion to the State Aid each district would have been apportioned had the full amount of State aid been appropriated, except that no SDA district shall receive an amount of State Aid less than that required for compliance with Abbott v. Burke, No. M-1293-09, (N.J. May 24, 2011) (referred to as Abbott XXI), and no other district shall receive an amount less than that included in its aid notification provided pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

Notwithstanding the provisions of any law or regulation to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund revenues into the Property Tax Relief Fund, provided that unrestricted balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting may transfer from one State Aid appropriations account for the Department of Education in the General Fund to another appropriations account in the same department in the Property Tax Relief Fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts and to effect the intent of legislation enacted subsequent to the enactment of the appropriations act, provided that sufficient funds are available in the appropriations for that department.

Notwithstanding the provisions of section 8 of P.L.1996, c.138 (C.18A:7F-8), the June school aid payments are subject to the approval of the State Treasurer.

From the amounts hereinabove appropriated, such sums as are required to satisfy delayed June 2011 school aid payments are appropriated and the State Treasurer is hereby authorized to make such payment in July 2011, as adjusted for any amounts due and owing to the State as of June 30, 2011.

Notwithstanding the provisions of any law or regulation to the contrary, payments from amounts hereinabove appropriated for State Aid may be made directly to the district bank account for the repayment of principal and interest and other costs, when authorized under the terms of a promissory note entered into under the provisions of section 1 of P.L.2003, c.97 (C.18A:22-44.2).

Notwithstanding the provisions of any law or regulation to the contrary, a district's 2011-2012 allocation of: Equalization Aid, Educational Adequacy Aid, Security Aid, Adjustment Aid, Special Education Categorical Aid, and Transportation Aid shall equal the district's 2010-2011 allocation increased in total by an amount allocated in such a manner as to restore reductions made in 2010-2011 in the reverse of the hierarchy used for 2010-2011 reductions.

Notwithstanding the provisions of any law or regulation to the contrary, “non-SDA” districts that received their State support for approved project costs through the New Jersey Schools Development Authority will be assessed an amount that represents 15% of their proportionate share of the required interest and principal payments in fiscal 2012 on the bonds issued by the New Jersey Economic Development Authority for the program. The district’s assessment will be determined by the commissioner based on the district’s proportionate share of the amounts expended by the New Jersey Schools Development Authority from the inception of the program through December 31, 2010, less reimbursements for those costs funded by school districts. District allocations will be withheld from 2011-2012 formula aid payments and the assessment cannot exceed the total of those payments.

Notwithstanding the provisions of any law or regulation to the contrary, any school district receiving a final judgment or order against the State to assume the fiscal responsibility for the residential placement of a special education student shall have the amount of the judgment or order deducted from the State aid to be allocated to that district.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Education may reduce the total State Aid amount payable for the 2011-2012 school year for a district in which an independent audit of the 2010-2011 school year conducted pursuant to N.J.S.18A:23-1 identifies any deviation from the Uniform Minimum Chart of Accounts after the recalculation of the district’s actual “Total Administrative Costs” pursuant to N.J.A.C.6A:23A-8.3.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Education may withhold State Aid payments to a school district that has not submitted in final form the data elements requested for inclusion in a Statewide data warehouse within 60 days of the department’s initial request or its request for additional information, whichever is later.

In the event that sufficient balances are not available in the “School District Deficit Relief Account” for amounts recommended by the Commissioner of Education to the State Treasurer for advance State Aid payments in accordance with P.L.2006, c.15 (C.18A:7A-54 et seq.), the Director of the Division of Budget and Accounting is authorized to transfer such sums as required from available balances in State Aid accounts.

Notwithstanding the provisions of “The State Facilities Education Act of 1979,” P.L.1979, c.207 (C.18A:7B-1 et al.) and section 24 of P.L.1996, c.138 (C.18A:7F-24), or any law or regulation to the contrary, the amount of the Department of Education State aid appropriations made available to the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Juvenile Justice Commission pursuant to P.L.1979, c.207 (C.18A:7B-1 et al.) to defray the costs of educating eligible children in approved facilities under contract with the applicable department shall be made at annual rate and payment schedule adopted by the Commis-

sioner of Education and the Director of the Division of Budget and Accounting. Notwithstanding the provisions of any law or regulation to the contrary, tuition for pupils under contract for services at the Marie H. Katzenbach School for the Deaf, the Commission for the Blind and Visually Impaired, or in a regional day school operated by or under contract with the Department of Human Services or the Department of Children and Families shall be withheld from State Aid and paid to the respective department.

Notwithstanding the provisions of "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et al.) or any other law or regulation to the contrary, funding forwarded to the Juvenile Justice Commission pursuant to subsection c. of section 6 of P.L.1979, c.207 (C.18A:7B-2) may be used to support the costs of any student enrolled in a vocational education program or a General Educational Development Program.

The Director of the Division of Budget and Accounting may transfer from one appropriations account for the Department of Education in the Property Tax Relief Fund to another account in the same department and fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts, provided that sufficient funds are available in the appropriations for that department.

***Summary of Department of Education Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |                |
|----------------------------|----------------|
| Direct State Services..... | \$66,252,000   |
| Grants-in-Aid.....         | 1,665,000      |
| State Aid.....             | 10,545,662,000 |

***Appropriations by Fund:***

|                                |                |
|--------------------------------|----------------|
| General Fund .....             | \$556,648,000  |
| Property Tax Relief Fund ..... | 10,056,931,000 |

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

***40 Community Development and Environmental Management***

***42 Natural Resource Management***

**DIRECT STATE SERVICES**

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 11-4870 Forest Resource Management .....                | \$6,530,000         |
| 12-4875 Parks Management .....                          | 27,391,000          |
| 13-4880 Hunters' and Anglers' License Fund.....         | 13,532,000          |
| 14-4885 Shellfish and Marine Fisheries Management ..... | 846,000             |
| 20-4880 Wildlife Management.....                        | 364,000             |
| 21-4895 Natural Resources Engineering .....             | 1,227,000           |
| 24-4876 Palisades Interstate Park Commission.....       | <u>2,568,000</u>    |
| Total Direct State Services Appropriation,              |                     |
| Natural Resource Management .....                       | <u>\$52,458,000</u> |

***Direct State Services:*****Personal Services:**

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$29,983,000) |
| Employee Benefits.....             | (3,458,000)    |
| Materials and Supplies.....        | (5,160,000)    |
| Services Other Than Personal.....  | (3,083,000)    |
| Maintenance and Fixed Charges..... | (1,696,000)    |

**Special Purpose:**

|                                                         |             |
|---------------------------------------------------------|-------------|
| 11 Fire Fighting Costs .....                            | (2,259,000) |
| 12 Green Acres/Open Space Administration.....           | (5,228,000) |
| 20 Endangered Species Tax Check-<br>Off Donations ..... | (364,000)   |
| 21 Dam Safety .....                                     | (1,227,000) |

In addition to the amount hereinabove appropriated for Forest Resource Management, an amount not to exceed \$500,000 shall be made available from the Water Resources Monitoring and Planning-Constitutional Dedication special purpose account to support nonpoint source pollution and watershed management programs in the Bureau of Forestry.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amount hereinabove appropriated for Forest Resource Management, an amount not to exceed \$2,275,000 is appropriated from the Global Warming Solutions Fund, established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), for the Forest Management and Community Forestry Programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove for the Green Acres/Open Space Administration account is transferred from the Garden State Preservation Trust to the General Fund, together with an amount not to exceed \$336,000, and is appropriated to the Department of Environmental Protection for Green Acres/Open Space Administration, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from fees and permit receipts from the use of State park and marina facilities, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated for Parks Management, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Parks Management, an amount not to exceed \$4,400,000 is appropriated from the Shade Tree and Community Forest Preservation License Plate Fund, established pursuant to section 12 of P.L.1996, c.135 (C.39:3-27.81), for the operation and maintenance of State parks and forests.

Receipts from police court, stands, concessions, and self-sustaining activities operated or supervised by the Palisades Interstate Park Commission, and the unex-

- pendent balance at the end of the preceding fiscal year of such receipts, are appropriated for the same purpose.
- Of the amount hereinabove for the Hunters' and Anglers' License Fund, the first \$11,500,000 is appropriated out of that fund and any amount remaining therein and the unexpended balance at the end of the preceding fiscal year of the receipts in the Hunters' and Anglers' License Fund, together with any receipts in excess of the amount anticipated, are appropriated for the same purpose. If receipts to that fund are less than anticipated, the appropriation from the fund shall be reduced proportionately.
- Pursuant to section 2 of P.L.1993, c.303 (C.23:3-1f), there are appropriated such sums as may be necessary to offset revenue losses associated with the issuance of free waterfowl stamps and hunting and fishing licenses to active members of the New Jersey State National Guard and disabled veterans. The amount to be appropriated shall be certified by the Division of Fish and Wildlife and is subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Endangered Species Tax Check-Off Donations account is payable out of receipts, and the unexpended balances in the Endangered Species Tax Check-Off Donations account at the end of the preceding fiscal year, together with receipts in excess of the amount anticipated, are appropriated for the same purpose. If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- In addition to the amount hereinabove appropriated for Shellfish and Marine Fisheries Management, an amount not to exceed \$1,100,000 is appropriated from balances in the Nuclear Emergency Response account for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$4,442,000 is appropriated from the capital construction appropriation for Shore Protection Fund Projects for costs attributable to planning, operation, and administration of the shore protection program, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$1,158,000 is appropriated from the capital construction appropriation for HR-6 Flood Control for costs attributable to the operation and administration of the State Flood Control Program, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$440,000 is appropriated from the capital construction appropriation for Shore Protection Fund Projects for the operation and maintenance of the Bayshore Flood Control facility.
- In accordance with the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003," P.L.2003, c.162, an amount not to exceed \$68,000 is appropriated from the 2003 Dam, Lake, Stream and Flood Control Project Fund-Flood Control account for administrative costs attributable to flood control and an amount not to exceed \$255,000 is appropriated from the 2003 Dam, Lake and Stream Project Revolving Loan Fund-Dam

Safety account for administrative costs attributable to dam safety, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Recreational Land Development and Conservation - Constitutional Dedication account, an amount not to exceed five percent of the appropriation shall be allocated for costs associated with the administration of the program pursuant to the amendments effective December 7, 2006 to Article VIII, Section II, paragraph 6 of the State Constitution.

The unexpended balance at the end of the preceding fiscal year in the Recreational Land Development and Conservation - Constitutional Dedication administrative account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Delaware and Raritan Canal Commission such sums as may be collected from permit review fees pursuant to P.L.2007, c.142, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Department of Environmental Protection from penalties collected under the "Safe Dam Act," P.L.1981, c.249 (C.58:4-8.1 et al.) and R.S.58:4-1 et seq., such sums as may be necessary to remove dams that may be abandoned, have disputed ownership, or are not in compliance with current inspection requirements or repair. The unexpended balance at the end of the preceding fiscal year of such receipts are appropriated to the Department of Environmental Protection for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Forest Resource Management, there is appropriated \$800,000 from the Motor Vehicle Commission.

#### **GRANTS-IN-AID**

Loan repayments received from dam rehabilitation projects pursuant to P.L.1999, c.347, and any unexpended balance at the end of the preceding fiscal year are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### **CAPITAL CONSTRUCTION**

|         |                                                   |                     |
|---------|---------------------------------------------------|---------------------|
| 21-4895 | Natural Resources Engineering .....               | \$31,500,000        |
| 29-4875 | Environmental Management - CBT Dedication .....   | <u>15,293,000</u>   |
|         | Total Capital Construction Appropriation, Natural |                     |
|         | Resource Management .....                         | <u>\$46,793,000</u> |

#### ***Capital Construction:***

Bureau of Parks:

|    |                                                                                        |                |
|----|----------------------------------------------------------------------------------------|----------------|
| 29 | Recreational Land Development and<br>Conservation - Constitutional<br>Dedication ..... | (\$15,293,000) |
|----|----------------------------------------------------------------------------------------|----------------|

Natural Resources Engineering:

|    |                                     |              |
|----|-------------------------------------|--------------|
| 21 | Shore Protection Fund Projects..... | (25,000,000) |
|----|-------------------------------------|--------------|

21 HR-6 Flood Control.....(6,500,000)

The amount hereinabove appropriated for Shore Protection Fund Projects is payable from the receipts of the portion of the realty transfer fee directed to be credited to the Shore Protection Fund pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1).

An amount not to exceed \$500,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for repairs to the Bayshore Flood Control facility.

The amounts hereinabove appropriated for Recreational Land Development and Conservation - Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

Of the amount hereinabove appropriated for the Recreational Land Development and Conservation - Constitutional Dedication account, an amount not to exceed \$310,000 is appropriated to the Palisades Interstate Park Commission for costs associated with the capital improvement of recreational land, subject to the approval of the Director of the Division of Budget and Accounting.

#### **43 Science and Technical Programs**

##### **DIRECT STATE SERVICES**

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 05-4840 Water Supply.....                               | \$8,504,000         |
| 15-4890 Land Use Regulation.....                        | 12,022,000          |
| 18-4810 Office of Science Support .....                 | 250,000             |
| 29-4850 Environmental Management - CBT Dedication ..... | 15,293,000          |
| 90-4801 Environmental Policy and Planning .....         | <u>639,000</u>      |
| Total Direct State Services Appropriation, Science and  |                     |
| Technical Programs.....                                 | <u>\$36,708,000</u> |

##### **Direct State Services:**

###### **Personal Services:**

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$9,153,000) |
| Materials and Supplies.....        | (26,000)      |
| Services Other Than Personal.....  | (1,996,000)   |
| Maintenance and Fixed Charges..... | (67,000)      |

###### **Special Purpose:**

|                                             |             |
|---------------------------------------------|-------------|
| 05 Administrative Costs Water Supply Bond   |             |
| Act of 1981 - Management.....               | (2,373,000) |
| 05 Administrative Costs Water Supply Bond   |             |
| Act of 1981 - Watershed and Aquifer .....   | (1,784,000) |
| 05 Water/Wastewater Operators Licenses..... | (43,000)    |
| 05 Safe Drinking Water Fund.....            | (2,503,000) |
| 15 Tidelands Peak Demands.....              | (3,220,000) |
| 18 Hazardous Waste Research .....           | (250,000)   |

29 Water Resources Monitoring and  
Planning - Constitutional Dedication .....(15,293,000)

The amounts hereinabove appropriated for the Administrative Costs Water Supply Bond Act of 1981 - Management and Watershed and Aquifer accounts are appropriated from the "Water Supply Bond Act of 1981," P.L.1981, c.261, together with an amount not to exceed \$89,000, for costs attributable to administration of water supply programs, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Safe Drinking Water Fund account is appropriated from receipts received pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), together with an amount not to exceed \$1,247,000, for administration of the Safe Drinking Water program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Hazardous Waste Research account is appropriated from interest earned by the New Jersey Spill Compensation Fund for research on the prevention and the effects of discharges of hazardous substances on the environment and organisms, on methods of pollution prevention and recycling of hazardous substances, and on the development of improved cleanup, removal and disposal operations, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Environmental Management - CBT Dedication program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Water Resources Monitoring and Planning-Constitutional Dedication special purpose account is appropriated to be used in a manner consistent with the requirements of the constitutional dedication.

Notwithstanding the provisions of any law or regulation to the contrary, funds appropriated in the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account shall be made available to support nonpoint source pollution and watershed management programs, consistent with the constitutional dedication, within the Department of Environmental Protection in the amounts of \$1,536,000 for Water Monitoring and Standards, \$1,392,000 for New Jersey Geological Survey, \$157,000 for Watershed Management, \$500,000 for Forest Resource Management, and \$790,000 for the Department of Agriculture to support the Conservation Cost Share program, at a level of \$540,000, and the Conservation Assistance Program, at a level of \$250,000, on or before September 1, 2011.

Notwithstanding the provisions of the “Spill Compensation and Control Act,” P.L.1976, c.141 (C.58:10-23.11 et seq.) and the “Safe Drinking Water Act,” P.L.1977, c.224 (C.58:12A-1 et seq.), the Commissioner of the Department of Environmental Protection may utilize from the funds appropriated from those sources hereinabove such sums as the Commissioner may determine as necessary to broaden the department’s research efforts to address emerging environmental issues.

In addition to the federal funds amount hereinabove appropriated for the Water Supply program classification, such additional sums that may be received from the federal government for the Drinking Water State Revolving Fund program are appropriated for the same purpose.

Receipts in excess of those anticipated for Water Allocation Fees, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated to the Department of Environmental Protection to offset the costs of the Water Supply program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the individual amounts anticipated for Coastal Area Facility Review Act, Freshwater Wetlands, Stream Encroachment, Waterfront Development, and Wetlands fees, and the unexpended balance at the end of the preceding year of such receipts, are appropriated for administrative costs associated with Land Use Regulation, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amounts anticipated for Well Permits/Well Drillers/Pump Installers Licenses, and the unexpended balances at the end of the preceding year of such receipts, are appropriated to the Department of Environmental Protection for the Water Supply Program and for the Private Well Testing Program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from fees from the Water and Wastewater Operators Licensing Program, and the unexpended balances at the end of the preceding year of such receipts, are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

All receipts from any voluntary greenhouse gas offsets program implemented by the Department of Environmental Protection are appropriated to the Department of Environmental Protection for the costs of administering the program.

In addition to the amount hereinabove appropriated for the Office of Science Support, an amount not to exceed \$1,263,000 is appropriated from the Hazardous Discharge Site Cleanup Fund for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

The unexpended balance at the end of the preceding fiscal year in the Stormwater Management Grants account is appropriated for the same purpose.

The unexpended balance at the end of the preceding fiscal year in the Watershed Restoration Projects account is appropriated for the same purpose.

There is appropriated to the Lake Hopatcong Commission such sums as may be collected from a boat registration surcharge, or other fee as may be authorized pursuant to separate legislation, for the purposes of continuing operations of the Commission.

Of the amount hereinabove appropriated for the Stormwater Management Grants and Watershed Restoration Projects programs, such sums as are necessary or required may be transferred to the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account, subject to the approval of the Director of the Division of Budget and Accounting.

#### ***44 Site Remediation and Waste Management***

##### **DIRECT STATE SERVICES**

|                                                                                           |                     |
|-------------------------------------------------------------------------------------------|---------------------|
| 23-4910 Solid and Hazardous Waste Management .....                                        | \$5,217,000         |
| 27-4815 Remediation Management and Response.....                                          | 31,357,000          |
| 29-4815 Environmental Management - CBT Dedication .....                                   | <u>9,176,000</u>    |
| Total Direct State Services Appropriation, Site<br>Remediation and Waste Management ..... | <u>\$45,750,000</u> |

##### ***Direct State Services:***

###### **Personal Services:**

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$14,543,000) |
| Materials and Supplies.....        | (153,000)      |
| Services Other Than Personal.....  | (3,068,000)    |
| Maintenance and Fixed Charges..... | (384,000)      |

###### **Special Purpose:**

|                                                                              |              |
|------------------------------------------------------------------------------|--------------|
| 23 Office of Dredging and Sediment<br>Technology .....                       | (424,000)    |
| 27 Hazardous Discharge Site Cleanup<br>Fund - Responsible Party.....         | (18,000,000) |
| 29 Cleanup Projects Administrative<br>Costs - Constitutional Dedication..... | (9,176,000)  |
| Additions, Improvements and Equipment .....                                  | (2,000)      |

The amount hereinabove appropriated for the Office of Dredging and Sediment Technology is appropriated from the 1996 Dredging and Containment Facility Fund, created pursuant to section 18 of P.L.1996, c.70, the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," together with an amount not to exceed \$287,000 for the administration of the Dredging and Sediment Technology program, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to site specific charges, the amounts hereinabove for the Remediation Management and Response program classification, excluding the Hazardous Dis-

charge Site Cleanup Fund - Responsible Party and the Underground Storage Tanks accounts, are appropriated from the New Jersey Spill Compensation Fund, in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), together with an amount not to exceed \$7,995,000 for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Discharge Site Cleanup Fund - Responsible Party account is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed \$11,736,000 for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, there is appropriated to the Hazardous Discharge Site Cleanup Fund - Responsible Party account such additional sums, as necessary, received from cost recoveries and from the Licensed Site Remediation Professionals fees and deposited in the Hazardous Discharge Site Cleanup Fund, for the cleanup of hazardous waste sites and the costs associated with the "Site Remediation Reform Act," P.L.2009, c.60 (C.58:10C-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the federal funds amount for the Publicly-Funded Site Remediation program classification and the Remediation Management and Response program classification, such additional sums that may be received from the federal government for the Superfund Grants program are hereby appropriated for the same purpose.

The amount hereinabove appropriated for the Environmental Management - CBT Dedication program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Cleanup Projects Administrative Costs - Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from Solid Waste Utility Regulation, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated to the Solid and Hazardous Waste Management program classification and County Environmental Health Act agencies for costs incurred to oversee the State's recycling efforts and other solid waste program activities.

Receipts derived from the sale of salvaged materials are appropriated to offset costs incurred in the cleanup and removal of hazardous substances.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any other law to the contrary, monies appropriated to the Department of Environmental Protection from the Clean Communities Program Fund shall be provided by the

Department to the Clean Communities Council pursuant to a contract between the Department and the Clean Communities Council to implement the requirements of the Clean Communities Program pursuant to subsection d. of section 6 of P.L.2002, c.128 (C.13:1E-218).

There is hereby appropriated from the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund an amount not to exceed \$1,000,000 for costs associated with the Department's administration of the loan and grant program for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances pursuant to the amendments effective December 8, 2005 to Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Private Underground Tank Administrative Costs - Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, future cost recoveries from litigation related to the Passaic River cleanup, not to exceed \$24,000,000, shall be reimbursed first to the New Jersey Spill Compensation Fund in the amount of \$12,000,000 and second to the Hazardous Discharge Site Cleanup Fund in the amount of \$12,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, there is appropriated from the Hazardous Discharge Site Cleanup Fund an amount of \$6,000,000 for the direct and indirect costs of legal and consulting services associated with litigation related to the Passaic River cleanup, subject to the approval of the Director of the Division of Budget and Accounting.

#### **CAPITAL CONSTRUCTION**

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 29-4815 Environmental Management - CBT Dedication ..... | <u>\$44,860,000</u> |
| Total Capital Construction Appropriation, Site          |                     |
| Remediation and Waste Management .....                  | <u>\$44,860,000</u> |

#### ***Capital Construction:***

|                                     |                |
|-------------------------------------|----------------|
| 29 Hazardous Substance Discharge    |                |
| Remediation - Constitutional        |                |
| Dedication .....                    | (\$19,371,000) |
| 29 Private Underground Storage Tank |                |
| Remediation - Constitutional        |                |
| Dedication .....                    | (14,019,000)   |
| 29 Hazardous Substance Discharge    |                |
| Remediation Loans and Grants -      |                |
| Constitutional Dedication .....     | (11,470,000)   |

The amounts hereinabove appropriated for Hazardous Substance Discharge Remediation - Constitutional Dedication and Hazardous Substance Discharge Reme-

diation Loans and Grants - Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

Of the amount hereinabove appropriated for Hazardous Substance Discharge Remediation - Constitutional Dedication, such sums as necessary, as determined by the Director of the Division of Budget and Accounting, are appropriated for site remediation costs associated with State-owned properties and State-owned underground storage tanks.

All natural resource and other associated damages recovered by the State shall be deposited in the Hazardous Discharge Site Cleanup Fund established pursuant to section 1 of P.L.1985, c.247 (C.58:10-23.34), and are appropriated for: direct and indirect costs of remediation, restoration, and clean up; costs for consulting, expert, and legal services incurred in pursuing claims for damages; and grants to local governments and nonprofit organizations to further implement restoration activities of the Office of Natural Resource Restoration.

Funds made available for the remediation of the discharges of hazardous substances pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution and hereinabove appropriated, shall be appropriated to the Economic Development Authority's Hazardous Discharge Site Remediation Fund and the Department of the Treasury's Brownfield Site Reimbursement Fund, subject to the approval of the Director of the Division of Budget and Accounting.

#### ***45 Environmental Regulation***

##### **DIRECT STATE SERVICES**

|                                            |                     |
|--------------------------------------------|---------------------|
| 01-4820 Radiation Protection .....         | \$6,263,000         |
| 02-4892 Air Pollution Control .....        | 16,784,000          |
| 08-4891 Water Pollution Control .....      | 7,943,000           |
| 09-4860 Public Wastewater Facilities ..... | <u>2,781,000</u>    |
| Total Direct State Services Appropriation, |                     |
| Environmental Regulation .....             | <u>\$33,771,000</u> |

##### ***Direct State Services:***

###### **Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$18,871,000) |
| Materials and Supplies .....        | (150,000)      |
| Services Other Than Personal .....  | (3,834,000)    |
| Maintenance and Fixed Charges ..... | (186,000)      |

###### **Special Purpose:**

|                                          |             |
|------------------------------------------|-------------|
| 01 Nuclear Emergency Response .....      | (2,531,000) |
| 01 Quality Assurance - Lab Certification |             |
| Programs .....                           | (1,815,000) |
| 02 Pollution Prevention .....            | (1,579,000) |

|                                                    |             |
|----------------------------------------------------|-------------|
| 02 Toxic Catastrophe Prevention.....               | (968,000)   |
| 02 Worker and Community Right<br>to Know Act ..... | (1,128,000) |
| 02 Oil Spill Prevention .....                      | (2,709,000) |

The amount hereinabove appropriated for the Nuclear Emergency Response account is payable from receipts received pursuant to the assessments of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.), and the unexpended balances at the end of the preceding fiscal year in the Nuclear Emergency Response account, together with receipts in excess of the amount anticipated, not to exceed \$774,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from the Commercial Vehicle Enforcement Fund, established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), such sums as may be necessary to fund the costs of the regulation of the Diesel Exhaust Emissions program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Pollution Prevention account is payable from receipts received pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), together with an amount not to exceed \$606,000, for administration of the Pollution Prevention program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove appropriated for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Fund, and the receipts in excess of the amount anticipated, not to exceed \$376,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove appropriated for the Oil Spill Prevention account is payable out of the New Jersey Spill Compensation Fund, and the receipts in excess of those anticipated, not to exceed \$1,136,000, from the New Jersey Spill Compensation Fund for the Oil Spill Prevention program are appropriated, in accordance with the provisions of P.L.1990, c.76 (C.58:10-23.11f2 et seq.), P.L.1990, c.78 (C.58:10-23.11d1 et seq.), and P.L.1990, c.80 (C.58:10-23.11f1), subject to the approval of the Director of the Division of Budget and Accounting.

Any funds received by the New Jersey Environmental Infrastructure Trust from any State agency to offset the Trust's annual operating expenses are appropriated for the same purpose.

In addition to the federal funds amount for the Public Wastewater Facilities program classification, such additional sums that may be received from the federal

government for the Clean Water State Revolving Fund program are appropriated.

Receipts in excess of those anticipated from Air Permitting Minor Source Fees, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated to the Department of Environmental Protection for expansion of the Air Pollution Control program, and for County Environmental Health Act agencies to inspect non-major source facilities, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection b. of section 1 of P.L.2005, c.202 (C.58:11B-10.2) or any other law or regulation to the contrary, in addition to the amount anticipated to the General Fund from the Environmental Infrastructure Financing Program Administrative Fee, there is appropriated \$2,024,000 to the Department of Environmental Protection for associated administrative and operating expenses, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Diesel Risk Mitigation Fund - Constitutional Dedication, an amount not to exceed \$1,150,000 shall be appropriated for costs associated with the administration of the program pursuant to the amendments effective December 8, 2005, to Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Diesel Risk Mitigation Fund Administrative Costs - Constitutional Dedication account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                                         |              |
|---------------------------------------------------------|--------------|
| 29-4892 Environmental Management - CBT Dedication ..... | \$17,332,000 |
| Total Grants-in-Aid Appropriation,                      |              |
| Environmental Regulation .....                          | \$17,332,000 |

***Grants-in-Aid:***

29 Diesel Risk Mitigation Fund -  
Constitutional Dedication..... (\$17,332,000)

The amount hereinabove appropriated for the Diesel Risk Mitigation Fund - Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Diesel Risk Mitigation Fund - Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, funds hereinabove appropriated from the Diesel Risk Mitigation Fund - Constitutional Dedication account may be used to reimburse the owner of a regulated vehicle or regulated equipment as defined by section 2 of P.L.2005, c.219 (C.26:2C-

8.27) for the cost of repowering or rebuilding a diesel engine if repowering or rebuilding results in a reduction of fine particle diesel emissions from that engine as approved by the Department of Environmental Protection and in accordance with rules adopted pursuant thereto. Any reimbursement shall be subject to conditions and limitations provided in P.L.2005, c.219 (C.26:2C-8.26 et seq.) and rules adopted pursuant thereto and shall not exceed the amount of the lowest priced retrofit device on the State Contract at the prescribed best available retrofit technology level for the subject vehicle or equipment type.

#### **46 Environmental Planning and Administration**

##### **DIRECT STATE SERVICES**

|                                                                                               |                     |
|-----------------------------------------------------------------------------------------------|---------------------|
| 26-4805 Regulatory and Governmental Affairs.....                                              | \$1,646,000         |
| 99-4800 Administration and Support Services .....                                             | <u>16,046,000</u>   |
| Total Direct State Services Appropriation,<br>Environmental Planning and Administration ..... | <u>\$17,692,000</u> |

##### **Direct State Services:**

###### **Personal Services:**

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$15,037,000) |
| Materials and Supplies.....        | (196,000)      |
| Services Other Than Personal.....  | (908,000)      |
| Maintenance and Fixed Charges..... | (151,000)      |

###### **Special Purpose:**

|                                                        |             |
|--------------------------------------------------------|-------------|
| 99 New Jersey Environmental Management<br>System ..... | (1,400,000) |
|--------------------------------------------------------|-------------|

The unexpended balance at the end of the preceding fiscal year in the Office of the Records Custodian - Open Public Records Act account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision of section 1 of P.L.1985, c.247 (C.58:10-23.34) or any other law or regulation to the contrary, in addition to the amount hereinabove appropriated for the Administration and Support Services, an amount not to exceed \$767,000 is appropriated from the Hazardous Discharge Site Cleanup Fund for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

##### **STATE AID**

|                                                                                   |                    |
|-----------------------------------------------------------------------------------|--------------------|
| 99-4800 Administration and Support Services .....                                 | <u>\$5,980,000</u> |
| Total State Aid Appropriation, Environmental<br>Planning and Administration ..... | <u>\$5,980,000</u> |

##### **State Aid:**

|                                                                      |               |
|----------------------------------------------------------------------|---------------|
| 99 Mosquito Control, Research,<br>Administration and Operations..... | (\$1,346,000) |
|----------------------------------------------------------------------|---------------|

|                                                                                                |             |
|------------------------------------------------------------------------------------------------|-------------|
| 99 Administration and Operations of the<br>Highlands Council.....                              | (2,315,000) |
| 99 Administration, Planning and<br>Development Activities<br>of the Pinelands Commission ..... | (2,319,000) |

Receipts derived from permit fees imposed by the Pinelands Commission on behalf of the Department of Environmental Protection, pursuant to a memorandum of agreement between the Pinelands Commission and the Department of Environmental Protection, are hereby appropriated to the Pinelands Commission.

The unexpended balance at the end of the preceding fiscal year in the Mosquito Control, Research, Administration and Operations account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

***47 Compliance and Enforcement***  
**DIRECT STATE SERVICES**

|                                                                                |                     |
|--------------------------------------------------------------------------------|---------------------|
| 02-4855 Air Pollution Control .....                                            | \$4,607,000         |
| 04-4835 Pesticide Control .....                                                | 2,629,000           |
| 08-4855 Water Pollution Control .....                                          | 5,843,000           |
| 15-4855 Land Use Regulation .....                                              | 2,532,000           |
| 23-4855 Solid and Hazardous Waste Management .....                             | <u>6,370,000</u>    |
| Total Direct State Services Appropriation,<br>Compliance and Enforcement ..... | <u>\$21,981,000</u> |

***Direct State Services:***

Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$17,402,000) |
| Materials and Supplies.....        | (96,000)       |
| Services Other Than Personal.....  | (2,800,000)    |
| Maintenance and Fixed Charges..... | (616,000)      |

Special Purpose:

|                                |             |
|--------------------------------|-------------|
| 15 Tidelands Peak Demands..... | (1,067,000) |
|--------------------------------|-------------|

Notwithstanding the provisions of any law or regulation to the contrary, receipts deposited into the Coastal Protection Trust Fund pursuant to P.L.1993, c.168 (C.39:3-27.47 et seq.) shall be allocated in the following priority order and are appropriated in the amount of \$485,000 for the cleanup or maintenance of beaches or shores, the amount of \$90,000 for a program of grants for the operation of a sewage pump-out boat and the construction of sewage pump-out devices for marine sanitation devices and portable toilet emptying receptacles at public and private marinas and boatyards in furtherance of the provisions of P.L.1988, c.117 (C.58:10A-56 et seq.), the amount of \$65,000 for the cost of providing monitoring, surveillance and enforcement activities for the Cooperative Coastal Monitoring Program, and the amount of \$10,000 for the implementation of the "New Jersey Adopt a Beach Act," P.L.1992, c.213 (C.13:19-22 et

seq.). Receipts deposited into the Coastal Protection Trust Fund in excess of \$650,000, but not to exceed \$1,000,000, will be distributed proportionately among the programs listed above in accordance with P.L.1993, c.168 (C.39:3-27.47 et seq.). Receipts deposited into the Coastal Protection Trust Fund in excess of \$1,000,000 are appropriated to finance emergency shore protection projects and the cleanup of discharges into the ocean, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for Pesticide Fees, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated to the Department of Environmental Protection for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Department of Environmental Protection, pursuant to P.L.2007, c.246 (C.12:5-6 et al.) all penalties, fines, recoveries of costs, and interest deposited to the Cooperative Coastal Monitoring, Restoration and Enforcement Fund, established pursuant to subsection h. of section 18 of P.L.1973, c.185 (C.13:19-18), for the costs of coastal restoration projects, providing aircraft overflights for coastal monitoring and surveillance, and enforcement activities conducted by the department, subject to the approval of the Director of the Division of Budget and Accounting.

#### STATE AID

|                                                                |                    |
|----------------------------------------------------------------|--------------------|
| 08-4855 Water Pollution Control.....                           | <u>\$2,700,000</u> |
| Total State Aid Appropriation, Compliance and Enforcement..... | <u>\$2,700,000</u> |

#### **State Aid:**

08 County Environmental Health Act .....(\$2,700,000)

Department of Environmental Protection,

|                                 |                      |
|---------------------------------|----------------------|
| Total State Appropriation ..... | <u>\$326,025,000</u> |
|---------------------------------|----------------------|

The amounts hereinabove appropriated for the Tidelands Peak Demands accounts are payable from receipts derived from the sales, grants, leases, licensing, and rentals of State riparian lands. If receipts are less than anticipated, the appropriation shall be reduced proportionately. In addition, there is appropriated an amount not to exceed \$3,441,000 from the same source for other administrative costs, including legal services, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, with regard to the fee-related appropriations provided hereinabove, the Commissioner of the Department of Environmental Protection shall obtain concurrence from the Director of the Division of Budget and Accounting before altering fee schedules or any other revenue-generating mechanism under the Department's purview.

Notwithstanding the provisions of the "Environmental Fee Accountability Act of 1991," 1991, c.426 (C.52:27B-20.1 et seq.) and P.L.1991, c.427 (C.13:1D-9.1 et seq.), all revenues from fees and fines collected by the Department of Envi-

ronmental Protection, unless otherwise herein dedicated, shall be deposited into the State General Fund without regard to their specific dedication.

Notwithstanding the provisions of any law or regulation to the contrary, of the Federal Fund amounts hereinabove appropriated for the programs included in the Performance Partnership Grant Agreement with the United States Environmental Protection Agency, the Department of Environmental Protection is authorized to reallocate the appropriations, in accordance with the Grant Agreement and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any law or regulation to the contrary, of the amounts appropriated for site remediation, the Department of Environmental Protection may enter into a contract with the United States Environmental Protection Agency (EPA) to provide the State's statutory matching share for EPA-led Superfund remedial actions pursuant to the State Superfund Contract.

Receipts in excess of \$7,210,000 anticipated for Air Pollution, Clean Water Enforcement, Land Use, Solid Waste, and Hazardous Waste fines, not to exceed \$1,500,000, and the unexpended balance at the end of the preceding fiscal year are appropriated for the expansion of compliance, enforcement, and permitting efforts in the Department, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from New Jersey Pollutant Discharge Elimination System/Stormwater Permits, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated to the Department of Environmental Protection to offset the costs of the Water Pollution Control Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any law or regulation to the contrary, of the amounts hereinabove appropriated for water resource evaluation studies and monitoring, the Department of Environmental Protection may enter into contracts with the United States Geological Survey to provide the State's match to joint funding agreements for water resource evaluation studies and monitoring analyses.

Of the amount hereinabove appropriated for the Hazardous Substance Discharge Remediation Loans and Grants - Constitutional Dedication account, an amount not to exceed \$2,000,000 shall be allocated for costs associated with the State Underground Storage Tank Inspection Program, pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance at the end of the preceding fiscal year in the Underground Storage Tank Inspection Program account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any other law to the contrary, of the amounts hereinabove appropriated for environmental restoration and mitigation, the Department of Environmental Protection may enter into agreements with the United States Army Corps of Engineers to provide the State's matching share to any federally authorized restoration or mitigation projects.

In the event that revenues are received in excess of the amount of revenues anticipated from Solid Waste Utility Regulation, Water Allocation, New Jersey Pollutant Discharge Elimination System/Stormwater Permits, Coastal Area Facility Review Act, Freshwater Wetlands, Stream Encroachment, Waterfront Development, Wetlands, Well Permits/Well Drillers/Pump Installers Licenses, Water and Wastewater Operators Licensing Program, Air Permitting Minor Source, and Pesticide fees, if the amounts of such unanticipated revenues exceed \$7,800,000, the amounts of such unanticipated revenues in excess of \$7,800,000 are appropriated for information technology enhancements in the Department of Environmental Protection, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, an amount not to exceed \$6,778,736 from the Global Warming Solutions Fund is appropriated to the Department of Environmental Protection, to pay for the costs of replanting trees and impacts of the deforestation from the New Jersey Turnpike Authority's roadway widening project from Interchange 6 to Interchange 9. Of this amount, \$4,176,300 shall be granted by the Department of Environmental Protection to the Townships of Robbinsville, East Windsor and Hamilton in accordance with the Stipulation of Settlement between the Townships of Robbinsville, East Windsor and Hamilton and the Department, \$423,233 shall be granted by the Department of Environmental Protection to the Township of Chesterfield in accordance with the Stipulation of Settlement between the Township of Chesterfield and the Department, \$1,067,089 shall be granted by the Department of Environmental Protection to the Township of Cranbury in accordance with the Stipulation of Settlement between the Township of Cranbury and the Department, and \$1,112,114 shall be granted by the Department of Environmental Protection to the Township of Mansfield in accordance with the Stipulation of Settlement between the Township of Mansfield and the Department.

***Summary of Department of Environmental Protection Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |               |
|----------------------------|---------------|
| Direct State Services..... | \$208,360,000 |
| Grants-in-Aid.....         | 17,332,000    |
| State Aid .....            | 8,680,000     |
| Capital Construction ..... | 91,653,000    |

***Appropriations by Fund:***

General Fund ..... \$326,025,000

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES*****20 Physical and Mental Health******21 Health Services*****DIRECT STATE SERVICES**

01-4215 Vital Statistics .....\$1,323,000

02-4220 Family Health Services .....2,168,000

03-4230 Public Health Protection Services ..... 10,679,000

08-4280 Laboratory Services..... 15,033,000

12-4245 AIDS Services ..... 1,458,000Total Direct State Services Appropriation, Health Services.....\$30,661,000***Direct State Services:*****Personal Services:**

Salaries and Wages..... (\$14,952,000)

Materials and Supplies.....(2,229,000)

Services Other Than Personal.....(3,543,000)

Maintenance and Fixed Charges.....(1,606,000)

**Special Purpose:**

02 WIC Farmers Market Program .....(87,000)

02 Breast Cancer Public Awareness Campaign.....(90,000)

02 Identification System for Children's  
Health and Disabilities .....(300,000)02 Governor's Council for Medical  
Research and Treatment of Autism .....(500,000)02 Public Awareness Campaign for  
Black Infant Mortality .....(500,000)

03 Cancer Registry .....(400,000)

03 Cancer Investigation and Education .....(500,000)

03 Emergency Medical Services for Children.....(50,000)

03 Animal Welfare .....(150,000)

03 Worker and Community Right to Know .....(2,462,000)

08 West Nile Virus - Laboratory .....(640,000)

Additions, Improvements and Equipment .....(2,652,000)

The unexpended balance at the end of the preceding fiscal year in the New Jersey  
Emergency Medical Service Helicopter Response Program account is appropri-  
ated.

In addition to the amounts hereinabove appropriated, notwithstanding the provi-  
sions of any law or regulation to the contrary, there is appropriated \$150,000  
from the "Emergency Medical Technician Training Fund" to fund the Emer-  
gency Medical Services for Children Program.

Notwithstanding the provisions of any law to the contrary, there is appropriated \$500,000 from the Autism Medical Research and Treatment Fund for the operations of New Jersey's Autism Registry.

Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated from the "Emergency Medical Technician Training Fund" \$79,000 for Emergency Medical Services and \$125,000 for the First Response EMT Cardiac Training Program.

Notwithstanding the provisions of any law to the contrary, there is appropriated \$500,000 from the Autism Medical Research and Treatment Fund for the operations of the Governor's Council for Medical Research and Treatment of Autism.

Receipts deposited in the Autism Medical Research and Treatment Fund are appropriated for the Governor's Council for Medical Research and Treatment of Autism, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts deposited in the "New Jersey Breast Cancer Research Fund" from the gross income tax check-offs pursuant to the provisions of P.L.1995, c.26 (C.54A:9-25.7 et al.) are appropriated to the New Jersey State Commission on Cancer Research for breast cancer research projects, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove appropriated for the Worker and Community Right to Know account is payable from the "Worker and Community Right to Know Fund."

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$4,722,000, are appropriated for the Medical Emergency Disaster Preparedness for Bioterrorism program and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to the Department of Health and Senior Services for diagnostic laboratory services provided to any other agency or department, provided that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories, pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks, pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), are appropriated.

Receipts from licenses, permits, fines, penalties, and fees collected by the Department of Health and Senior Services in Health Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, \$1,000,000 from the Cancer Research Fund established pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1) is transferred to the General Fund.

The unexpended balance at the end of the preceding fiscal year in the Services Other Than Personal account in the Division of Public Health and Environmental Laboratories is appropriated for the costs of relocating the Public Health, Environmental and Agricultural Laboratory.

Notwithstanding the provisions of subsection c. of section 6 of P.L.1983, c.6 (C.52:9U-6), subsection c. of section 5 of P.L.2003, c.200 (C.52:9EE-5), subsection c. of section 5 of P.L.1999, c.201 (C.52:9E-5) and section 4 of P.L.1999, c.105 (C.30:6D-59) or any other law or regulation to the contrary, the amounts hereinabove appropriated to the New Jersey State Commission on Cancer Research, New Jersey State Commission on Brain Injury Research, New Jersey Commission on Spinal Cord Research, and the Governor's Council for Medical Research and Treatment of Autism are subject to the following condition: an amount from each appropriation, subject to the approval of the Director of the Division of Budget and Accounting, may be used to pay the salary and other benefits of one person who shall serve as Executive Director for all four entities, with the services of such person allocated to the four entities as shall be determined by the four entities.

The Commissioner of Health and Senior Services shall ensure that all monies appropriated to the New Jersey Brain Injury Research Fund shall be used exclusively for the purposes of the fund pursuant to section 9 of P.L.2003, c.200 (C.52:9EE-9).

#### GRANTS-IN-AID

|                                                         |                      |
|---------------------------------------------------------|----------------------|
| 02-4220 Family Health Services .....                    | \$123,357,000        |
| <i>(From General Fund..... \$122,828,000)</i>           |                      |
| <i>(From Casino Revenue Fund..... 529,000)</i>          |                      |
| 03-4230 Public Health Protection Services .....         | 42,922,000           |
| 12-4245 AIDS Services .....                             | <u>28,160,000</u>    |
| Total Grants-in-Aid Appropriation, Health Services..... | <u>\$194,439,000</u> |
| <i>(From General Fund..... \$193,910,000)</i>           |                      |
| <i>(From Casino Revenue Fund..... 122,828,000)</i>      |                      |

#### **Grants-in-Aid:**

##### Special Purpose:

|                                                 |                |
|-------------------------------------------------|----------------|
| 02 Maternal, Child and Chronic                  |                |
| Health Services.....                            | (\$26,756,000) |
| 02 Statewide Birth Defects Registry (CRF) ..... | (529,000)      |
| 02 Poison Control Center .....                  | (587,000)      |
| 02 Early Childhood Intervention Program .....   | (92,593,000)   |
| 02 Early Intervention Contracts.....            | (892,000)      |
| 02 Surveillance, Epidemiology, and End          |                |
| Results Expansion Program - CINJ .....          | (2,000,000)    |

|                                                                |              |
|----------------------------------------------------------------|--------------|
| 03 Implementation of Comprehensive Cancer Control Program..... | (1,200,000)  |
| 03 Hospital Asset Transformation Program - Debt Service .....  | (18,041,000) |
| 03 Cancer Institute of New Jersey .....                        | (18,000,000) |
| 03 Cancer Institute of New Jersey, South Jersey Program .....  | (5,400,000)  |
| 03 Worker and Community Right to Know.....                     | (281,000)    |
| 12 AIDS Grants .....                                           | (21,651,000) |
| 12 AIDS Drug Distribution Program.....                         | (6,509,000)  |

Receipts from the federal Medicaid (Title XIX) program for handicapped infants are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$570,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Fetal Alcohol Syndrome Program.

Of the amount hereinabove appropriated for Maternal, Child and Chronic Health Services, an amount may be transferred to Direct State Services in the Department of Health and Senior Services to cover administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount hereinabove appropriated for the Cancer Institute of New Jersey, \$250,000 is appropriated to the Ovarian Cancer Research Fund.

There are appropriated from the New Jersey Emergency Medical Service Helicopter Response Program Fund, established pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1), such sums as are necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical Service Helicopter Response Program, established pursuant to P.L.1986, c.106 (C.26:2K-35 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, in order to maximize prescription drug coverage under the Medicare Part D program established pursuant to the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," the amounts hereinabove appropriated for the AIDS Drug Distribution Program (ADDP) shall not be spent unless the ADDP is designated as the authorized representative for the purposes of coordinating benefits with the Medicare Part D program, including enrollment and appeals of coverage determinations. ADDP is authorized to represent program beneficiaries in the pursuit of such coverage. ADDP representation shall not result in any additional financial liability on behalf of such program beneficiaries and shall include, but need not be limited to, the following actions: application for the premium and cost-sharing subsidies on behalf of eligible program beneficiaries; pursuit of appeals, grievances, or coverage determinations; and facilitated enrollment in a prescription drug plan or Medicare Advantage Prescription

Drug plan. If any beneficiary declines enrollment in any Medicare Part D plan, that beneficiary shall be barred from all benefits of the ADDP Program.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated to the AIDS Drug Distribution Program (ADDP) is conditioned upon the Department of Health and Senior Services coordinating the benefits of ADDP with the prescription drug benefits of the Medicare Part D program established pursuant to the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" as the primary payer. The ADDP benefit and reimbursement shall only be available to cover the beneficiary cost share to in-network pharmacies and for deductible and coverage gap costs, as determined by the Commissioner of Health and Senior Drofnatski (Stanford) Services, associated with enrollment in Medicare Part D for ADDP beneficiaries, and for Medicare Part D premium costs for ADDP beneficiaries.

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated in the AIDS Drug Distribution Program (ADDP) account, shall be available as payment as an ADDP benefit to any pharmacy that is not enrolled as a participating pharmacy in a pharmacy network under the Medicare Part D program established pursuant to the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003."

Commencing with the start of the fiscal year, and consistent with the requirements of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA), no funds hereinabove appropriated from the AIDS Drug Distribution Program (ADDP) account shall be expended for any individual enrolled in the ADDP program unless the individual provides all data necessary to enroll the individual in the Medicare Part D program established pursuant to the MMA, including data required for the subsidy assistance, as outlined by the Centers for Medicare and Medicaid Services.

In order to permit flexibility in the handling of appropriations, amounts may be transferred to and from the various items of appropriation within the AIDS Services program classification in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Early Childhood Intervention Program shall be conditioned on the Early Childhood Intervention Program's family cost sharing program involving a progressive charge for each hour of direct services provided to the child and/or the child's family in accordance with the child's Individualized Family Service Plan, based upon household size and gross income as set forth in the August 2007 or the next most recent published edition of the New Jersey Early Intervention System Family Cost Participation Handbook.

There are appropriated such additional sums as are required to pay all amounts due from the State pursuant to any contract entered into between the State Treasurer and the New Jersey Health Care Facilities Financing Authority pursuant to section 6 of P.L.2000, c.98 (C.26:2I-7.1) in connection with the Hospital Asset Transformation Program.

No funds hereinabove appropriated to the Department of Health and Senior Services shall be used for the Medical Waste Management Program. The Department of Health and Senior Services and the Department of Environmental Protection shall establish a transition plan to ensure provisions of the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.) are met.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Cancer Institute of New Jersey (CINJ) shall be conditioned upon the following provision: no funds shall be expended except to support CINJ's infrastructure necessary to support cancer research, prevention and treatment.

The unexpended balance at the end of the preceding fiscal year in the Cancer Institute of New Jersey, South Jersey Program account are appropriated to the program for cancer-related capital equipment, design, engineering and construction expenses, provided that \$2,772,000 of said balance is appropriated for implementation of the new allopathic medical school in Camden.

In addition to the amount hereinabove appropriated for Cancer Institute of New Jersey, South Jersey Program, an amount not to exceed \$11,143,923 is appropriated for construction of the comprehensive cancer center in South Jersey, subject to the approval of the Director of the Division of Budget and Accounting, provided that no monies from this appropriation shall be disbursed until all funding from all other sources has been demonstrated by the South Jersey Program to be available for this purpose.

Of the amount hereinabove appropriated for the Surveillance, Epidemiology and End Results Expansion Program-CINJ account, an amount may be transferred to Direct State Services in the Department of Health and Senior Services to cover administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Early Childhood Intervention Program, such additional sums as may be necessary are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for AIDS Grants, savings realized from reduced transportation costs may be transferred to the AIDS Drug Distribution Program account, subject to the approval of the Director of the Division of Budget and Accounting.

Upon a determination by the Commissioner of Health and Senior Services, made in consultation with the State Treasurer, that additional State funding is necessary

to reimburse centers for services to uninsured clients, the Director of the Division of Budget and Accounting shall authorize the appropriation of such sums as the commissioner determines are necessary for grants to federally qualified health centers.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the AIDS Drug Distribution Program is conditioned upon the following: individuals whose income does not exceed 500% of the federal poverty level shall be eligible for coverage for all AIDS-related drugs and other drugs.

There is appropriated an amount not to exceed \$11,000,000 to the Hoboken Municipal Hospital Authority established pursuant to P.L.2006, c.46 (C.30:9-23.15) for purposes of paying costs of and related to the retirement of the Hoboken Municipal Hospital Authority bonds issued pursuant to P.L.2006, c.46, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

Notwithstanding the provisions of any law or regulation to the contrary, none of the monies appropriated to the Department of Health and Senior Services are appropriated to public health priority programs under P.L.1966, c.36 (C.26:2F-1 et seq.) as amended.

#### ***22 Health Planning and Evaluation***

##### **DIRECT STATE SERVICES**

|                                                   |                    |
|---------------------------------------------------|--------------------|
| 06-4260 Long Term Care Systems .....              | \$4,598,000        |
| 07-4270 Health Care Systems Analysis.....         | <u>1,651,000</u>   |
| Total Direct State Services Appropriation, Health |                    |
| Planning and Evaluation.....                      | <u>\$6,249,000</u> |

##### ***Direct State Services:***

##### **Personal Services:**

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$4,143,000) |
| Materials and Supplies.....        | (73,000)      |
| Services Other Than Personal.....  | (441,000)     |
| Maintenance and Fixed Charges..... | (176,000)     |

##### **Special Purpose:**

|                                                                                |           |
|--------------------------------------------------------------------------------|-----------|
| 06 Nursing Home Background Checks/<br>Nursing Aide Certification Program ..... | (979,000) |
| 06 Implement Patient Safety Act.....                                           | (400,000) |
| Additions, Improvements and Equipment .....                                    | (37,000)  |

There are appropriated such sums as are required to the "Health Care Facilities Improvement Fund" to provide available resources in an emergency situation at a health care facility, as defined by the Commissioner of Health and Senior Services, or for closure of a health care facility, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees charged for processing Certificate of Need applications and the unexpended balances at the end of the preceding fiscal year of such receipts are appropriated for the cost of this program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                                    |                     |
|----------------------------------------------------|---------------------|
| 07-4270 Health Care Systems Analysis.....          | <u>\$31,802,000</u> |
| Total Grants-in-Aid Appropriation, Health Planning |                     |
| and Evaluation .....                               | <u>\$31,802,000</u> |

***Grants-in-Aid:***

07 Health Care Subsidy Fund Payments.....(\$31,802,000)

Notwithstanding the provisions of any law or regulation to the contrary, all revenues collected from the tax on cosmetic medical procedures pursuant to P.L.2004, c.53 (C.54:32E-1) shall be deposited in the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).

Notwithstanding the provisions of any law or regulation to the contrary, as a condition of the receipt of any monies hereunder by an acute care hospital that is requesting an advance of charity care/Medicaid or payments from the "Health Care Facilities Improvement Fund" or any payments over and above this act, the hospital shall comply with a request by the Commissioner of the Department of Health and Senior Services for a review of its finances and operations to ensure that access to health care is maintained and public funds are utilized for their intended purpose, the cost of such review to be borne by the acute care hospital, and shall comply with any financial and operational performance requirements imposed by the commissioner as deemed necessary as a result of the review.

Notwithstanding the provisions of section 3 of P.L.2004, c.113 (C.26:2H-18.59i) or any other law or regulation to the contrary, the appropriation for Health Care Subsidy Fund Payments in State Fiscal Year (SFY) 2012 shall be calculated using a multiple regression-based formula such that: (a) source data used shall be from (1) Hospital Patient Discharge Uniform Billing (UB) Data from calendar year 2009 as released by the Department of Health and Senior Services (DHSS), (2) charity care subsidy allocation for SFY 2011 as announced by DHSS in July 2010, and (3) charity care subsidy allocation for SFY 2010 as announced by DHSS in July 2009 and including any subsequent reallocations; (b) the SFY 2010 charity care subsidy allocation shall be proportionately increased for each eligible hospital to increase the total subsidy to \$675,000,000 for this calculation purpose; (c) the SFY 2012 charity care subsidy allocation calculation for each eligible hospital shall begin with a constant value of \$674,269.40 and be increased by 88.38172% of its Charity Care subsidy allocation for SFY 2010 as calculated in subsection (b) above; (d) the SFY 2012 charity care subsidy allocation calculated thus far for each eligible hospital shall be increased by 2.06784% of the total charges from the payer category "self pay" in the calendar year 2009 UB data and then decreased by 0.12446%

of the total charges from all payer categories in the calendar year 2009 UB data; (e) the SFY 2011 charity care subsidy allocation for each eligible hospital shall be divided by the total charges for the payer category "self pay" in the calendar year 2009 UB data to generate a ratio for this calculation purpose and then multiplied by a constant value of \$4,239,097; (f) the SFY 2012 charity care subsidy allocation calculated thus far in subsection (d) above for each eligible hospital shall be reduced by the amount calculated in subsection (e) above; (g) if the SFY 2012 charity care subsidy allocation calculated thus far is less than \$175,000 for any eligible hospital, the SFY 2012 charity care subsidy allocation thus far shall be increased to \$175,000; (h) the SFY 2012 charity care subsidy allocation calculated thus far for each eligible hospital shall be proportionately increased or decreased so that the total initial calculated SFY 2012 charity care subsidy shall be equal to \$675,000,000; (i) the SFY 2012 charity care subsidy allocation calculated thus far for each eligible hospital shall be multiplied by 25%; (j) the SFY 2011 charity care subsidy allocation for each eligible hospital shall be multiplied by 75%; (k) the amounts calculated in subsections (i) and (j) above shall be added together for each eligible hospital producing the SFY 2012 charity care subsidy allocation for each eligible hospital; (l) the resulting number will constitute each eligible hospital's SFY 2012 charity care subsidy allocation. A proportionate increase or decrease shall be applied to all hospitals if necessary such that the calculated SFY 2012 charity care subsidy allocation for all hospitals totaled shall not exceed \$675,000,000.

Of the amount hereinabove appropriated for Health Care Subsidy Fund Payments, any amounts not allocated to a hospital-specific State fiscal year 2012 charity care subsidy is appropriated, subject to the approval of the Director of the Division of Budget and Accounting, to the Health Care Stabilization Fund established pursuant to P.L.2008, c.33 (C.26:2H-18.74 et seq.) and applied as set forth in such act. Combined funding for charity care and the Health Care Stabilization Fund shall not exceed \$705,000,000.

Notwithstanding the provisions of any law or regulation to the contrary, any funds remaining as the result of closure of a hospital eligible to receive Disproportionate Share Hospital (DSH) funds shall be redistributed at the discretion of the Commissioner of the Department of Health and Senior Services. Factors the commissioner will consider shall include, but not be limited to, maintenance of continued timely access to essential health services for persons eligible to participate in charity care, and continued operation in the same or adjoining municipality as the closed hospital of an acute care hospital, eligible to receive DSH funds, and serving substantially the same eligible population. Notice of such redistribution shall be provided to the Joint Budget Oversight Committee within five business days of each redistribution.

The amounts hereinabove appropriated for Health Care Subsidy Fund Payments are conditioned upon the following provision: the Department of Health and Senior Services shall review, examine and/or audit any and all financial infor-

mation maintained by an acute care hospital to ensure appropriate use of public funds.

The amounts hereinabove appropriated for charity care or other funding to a health care facility is conditioned upon the following requirement: such health care facility shall participate in planning meetings supervised by the Department of Health and Senior Services for the planning of the provision of hospital, medical or health programs and services, and shall, to the extent permitted by State and federal law, share patient-level data as needed to facilitate such purposes.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated from the Health Care Subsidy Fund for charity care payments are subject to the following condition: in a manner determined by the Commissioner of Health and Senior Services and subject to the approval of the Director of the Division of Budget and Accounting, eligible hospitals shall receive (1) their charity care subsidy payments beginning in July 2011, (2) an aggregate amount of \$10,000,000 of their July and August 2011 payments in October 2011, (3) their September 2011 payments in October 2011, and (4) their January 2012 payments in December 2011.

### **25 Health Administration**

#### **DIRECT STATE SERVICES**

|                                                   |                    |
|---------------------------------------------------|--------------------|
| 99-4210 Administration and Support Services ..... | <u>\$4,280,000</u> |
| Total Direct State Services Appropriation,        |                    |
| Health Administration .....                       | <u>\$4,280,000</u> |

#### **Direct State Services:**

##### **Personal Services:**

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages .....           | (\$2,505,000) |
| Materials and Supplies .....       | (49,000)      |
| Services Other Than Personal ..... | (226,000)     |

##### **Special Purpose:**

|                                         |             |
|-----------------------------------------|-------------|
| 99 Office of Minority and Multicultural |             |
| Health .....                            | (1,500,000) |

### **26 Senior Services**

#### **DIRECT STATE SERVICES**

|                                                                  |             |
|------------------------------------------------------------------|-------------|
| 22-4275 Medical Services for the Aged .....                      | \$3,951,000 |
| 24-4275 Pharmaceutical Assistance to the Aged and Disabled ..... | 6,078,000   |
| 55-4275 Programs for the Aged .....                              | 1,234,000   |

(From General Fund..... **\$363,000**)

(From Casino Revenue Fund..... **871,000**)

|                                             |                |
|---------------------------------------------|----------------|
| 57-4275 Office of the Public Guardian ..... | <u>634,000</u> |
|---------------------------------------------|----------------|

|                                                                  |                     |
|------------------------------------------------------------------|---------------------|
| Total Direct State Services Appropriation, Senior Services ..... | <u>\$11,897,000</u> |
|------------------------------------------------------------------|---------------------|

(From General Fund..... **\$11,026,000**)

(From Casino Revenue Fund..... **871,000**)

#### **Direct State Services:**

## Personal Services:

|                                          |                     |
|------------------------------------------|---------------------|
| Salaries and Wages.....                  | (\$7,715,000)       |
| Salaries and Wages (CRF).....            | (658,000)           |
| Employee Benefits (CRF) .....            | (138,000)           |
| <b>(From General Fund.....</b>           | <b>\$7,715,000)</b> |
| <b>(From Casino Revenue Fun.....</b>     | <b>796,000)</b>     |
| Materials and Supplies.....              | (163,000)           |
| Materials and Supplies (CRF) .....       | (14,000)            |
| Services Other Than Personal.....        | (2,540,000)         |
| Services Other Than Personal (CRF).....  | (47,000)            |
| Maintenance and Fixed Charges.....       | (437,000)           |
| Maintenance and Fixed Charges (CRF)..... | (2,000)             |

## Special Purpose:

|                                                         |           |
|---------------------------------------------------------|-----------|
| 55 Federal Programs for the Aged<br>(State Share) ..... | (143,000) |
| Additions, Improvements and Equipment .....             | (28,000)  |
| Additions, Improvements and Equipment (CRF) .....       | (12,000)  |

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services in the Department of Human Services or the Department of Health and Senior Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services or the Department of Health and Senior Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program is subject to the following condition: any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), or in 42 U.S.C. s.1396a(a)(25)(A), including but not limited to a pharmacy benefit manager writing health, casualty, or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Department of Health and Senior Services to permit and assist the matching of the Department of Health and Senior Services' program eligibility and/or adjudication claims files against that third party's eligibility and/or adjudicated claims files for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

Receipts from the Office of the Public Guardian for Elderly Adults are appropriated to the Office of the Public Guardian.

**GRANTS-IN-AID**

|                                                                  |                       |
|------------------------------------------------------------------|-----------------------|
| 22-4275 Medical Services for the Aged .....                      | \$908,783,000         |
| <b>(From General Fund.....</b>                                   | <b>\$888,663,000)</b> |
| <b>(From Casino Revenue Fund.....</b>                            | <b>20,120,000)</b>    |
| 24-4275 Pharmaceutical Assistance to the Aged and Disabled ..... | 95,662,000            |

|                                                                               |                            |
|-------------------------------------------------------------------------------|----------------------------|
| <i>(From General Fund.....</i>                                                | <i>41,647,000)</i>         |
| <i>(From Casino Revenue Fund.....</i>                                         | <i>54,015,000)</i>         |
| 55-4275 Programs for the Aged.....                                            | <u>45,148,000</u>          |
| <i>(From General Fund.....</i>                                                | <i>30,400,000)</i>         |
| <i>(From Casino Revenue Fund.....</i>                                         | <i>14,748,000)</i>         |
| Subtotal Grants-in-Aid, Senior Services.....                                  | <u>\$1,049,593,000</u>     |
| <i>(From General Fund.....</i>                                                | <i>\$960,710,000)</i>      |
| <i>(From Casino Revenue Fund.....</i>                                         | <i>88,883,000)</i>         |
| <b>Less:</b>                                                                  |                            |
| <i>Comprehensive Medicaid Waiver.....</i>                                     | <i>\$26,000,000</i>        |
| <i>Additional Federal Medicaid Revenue</i>                                    |                            |
| <i>Associated with Waiver.....</i>                                            | <i>49,000,000</i>          |
| <i>Total Deductions.....</i>                                                  | <i><u>\$75,000,000</u></i> |
| Total Grants-in-Aid Appropriation, Senior Services .....                      | <u>\$974,593,000</u>       |
| <i>(From General Fund.....</i>                                                | <i>\$885,710,000)</i>      |
| <i>(From Casino Revenue Fund.....</i>                                         | <i>88,883,000)</i>         |
| <b>Grants-in-Aid:</b>                                                         |                            |
| 22 Global Budget for Long Term Care<br>(CRF) .....                            | (\$20,000,000)             |
| 22 Global Budget for Long Term Care.....                                      | (137,112,000)              |
| 22 Payments for Medical Assistance<br>Recipients - Nursing Homes.....         | (646,605,000)              |
| 22 Medical Day Care Services .....                                            | (104,946,000)              |
| 22 Hearing Aid Assistance for the Aged<br>and Disabled (CRF).....             | (120,000)                  |
| 24 Pharmaceutical Assistance to the<br>Aged - Claims.....                     | (3,750,000)                |
| 24 Pharmaceutical Assistance to the Aged<br>and Disabled - Claims .....       | (27,068,000)               |
| 24 Pharmaceutical Assistance to the Aged<br>and Disabled - Claims (CRF) ..... | (54,015,000)               |
| 24 Senior Gold Prescription<br>Discount Program.....                          | (10,829,000)               |
| 55 Community Based Senior Programs.....                                       | (30,400,000)               |
| 55 Community Based Senior<br>Programs (CRF) .....                             | (14,748,000)               |

**Less:**

|                                              |                   |
|----------------------------------------------|-------------------|
| <i>Comprehensive Medicaid Waiver.....</i>    | <i>26,000,000</i> |
| <i>Additional Federal Medicaid Revenue</i>   |                   |
| <i>Association with Medicaid Waiver.....</i> | <i>49,000,000</i> |

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical

cal Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred between the various items of appropriation within the Medical Services for the Aged and Programs for the Aged program classifications to ensure the continuity of long-term care support services for beneficiaries receiving services within the Medical Services for the Aged program classification in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

All funds recovered pursuant to P.L. 1968, c. 413 (C.30:4D-1 et seq.) and P.L. 1975, c. 194 (C.30:4D-20 et seq.) during the preceding fiscal year are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding the provisions of any law or regulation to the contrary, a sufficient portion of receipts generated or savings realized in the Medical Services for the Aged or Pharmaceutical Assistance to the Aged and Disabled Grants-In-Aid accounts from initiatives included in the current fiscal year appropriations act may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

Subject to federal approval, the appropriations for those programs within the Medical Services for the Aged program classification are conditioned upon the Division of Medical Assistance and Health Services in the Department of Human Services and the Department of Health and Senior Services implementing policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The Division of Medical Assistance and Health Services and the Department of Health and Senior Services shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Department of Health and Senior Services to fund the costs of enhanced audit recovery efforts of the Department within the Medical Services

for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients-Nursing Homes are available for the payment of obligations applicable to prior fiscal years.

Such sums as may be necessary are appropriated from the General Fund for the payment of increased nursing home rates to reflect the costs incurred due to the payment of a nursing home provider assessment, pursuant to the "Nursing Home Quality of Care Improvement Fund Act," P.L.2003, c.105 (C.26:2H-92 et seq.), and P.L.2004, c.41, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of N.J.A.C.8:85 or any law or other regulation to the contrary, the amounts hereinabove appropriated for Payments for Medical Assistance Recipients - Nursing Homes and Global Budget for Long Term Care shall be conditioned upon the following: (1) the per diem reimbursement rates effective July 1, 2011, for nursing facilities shall be developed according to the new rate setting methodology that shall be codified under N.J.A.C.8:85 during fiscal year 2011, including any changes that may be codified during fiscal year 2012; (2) except as otherwise provided in this FY 2012 Appropriation Act, regardless of the actual calculated reimbursement per diem rate arising from implementation of this methodology, a nursing facility's per diem reimbursement rate shall not vary more than \$10.00 from the per diem reimbursement rate received by that facility during fiscal year 2010; and (3) monies designated pursuant to subsection c. of section 6 of P.L.2003, c.105 (C.26:2H-97) for distribution to nursing homes less the portion of those funds to be paid as pass-through payments in accordance with paragraph 1 of subsection d. of section 6 of P.L.2003, c.105 (C.26:2H-97) shall be combined with amounts hereinabove appropriated for Payments for Medical Assistance Recipients - Nursing Homes and Global Budget for Long Term Care for the purpose of Medicaid reimbursement to nursing facilities according to the new rate setting methodology. For the purposes of this paragraph, a nursing facility's per diem reimbursement rate shall not include, if the nursing facility is eligible for reimbursement, the difference between the full calculated Provider Tax add-on and the Quality of Care portion of the Provider Tax add-on.

Notwithstanding the provisions of any law or regulation to the contrary, no payment for Medicaid Adult or Pediatric Medical Day Care services, as hereinabove appropriated in the Medical Day Care Services account, shall be provided unless the services are prior authorized by professional staff designated by the Department of Health and Senior Services.

Notwithstanding the provisions of any law or regulation to the contrary, amounts hereinabove appropriated for Medical Day Care Services shall be conditioned upon the following provision: the per diem fee-for-service reimbursement rate for all adult Medical Day Care providers, regardless of provider type, shall be set at \$78.50.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for Medical Day Care Services shall be conditioned on the following provision: physical therapy, occupational therapy and speech therapy shall no longer serve as permissible criteria for eligibility in the adult Medical Day Care Program.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for Medical Day Care Services shall be conditioned on the following provision: effective August 15, 2010, no payments for Medicaid adult medical day care services shall be provided on behalf of any beneficiary who received prior authorization for these services based exclusively on the need for medication administration.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for Medical Day Care Services shall be conditioned on the following provision: no licensed facility in the adult Medical Day Care Program may serve or receive reimbursement for more than 200 Medicaid beneficiaries per day. Furthermore, no reimbursement will be provided for any claim in excess of a given facility's licensed capacity as established by the Department of Health and Senior Services.

Notwithstanding the provisions of N.J.A.C.8:87 or any other law or regulation to the contrary, the amounts hereinabove appropriated for Medical Day Care Services shall be subject to the following condition: the daily reimbursement for fee-for-service pediatric medical day care shall remain at the rate established in the preceding fiscal year.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled Program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), shall be the last resource benefits, notwithstanding any provisions contained in contracts, wills, agreements, or other instruments. Any provision in a contract of insurance, will, trust agreement, or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for, or receipt of, PAAD or Senior Gold Prescription Discount Program benefits shall be void, and no PAAD and Senior Gold Prescription Discount Program payments shall be made as a result of any such provision.

Of the amount hereinabove appropriated in the Pharmaceutical Assistance to the Aged and Disabled-Claims program, notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00 for generic drugs and \$7.00 for brand name drugs.

Notwithstanding the provisions of any law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended, when PAAD or Senior Gold is the primary payer, unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services. Name brand manufacturers must provide for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through (c) of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State. Furthermore, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the PAAD program and the Senior Gold Prescription Discount Program shall continue during the current fiscal year, provided that the manufacturer's rebates for PAAD claims paid as secondary to Medicare Part D and for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the PAAD and Senior Gold Prescription Discount Program. All revenues from such rebates during the current fiscal year are appropriated for the PAAD program and the Senior Gold Prescription Discount Program.

In addition to the amount hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled and the Senior Gold Prescription Discount Program, there are appropriated from the General Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits, and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the appropriations for the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program are conditioned upon the Department of Health and Senior Services coordinating benefits with any voluntary prescription drug mail-order or specialty pharmacy in a Medicare Part D provider network or private third party liability plan network for beneficiaries enrolled in a Medicare Part D program or beneficiaries with primary prescription coverage that requires use of mail order. The mail-order program may waive, discount, or rebate the beneficiary copayment and mail-order pharmacy providers may dispense up to a 90-day supply on prescription refills with the

voluntary participation of the beneficiary, subject to the approval of the Commissioner of Health and Senior Services and the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Pharmaceutical Assistance to the Aged and Disabled (PAAD) programs are conditioned upon the Department of Health and Senior Services coordinating the benefits of the PAAD programs with the prescription drug benefits of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" as the primary payer due to the current federal prohibition against State automatic enrollment of PAAD recipients in the new federal program. The PAAD program benefit and reimbursement shall only be available to cover the beneficiary cost share to in-network pharmacies and for deductible and coverage gap costs (as determined by the Commissioner of Health and Senior Services) associated with enrollment in Medicare Part D for beneficiaries of the PAAD and Senior Gold Prescription Discount programs, and for Medicare Part D premium costs for PAAD beneficiaries.

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated in the Pharmaceutical Assistance to the Aged or Pharmaceutical Assistance to the Aged and Disabled (PAAD) program and Senior Gold Prescription Discount Program accounts shall be available as payment as a PAAD program or Senior Gold Prescription Discount Program benefit to any pharmacy that is not enrolled as a participating pharmacy in a pharmacy network under Medicare Part D.

Consistent with the requirements of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" and the current federal prohibition against State automatic enrollment of Pharmaceutical Assistance to the Aged and Pharmaceutical Assistance to the Aged and Disabled (PAAD) program and Senior Gold Prescription Discount Program recipients, no funds hereinabove appropriated to the PAAD program or Senior Gold Prescription Discount Program accounts shall be expended for any individual unless the individual enrolled in the PAAD program or Senior Gold Prescription Discount Program provides all data necessary to enroll the individual in Medicare Part D, including data required for the subsidy assistance, as outlined by the Centers for Medicare and Medicaid Services.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Pharmaceutical Assistance to the Aged and Disabled programs, and Senior Gold Prescription Discount Program shall be conditioned upon the following provision: no funds shall be appropriated for the refilling of a prescription drug until such time as the original prescription is 85% finished.

Notwithstanding the provisions of any law or regulation to the contrary, in order to maximize drug coverage under Medicare Part D, the appropriation for the Senior Gold Prescription Discount Program is conditioned on the Senior Gold Pre-

scription Discount Program being designated the authorized representative for the purpose of coordinating benefits with the Medicare drug program, including appeals of coverage determinations. The Senior Gold Prescription Discount Program is authorized to represent program beneficiaries in the pursuit of such coverage. Senior Gold Prescription Discount Program representation shall include, but not to be limited to, the following actions: pursuit of appeals, grievances, and coverage determinations.

Notwithstanding the provisions of any law or regulation to the contrary, no amounts hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program or the Senior Gold Prescription Discount Program shall be expended to cover medications not on the formulary of a PAAD program or Senior Gold Prescription Discount Program beneficiary's Medicare Part D plan. This exclusion shall not apply to those drugs covered by the PAAD program and Senior Gold Prescription Discount Program which are specifically excluded by the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA). In addition, this exclusion shall not impact the beneficiary's rights, guaranteed by the MMA, to appeal the medical necessity of coverage for drugs not on the formulary of a Medicare Part D plan.

Notwithstanding the provisions of any law or regulation to the contrary, no amounts hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program or the Senior Gold Prescription Discount Program shall be expended for diabetic testing materials and supplies which are covered under the federal Medicare Part B program, or for vitamins, cough/cold medications, drugs used for the treatment of erectile dysfunction, or cosmetic drugs, including but not limited to: drugs used for baldness, weight loss, and skin conditions.

From the amount hereinabove appropriated for the Senior Gold Prescription Discount Program, an amount not to exceed \$3,850,000 may be transferred to various accounts as required, including Direct State Services accounts, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, all financial recoveries obtained through the efforts of any entity authorized to undertake the prevention and detection of Medicaid fraud, waste, and abuse, are appropriated to Medical Services for the Aged in the Division of Senior Services.

In order to permit flexibility in implementing ElderCare Initiatives appropriated hereinabove as part of Community Based Senior Programs, and the Global Budget for Long Term Care within the Medical Services for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

In order to permit flexibility in implementing the ElderCare Advisory Commission Initiatives, appropriated hereinabove as part of Community Based Senior Pro-

grams within the Programs for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of section 2 of P.L.1988, c.114 (C.26:2M-10) or any other law or regulation to the contrary, the amount appropriated for Community Based Senior Programs is subject to the following condition: private for-profit agencies shall be eligible grantees for funding from the Community Based Senior Programs account for Alzheimer's Disease activities.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for Payments for Medical Assistance Recipients - Nursing Homes and Global Budget for Long Term Care are subject to the following condition: nursing facilities shall not receive payments for bed hold or therapeutic leave days for Medicaid beneficiaries; provided that nursing facilities shall continue to reserve beds for Medicaid beneficiaries who are hospitalized or on therapeutic leave as required by N.J.A.C.8:85-1.14.

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Discount Program account shall be expended for fee-for-service prescription drug claims with no Medicare Part D coverage except under the following conditions: (1) through August 31, 2011, (a) reimbursement for the cost of all legend and non-legend drugs shall be calculated based on the lowest of: (i) the Average Wholesale Price less a volume discount not to exceed 17.5% as shall be determined by the Commissioner and the Director of the Division of Budget and Accounting; or (ii) the federal upper limit (FUL); or (iii) the state upper limit (SUL); or (iv) a pharmacy's usual and customary charge; and (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$3.99 shall remain in effect through August 31, 2011; (2) on or after September 1, 2011 (a) drug cost for all legend and non-legend single source, brand-name multi-source, and multi-source drugs shall be calculated based upon, in the discretion of the commissioner: (i) cost acquisition data submitted by providers, suppliers, and/or wholesalers of pharmaceutical services for single source, brand-name multi-source, and multi-source drugs; or (ii) the wholesale acquisition cost (WAC) less a one percent volume discount for single-source and multi-source brand-name drugs; or (iii) the lesser of the SUL or FUL for multi-source drugs; (3) on or after September 1, 2011, drug reimbursement shall be calculated, in the discretion of the Commissioner, based on either: (i) the lesser of the acquisition data from providers, suppliers and/or wholesalers for single source, brand-name multi-source, and multi-source drugs plus a professional fee or a provider's usual and customary charge; or (ii) the lesser of WAC less one percent plus a dispensing fee of \$3.73 to \$3.99 for single-source and multi-source brand-name drugs or a provider's usual and customary charge; or (iii) the lesser

- of SUL or FUL plus \$3.73 to \$3.99 for multi-source drugs or a provider's usual and customary charge. In the absence of acquisition data on or after September 1, 2011, reimbursement shall be based on the lesser of 3.ii or 3.iii above. To effectuate the purposes of this paragraph, which is intended to be budget neutral, the Department of Human Services shall mandate ongoing submission of current drug acquisition data by providers, suppliers, and/or wholesalers of pharmaceutical services for reimbursement of dispensing or administering single source, brand-name multi-source, and multi-source drugs, and no funds hereinabove appropriated shall be paid to any entity that fails to submit required data.
- In addition to the amounts hereinabove appropriated for Pharmaceutical Assistance to the Aged and Disabled and Hearing Aid Assistance for the Aged and Disabled, there are appropriated from the Casino Revenue Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits, and rebates, subject to the approval of the Director of the Division of Budget and Accounting.
- All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.), during the current fiscal year are appropriated for payments to providers in the same program class from which the recovery originated.
- In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.
- For the purposes of account balance maintenance, all object accounts in the Medical Services for the Aged program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services, but ensure that no overspending will occur in the program classification.
- Notwithstanding the provisions of P.L.1988, c.92 (C.30:4E-5 et seq.) to the contrary, funds appropriated for the Home Care Expansion Program (HCEP) shall be paid only for individuals enrolled in the program as of June 30, 1996 who are not eligible for the Global Budget for Long Term Care or alternative programs, and only for so long as those individuals require services covered by the HCEP.
- Notwithstanding the provisions of any law or regulation to the contrary, a sufficient portion of receipts generated or savings realized in Casino Revenue Fund, Medical Services for the Aged, or Pharmaceutical Assistance to the Aged and Disabled Grants-In-Aid accounts from initiatives included in the current fiscal year's annual appropriations act may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), shall be the last resource benefits, notwithstanding any provision contained in contracts, wills, agreements, or other instruments. Any provision in a contract of insurance, will, trust agreement, or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAAD benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Of the amount hereinabove appropriated in the Pharmaceutical Assistance to the Aged and Disabled-Claims program, notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00 for generic drugs and \$7.00 for brand name drugs.

Notwithstanding the provisions of any law or regulation to the contrary, no State funds are appropriated for the Drug Utilization Review Council in the Department of Health and Senior Services, and therefore, the functions of the council shall cease.

Notwithstanding the provisions of any law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), shall be expended, when PAAD is the primary payer, unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services. Name brand manufacturers must provide for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through (c) of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State. Furthermore, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the PAAD program shall continue during the current fiscal year, provided that the manufacturers' rebates for PAAD claims paid as secondary to Medicare Part D shall apply only to the amount paid by the State under the PAAD program. All revenues from such rebates during the current fiscal year are appropriated for the PAAD program.

Notwithstanding the provisions of any law or regulation to the contrary, the appropriations for the Pharmaceutical Assistance to the Aged and Disabled program

are conditioned upon the Department of Health and Senior Services coordinating benefits with any voluntary prescription drug mail-order or specialty pharmacy in a Medicare Part D provider network or private third party liability plan network for beneficiaries enrolled in a Medicare Part D program or beneficiaries with primary prescription coverage that requires use of mail order. The mail-order program may waive, discount, or rebate the beneficiary copayment and mail-order pharmacy providers may dispense up to a 90-day supply on prescription refills with the voluntary participation of the beneficiary, subject to the approval of the Commissioner of Health and Senior Services and the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated to the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program is conditioned upon the Department of Health and Senior Services coordinating the benefits of the PAAD program with the prescription drug benefits of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" as the primary payer due to the current federal prohibition against State automatic enrollment of PAAD program recipients in the federal program. The PAAD program benefit and reimbursement shall only be available to cover the beneficiary cost share to in-network pharmacies and for deductible and coverage gap costs (as determined by the Commissioner of Health and Senior Services) associated with enrollment in Medicare Part D for beneficiaries of the PAAD and the Senior Gold Prescription Discount Program, and for Medicare Part D premium costs for PAAD program beneficiaries.

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program and the Senior Gold Prescription Discount Program accounts shall be available as payment as a PAAD program or Senior Gold Prescription Discount Program benefit to any pharmacy that is not enrolled as a participating pharmacy in a pharmacy network under Medicare Part D.

Consistent with the requirements of the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" and the current federal prohibition against State automatic enrollment of Pharmaceutical Assistance to the Aged and Disabled (PAAD) program recipients, no funds hereinabove appropriated from the PAAD account shall be expended for any individual enrolled in the PAAD program unless the individual provides all data that may be necessary to enroll the individual in Medicare Part D, including data required for the subsidy assistance, as outlined by the Centers for Medicare and Medicaid Services.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program shall be conditioned upon the following provision: no funds shall be appropriated for the refilling of a prescription drug until such time as the original prescription is 85% finished.

Notwithstanding the provisions of any law or regulation to the contrary, no amounts hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program shall be expended to cover medications not on the formulary of a PAAD program beneficiary's Medicare Part D plan. This exclusion shall not apply to those drugs covered by PAAD which are specifically excluded by the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA). In addition, this exclusion shall not impact the beneficiary's rights, guaranteed by the MMA, to appeal the medical necessity of coverage for drugs not on the formulary of a Medicare Part D plan.

Notwithstanding the provisions of any law or regulation to the contrary, no amounts hereinabove appropriated for the Pharmaceutical Assistance to the Aged and Disabled program shall be expended for diabetic testing materials and supplies which are covered under the federal Medicare Part B program, or for vitamins, cough/cold medications, drugs used for the treatment of erectile dysfunction, or cosmetic drugs including but not limited to: drugs used for baldness, weight loss, and skin conditions.

Notwithstanding the provisions of any law or regulation to the contrary, of the amount hereinabove appropriated for the Community Based Senior Programs (CRF) account, \$400,000 shall be charged to the Casino Simulcasting Fund.

Notwithstanding the provisions of section 2 of P.L.1988, c.114 (C.26:2M-10) or any other law or regulation to the contrary, the amount appropriated for Community Based Senior Programs is subject to the following condition: private for-profit agencies shall be eligible grantees for funding from the Community Based Senior Programs account for Alzheimer's Disease activities.

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification shall be expended for fee-for-service prescription drug claims with no Medicare Part D coverage except under the following conditions: (1) through August 31, 2011, (a) reimbursement for the cost of all legend and non-legend drugs shall be calculated based on the lowest of: (i) the Average Wholesale Price less a volume discount not to exceed 17.5% as shall be determined by the Commissioner and the Director of the Division of Budget and Accounting; or (ii) the federal upper limit (FUL); or (iii) the state upper limit (SUL); or (iv) a pharmacy's usual and customary charge; and (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$3.99 shall remain in effect through August 31, 2011; (2) on or after September 1, 2011, (a) drug cost for all legend and non-legend single source, brand-name multi-source, and multi-source drugs shall be calculated based upon, in the discretion of the commissioner: (i) cost acquisition data submitted by providers, suppliers, and/or wholesalers of pharmaceutical services for single source, brand-name multi-source, and multi-source drugs; or (ii) the wholesale acquisition cost (WAC) less a one percent volume discount for single-source and multi-source brand-name drugs; or (iii) the lesser of the SUL or FUL for multi-source drugs; (3) on or after September 1, 2011, drug reimbursement

shall be calculated, in the discretion of the Commissioner, based on either: (i) the lesser of the acquisition data from providers, suppliers and/or wholesalers for single source, brand-name multi-source, and multi-source drugs plus a professional fee or a provider's usual and customary charge; or (ii) the lesser of WAC less one percent plus a dispensing fee of \$3.73 to \$3.99 for single-source and multi-source brand-name drugs or a provider's usual and customary charge; or (iii) the lesser of SUL or FUL plus \$3.73 to \$3.99 for multi-source drugs or a provider's usual and customary charge. In the absence of acquisition data on or after September 1, 2011, reimbursement shall be based on the lesser of 3.ii or 3.iii above. To effectuate the purposes of this paragraph, which is intended to be budget neutral, the Department of Human Services shall mandate ongoing submission of current drug acquisition data by providers, suppliers, and/or wholesalers of pharmaceutical services for reimbursement of dispensing or administering single source, brand-name multi-source, and multi-source drugs, and no funds hereinabove appropriated shall be paid to any entity that fails to submit required data.

#### STATE AID

|                                                      |             |
|------------------------------------------------------|-------------|
| 55-4275 Programs for the Aged.....                   | \$7,152,000 |
| Total State Aid Appropriation, Senior Services ..... | \$7,152,000 |

#### *State Aid:*

55 County Offices on Aging.....(\$2,498,000)

55 Older Americans Act - State Share.....(4,654,000)

Department of Health and Senior Services,

Total State Appropriation.....\$1,261,073,000

Consistent with the provisions of P.L.2005, c.237, \$40,000,000 from the surcharge on each general hospital and each specialty heart hospital is appropriated to fund federally qualified health centers. Any unexpended balance at the end of the preceding fiscal year in the Health Care Subsidy Fund received through the hospital and other health care initiatives account during the preceding fiscal year is appropriated for payments to federally qualified health centers.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services, in excess of those anticipated, are appropriated, subject to a plan prepared by the department and approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57) or any law or regulation to the contrary, the first \$1,200,000 in per adjusted admission charge assessment revenues, attributable to \$10.00 per adjusted admission charge assessments made by the Department of Health and Senior Services, shall be anticipated as revenue in the General Fund available for health-related purposes. Furthermore, the remaining revenue attributable to this fee shall be available to carry out the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57), as determined by the Commissioner of Health and Senior

Services, and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the State Treasurer shall transfer to the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), only those additional revenues generated from third party liability recoveries, excluding Medicaid, by the State arising from a review by the Director of the Division of Budget and Accounting of hospital payments reimbursed from the Health Care Subsidy Fund with service dates that are after the date of enactment of P.L.1996, c.29.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Health and Senior Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, fees, fines, penalties and assessments owed to the Department of Health and Senior Services shall be offset against payments due and owing from other appropriated funds.

In addition to the amount hereinabove appropriated, receipts from the federal Medicaid (Title XIX) program for health services-related programs throughout the Department of Health and Senior Services are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Health and Senior Services Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |               |
|----------------------------|---------------|
| Direct State Services..... | \$53,087,000  |
| Grants-in-Aid.....         | 1,200,834,000 |
| State Aid .....            | 7,152,000     |

***Appropriations by Fund:***

|                          |                 |
|--------------------------|-----------------|
| General Fund .....       | \$1,170,790,000 |
| Casino Revenue Fund..... | 90,283,000      |

**54 DEPARTMENT OF HUMAN SERVICES**

***20 Physical and Mental Health***

***23 Mental Health Services***

**DIRECT STATE SERVICES**

|                                                   |                      |
|---------------------------------------------------|----------------------|
| 10-7710 Patient Care and Health Services.....     | \$288,152,000        |
| 99-7710 Administration and Support Services ..... | <u>75,369,000</u>    |
| Total Direct State Services Appropriation,        |                      |
| Mental Health Services .....                      | <u>\$363,521,000</u> |

***Direct State Services:***

**Personal Services:**

Salaries and Wages .....(\$317,525,000)  
 Materials and Supplies.....(24,326,000)  
 Services Other Than Personal.....(12,458,000)  
 Maintenance and Fixed Charges.....(6,727,000)

**Special Purpose:**

10 Interim Assistance .....(815,000)  
 Additions, Improvements and Equipment .....(1,670,000)

Receipts recovered from advances made under the Interim Assistance program in the mental health institutions are appropriated for the same purpose.

The unexpended balances at the end of the preceding fiscal year in the Interim Assistance program accounts in the mental health institutions are appropriated for the same purpose.

The amount hereinabove appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations are first charged to the federal disproportionate share hospital (DSH) reimbursements anticipated as Medicaid uncompensated care. As such, DSH revenues earned by the State related to services provided by county psychiatric hospitals which are supported through this State Aid appropriation, shall be considered as the first source supporting the State Aid appropriation.

***7700 Division of Mental Health and Addiction Services*****DIRECT STATE SERVICES**

09-7700 Addiction Services.....\$906,000  
 99-7700 Administration and Support Services .....12,254,000  
 Total Direct State Services Appropriation, Division of  
 Mental Health and Addiction Services .....\$13,160,000

***Direct State Services:*****Personal Services:**

Salaries and Wages .....(\$12,294,000)  
 Materials and Supplies.....(49,000)  
 Services Other Than Personal.....(485,000)  
 Maintenance and Fixed Charges.....(132,000)

**Special Purpose:**

Additions, Improvements and Equipment .....(200,000)

The Division of Mental Health and Addiction Services is authorized to bill a patient, a patient's insurance carrier, a patient's estate, the person chargeable for a patient's support or the county of residence for institutional, residential and outpatient support of patients treated for alcoholism or drug abuse, or both. Receipts derived from billings or fees and unexpended balances at the end of the preceding fiscal year from these billings or fees are appropriated to the Department of Human Services for the support of the alcohol and drug abuse pro-

grams, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund such sums as may be necessary to carry out the provisions of P.L.1983, c.531 (C.26:2B-32 et seq.).

There is appropriated from the "Drug Enforcement and Demand Reduction Fund" \$350,000 to carry out the provisions of P.L.1995, c.318 (C.26:2B-36 et seq.) to establish an "Alcohol and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" in the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

#### GRANTS-IN-AID

|                                                       |                      |
|-------------------------------------------------------|----------------------|
| 08-7700 Community Services .....                      | \$342,139,000        |
| 09-7700 Addiction Services .....                      | <u>38,761,000</u>    |
| Total Grants-in-Aid Appropriation, Division of Mental |                      |
| Health and Addiction Services .....                   | <u>\$380,900,000</u> |

#### **Grants-in-Aid:**

|                                                                                                            |                |
|------------------------------------------------------------------------------------------------------------|----------------|
| 08 Olmstead Support Services.....                                                                          | (\$65,631,000) |
| 08 Community Care .....                                                                                    | (258,563,000)  |
| 08 University Behavioral Healthcare<br>Centers - University of Medicine and<br>Dentistry - Newark .....    | (6,165,000)    |
| 08 University Behavioral Healthcare<br>Centers - University of Medicine and<br>Dentistry - Piscataway..... | (11,780,000)   |
| 09 Substance Abuse Treatment for<br>DYFS/WorkFirst Mothers .....                                           | (1,421,000)    |
| 09 Community Based Substance Abuse<br>Treatment and Prevention -<br>State Share .....                      | (24,501,000)   |
| 09 Medication Assisted Treatment<br>Initiative .....                                                       | (11,296,000)   |
| 09 Compulsive Gambling.....                                                                                | (650,000)      |
| 09 Mutual Agreement Parolee Rehabilitation<br>Project for Substance Abusers.....                           | (893,000)      |

The amounts hereinabove appropriated for the University Behavioral Healthcare Centers (UBHC) - University of Medicine and Dentistry - Newark and Piscataway are first charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care, and, as a condition for such appropriation, the University of Medicine and Dentistry of New Jersey shall be required to provide fiscal reports to the Division of Mental Health and Addiction Services and the Office of the State Comptroller, including all applicable expenses incurred for programs supported in whole or in part with the above appropriations, as well as all applicable revenues generated from the

provision of such program services, as well as any other revenues used to support such services, in such a format and frequency as required by the Division of Mental Health and Addiction Services. In addition, the annual audit report and Consolidated Financial Statements for the University of Medicine and Dentistry of New Jersey must include supplemental schedules of Statements of Net Assets and Statements of Revenue, Expenses and Changes in Net Assets for the two UBHC Centers separately and UBHC as a whole.

With the exception of disproportionate share hospital revenues that may be received, federal and other funds received for the operation of the University Behavioral Healthcare Centers at Newark and Piscataway are appropriated to the University of Medicine and Dentistry of New Jersey for the operation of the centers.

An amount not to exceed \$2,490,000 may be transferred from the Olmstead Support Services account to the Health Care Subsidy Fund Payments account in the Department of Health and Senior Services, to increase the Mental Health Subsidy Fund portion of this account in order to maintain an amount not to exceed the fiscal 2008 per bed allocation for Short-Term Care Facility (STCF) beds, for new STCF beds which opened between January 1, 2008 and June 30, 2012, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year of appropriations made to the Department of Human Services by section 20 of P.L.1989, c.51 for State-licensed or approved drug abuse prevention and treatment programs is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated \$1,000,000 to the Department of Human Services from the "Drug Enforcement and Demand Reduction Fund" for drug abuse services.

In addition to the amount hereinabove appropriated for Community Based Substance Abuse Treatment and Prevention - State Share, there is appropriated \$1,500,000 from the "Drug Enforcement and Demand Reduction Fund" for the same purpose.

Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated \$500,000 to the Department of Human Services from the "Drug Enforcement and Demand Reduction Fund" for the Sub-Acute Residential Detoxification Program.

In addition to the amount hereinabove appropriated for Compulsive Gambling, an amount not to exceed \$200,000 is appropriated from the annual assessment against permit holders to the Department of Human Services for prevention, education and treatment programs for compulsive gambling pursuant to the provisions of section 34 of P.L.2001, c.199 (C.5:5-159), subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$420,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Local Alcoholism Authorities - Expansion program.

Notwithstanding the provisions of any law or regulation to the contrary, monies in the "Alcohol Treatment Programs Fund" established pursuant to section 2 of P.L.2001, c.48 (C.26:2B-9.2), not to exceed \$12,500,000, and the amounts hereinabove appropriated for Community Based Substance Abuse Treatment and Prevention - State Share, not to exceed \$2,200,000, are hereby appropriated, as determined by the Deputy Commissioner or designee of the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting, for grants to providers of addiction services for capital construction projects selected and approved by the Assistant Commissioner of the Division of Mental Health and Addiction Services provided that: (1) such grants are made only after the Division of Property Management and Construction (DPMC) has reviewed and approved the proposed capital projects for validity of estimated costs and scope of the project; (2) the capital projects selected by the Assistant Commissioner of the Division of Mental Health and Addiction Services shall be based upon the need to retain existing capacity, complete the construction of previously funded projects which are currently under contract and necessary for the delivery of addiction services, or to relocate existing facilities to new sites; (3) the capital projects may consist of new construction and/or renovation to maintain and increase capacity at existing sites or at new sites; (4) the grant agreement entered into between the Assistant Commissioner of the Division of Mental Health and Addiction Services and the Grantee, or the governmental entity, as the case may be, described below, shall follow all applicable grant procedures which shall include, in addition to all other provisions, requirements for oversight by DPMC; (5) receipt of grant monies pursuant to this appropriation shall not obligate or require the Division of Mental Health and Addiction Services to provide any additional funding to the provider of addiction services to operate their existing facilities or the facility being funded through the construction grant; and (6) instead of the grant being made to the eligible provider for the approved capital project, the grant may be made to a governmental entity to undertake the approved capital project on behalf of the provider of addiction services. Prior to the end of calendar year 2011 and again prior to the end of the fiscal year, the Commissioner of Human Services shall notify the Joint Budget Oversight Committee of each grant awarded, the amount of each grant, and the recipients of the grants.

Notwithstanding the provisions of any law or regulation to the contrary, monies in the "Alcohol Treatment Programs Fund" established pursuant to section 2 of P.L.2001, c.48 (C.26:2B-9.2), not to exceed \$2,147,000, may be used for general addiction programs in the Division of Mental Health and Addiction Services.

Notwithstanding the provisions of P.L.1983, c.531 (C.26:2B-32 et seq.) or any law or regulation to the contrary, the unexpended balance at the end of the preced-

ing fiscal year in the Alcohol Education, Rehabilitation and Enforcement Fund is appropriated and shall be distributed to counties for the treatment of alcohol and drug abusers and for education purposes.

Notwithstanding any other law or regulation to the contrary, monies in the "Alcohol Treatment Programs Fund" established pursuant to section 2 of P.L.2001, c.48 (C.26:2B-9.2), and the amounts hereinabove appropriated for Community Based Substance Abuse Treatment and Prevention - State Share, are hereby appropriated, subject to the approval of the Director of the Division of Budget and Accounting, for the purpose of engaging the Division of Property Management and Construction (DPMC) to retain architects and consultants as deemed necessary by DPMC to review the proposed plans for capital construction projects for facilities providing addiction treatment services submitted by providers of addiction treatment services to the Division of Mental Health and Addiction Services to enable DPMC to determine the best facility layout at the lowest possible cost, to monitor the capital projects during design and construction, to provide assistance to the grantee with respect to the undertaking of the capital projects and to advise the Deputy Commissioner or designee of the Department of Human Services as may be required.

There is appropriated \$1,000,000 from the "Drug Enforcement and Demand Reduction Fund" to the Department of Human Services for a grant to Partnership for a Drug-Free New Jersey.

In addition to the amount hereinabove appropriated for Compulsive Gambling, an amount equal to one-half of forfeited winnings collected by the Casino Control Commission, not to exceed \$50,000 annually, shall be deposited into the State General Fund for appropriation to the Department of Human Services to provide funds for compulsive gambling treatment and prevention programs, pursuant to Section 2 of P.L.2001, c.39 (C.5:12-71.3), subject to the approval of the Director of the Division of Budget and Accounting.

#### STATE AID

|                                                                                         |                      |
|-----------------------------------------------------------------------------------------|----------------------|
| 08-7700 Community Services .....                                                        | <u>\$131,659,000</u> |
| Total State Aid Appropriation, Division of Mental Health<br>and Addiction Services..... | <u>\$131,659,000</u> |

#### *State Aid:*

|                                                                 |                 |
|-----------------------------------------------------------------|-----------------|
| 08 Support of Patients in County<br>Psychiatric Hospitals ..... | (\$131,659,000) |
|-----------------------------------------------------------------|-----------------|

The unexpended balance at the end of the preceding fiscal year in the Support of Patients in County Psychiatric Hospitals account is appropriated for the same purpose.

Notwithstanding the provisions of R.S.30:4-78, or any law or regulation to the contrary, the State share of payments from the Support of Patients in County Psychiatric Hospitals account to the several county psychiatric facilities on behalf of the reasonable cost of maintenance of patients deemed to be county indigents shall be at the rate of 45% of the established State House Commission rate dur-

ing the period January 1 through June 30 of each year and 125% during the period July 1 to December 31 of each year, such that the total amount to be paid by the State on behalf of county indigent patients shall not exceed 85% of the total reasonable per capita cost. Provided, however, beginning January 1, 2011, the rate at which the State will reimburse the county psychiatric hospitals shall not exceed 100% of the per capita rate at which each county pays to the State for the reasonable cost of maintenance and clothing of each patient residing in a State psychiatric facility, excluding the depreciation, interest and carry-forward adjustment components of this rate, and including the depreciation, interest, and carry-forward adjustment components of each individual county psychiatric hospital's established State House Commission rate.

Notwithstanding the provisions of any other law or regulation to the contrary, the amount hereinabove appropriated for Support of Patients in County Psychiatric Hospitals is conditioned upon the following provision: payments to county psychiatric hospitals will only be made after receipt of their claims by the Division of Mental Health and Addiction Services. County psychiatric hospitals shall submit such claims no less frequently than quarterly and within 15 days of the close of each quarter.

With the exception of all past, present, and future revenues representing federal financial participation received by the State from the United States that is based on payments to hospitals that serve a disproportionate share of low-income patients, which shall be retained by the State, the sharing of revenues received to defray the State Aid appropriation for the costs of maintaining patients in State and county psychiatric hospitals shall be based on the same percent as costs are shared between the State and counties.

The amount hereinabove appropriated for State Aid reimbursement payments for maintenance of patients in county psychiatric facilities shall be limited to inpatient services only, except that such reimbursement shall be paid to a county for outpatient and partial hospitalization services as defined by the Department of Human Services, if outpatient and/or partial hospitalization services had been previously provided at the county psychiatric facility prior to January 1, 1998. These outpatient and partial hospitalization payments shall not exceed the amount of State Aid funds paid to reimburse outpatient and partial hospitalization services provided during calendar year 1997. In addition, any revision or expansion to the number of inpatient beds or inpatient services provided at such hospitals which will have a material impact on the amount of State Aid payments made for such services, must first be approved by the Department of Human Services before such change is implemented.

The amount hereinabove appropriated for the Division of Mental Health and Addiction Services for State facility operations and the amount appropriated as State Aid for the costs of county facility operations are first charged to the federal Disproportionate Share Hospital (DSH) reimbursements anticipated as Medicaid uncompensated care. Accordingly, DSH revenues earned by the State related to services provided by county psychiatric hospitals which are

supported through this State Aid appropriation shall be considered as the first source supporting the State Aid appropriation.

In addition to the amounts hereinabove appropriated for the Support of Patients in County Psychiatric Hospitals, in the event that the Assistant Commissioner of the Division of Mental Health and Addiction Services determines that, in order to provide the least restrictive setting appropriate, a patient should be admitted to a county psychiatric hospital in a county other than the one in which the patient is domiciled rather than to a State psychiatric hospital, there are hereby appropriated such additional sums as may be required, as determined by the Assistant Commissioner to reimburse a county for the extra costs, if any, which were incurred in connection with the care of such patient in a county psychiatric hospital which exceeded the cost of care which would have been incurred had the patient been placed in a State psychiatric hospital, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for Support of Patients in County Psychiatric Hospitals is conditioned upon the following provisions: County psychiatric hospitals shall: (1) enroll and continue to maintain enrollment as providers in the State's Medicaid program; (2) complete or pursue in good faith the completion of eligibility applications for patients who could be Medicaid eligible; (3) bill the Medicaid program for all applicable services; and (4) neither admit nor discharge patients based upon Medicaid eligibility.

Notwithstanding the provisions of any other law or regulation to the contrary, the amount hereinabove appropriated for Support of Patients in County Psychiatric Hospitals is conditioned upon the county psychiatric hospitals providing and certifying all information that is required by the State to prepare a complete, accurate, and timely claim to federal authorities for Medicaid Disproportionate Share (DSH) claim revenues.

#### ***24 Special Health Services***

##### ***7540 Division of Medical Assistance and Health Services***

#### **DIRECT STATE SERVICES**

21-7540 Health Services Administration and Management. ....\$32,616,000

Total Direct State Services Appropriation, Division of

Medical Assistance and Health Services .....\$32,616,000

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages.....(\$11,430,000)

Materials and Supplies.....(107,000)

Services Other Than Personal.....(2,477,000)

Maintenance and Fixed Charges.....(62,000)

##### **Special Purpose:**

21 Payments to Fiscal Agents.....(18,081,000)

21 Professional Standards Review

Organization - Utilization Review.....(296,000)

## 21 Drug Utilization Review Board -

Administrative Costs .....(10,000)

Additions, Improvements and Equipment .....(153,000)

The unexpended balances at the end of the preceding fiscal year, in the Payments to Fiscal Agent account are appropriated for the same purpose.

Such funds as are necessary from the Health Care Subsidy Fund are appropriated to the Division of Medical Assistance and Health Services for payment to disproportionate share hospitals for uncompensated care costs as defined in P.L.1991, c.187 (C.26:2H-18.24 et seq.), and for subsidized children's health insurance in the NJ FamilyCare program established in P.L.2005, c.156 (C.30:4J-8 et al.) to maximize federal Title XXI funding, subject to the approval of the Director of the Division of Budget and Accounting.

Additional federal Title XIX revenue generated from the claiming of uncompensated care payments made to disproportionate share hospitals shall be deposited in the General Fund as anticipated revenue.

Notwithstanding the provisions of any law or regulation to the contrary, any third party as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), or in 42 U.S.C. 1396a(a)(25)(A), including but not limited to a pharmacy benefit manager, writing health, casualty, workers' compensation, or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Division of Medical Assistance and Health Services to permit and assist the matching no less frequently than on a monthly basis of the Medicaid, NJ FamilyCare, Charity Care, and Work First New Jersey General Assistance eligibility files and/or adjudicated claims files against that third party's eligibility file, including indication of coverage derived from the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and/or adjudicated claims file for the purpose of coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

Notwithstanding the provisions of any law or regulation to the contrary, all past, present, and future revenues representing federal financial participation received by the State from the United States and that are based on payments made by the State to hospitals that serve a disproportionate share of low-income patients shall be deposited in the General Fund and may be expended only upon appropriation by law.

Notwithstanding the provisions of any law or regulation to the contrary, all revenues received from health maintenance organizations shall be deposited in the General Fund.

**GRANTS-IN-AID**

22-7540 General Medical Services .....\$3,016,056,000

Total Grants-in-Aid Appropriation, Division of Medical

Assistance and Health Services .....\$3,016,056,000

**Less:***Comprehensive Medicaid Waiver..... \$76,000,000*

***Additional Federal Medicaid Revenue******Associated with Waiver..... 149,000,000******Enhanced Medicaid Fraud Recoveries..... 18,000,000******Total Deductions..... \$243,000,000***

Total Grants-in-Aid Appropriation, Division of Medical

Assistance and Health Services .....\$2,773,056,000***Grants-in-Aid:***

22 Payments for Medical Assistance  
     Recipients - Adult Mental Health  
         Residential.....(\$29,122,000)

22 Managed Care Initiative .....(1,080,540,000)

22 Hospital Relief Offset Payments.....(62,645,000)

22 Graduate Medical Education .....(45,000,000)

22 Payments for Medical Assistance  
     Recipients - ICF/MR .....(6,963,000)

22 Payments for Medical Assistance  
     Recipients - Inpatient Hospital.....(293,318,000)

22 Payments for Medical Assistance  
     Recipients - Prescription Drugs.....(527,786,000)

22 Payments for Medical Assistance  
     Recipients - Outpatient Hospital.....(152,610,000)

22 Payments for Medical Assistance  
     Recipients - Physician Services.....(34,287,000)

22 Payments for Medical Assistance  
     Recipients - Home Health Care .....(11,674,000)

22 Payments for Medical Assistance  
     Recipients - Medicare Premiums.....(170,933,000)

22 Payments for Medical Assistance  
     Recipients - Dental Services.....(11,051,000)

22 Payments for Medical Assistance  
     Recipients - Psychiatric Hospital.....(11,277,000)

22 Payments for Medical Assistance  
     Recipients - Medical Supplies .....(19,088,000)

22 Payments for Medical Assistance  
     Recipients - Clinic Services.....(122,917,000)

22 Payments for Medical Assistance  
     Recipients - Transportation Services.....(43,841,000)

22 Payments for Medical Assistance  
     Recipients - Other Services .....(35,038,000)

22 Eligibility Determination Services.....(11,432,000)

22 Health Benefit Coordination Services .....(9,689,000)

22 General Assistance Medical Services .....(74,711,000)

22 NJ FamilyCare - Affordable and  
     Accessible Health Coverage Benefits.....(253,588,000)

22 Programs for Assertive Community  
Treatment .....(8,546,000)

**Less:**

**Comprehensive Medicaid Waiver..... 76,000,000**

**Additional Federal Medicaid Revenue**

**Associated with Waiver..... 149,000,000**

**Enhanced Medicaid Fraud Recoveries..... 18,000,000**

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from Payments for Medical Assistance Recipients - Adult Mental Health Residential and Payments for Medical Assistance Recipients - Other Services accounts within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients - Personal Care and the Payments for Medical Assistance Recipients - Other Services accounts in the Division of Disability Services in the Department of Human Services. Amounts may also be transferred to and from various items of appropriation within the General Medical Services program classification of the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in the Division of Aging and Community Services in the Department of Health and Senior Services. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

For the purposes of account balance maintenance, all object accounts appropriated in the General Medical Services program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification.

Notwithstanding the provisions of any law or regulation to the contrary, all object accounts appropriated in the General Medical Services program classification shall be conditioned upon the following provision: the Commissioner of Human Services shall have the authority to convert individuals enrolled in a State-funded program who are also eligible for a federally matchable program, to the federally matchable program without the need for regulations.

In addition to the amounts hereinabove appropriated for payments to providers on behalf of medical assistance recipients, such additional sums as may be required are appropriated from the General Fund to cover costs consequent to the establishment of presumptive eligibility for children and pregnant women in the Medicaid (Title XIX) program and the NJ FamilyCare program as defined in P.L.2005, c.156 (C.30:4J-8 et al.).

Notwithstanding the provisions of P.L.1962, c.222 (C.44:7-76 et seq.), no funds are appropriated to the Medical Assistance for the Aged program, which has been eliminated.

Notwithstanding the provisions of any law or regulation to the contrary, all object accounts appropriated in the General Medical Services program classification shall be conditioned upon the following provision: when any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the current fiscal year are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding the provisions of any law or regulation to the contrary, and subject to federal approval, of the amounts appropriated in the General Medical Services program class, the Commissioner of Human Services is authorized to develop and introduce Optional Service Plan Innovations to enhance client choice for users of Medicaid optional services, while containing expenditures.

The amount hereinabove appropriated for the Division of Medical Assistance and Health Services first is to be charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated to Hospital Relief Offset Payments is conditioned upon the following: those hospitals that are eligible to receive a Hospital Relief Subsidy Fund (HRSF) payment may receive enhanced payments from the Medicaid program for providing services to Medicaid and NJ FamilyCare beneficiaries. The HRSF payment shall be an amount approved by the Director of the Division of Budget and Accounting, determined for acute care general hospitals and is to be distributed using a new formula effective July 1, 2011. The new formula shall be based on hospital Medicaid utilization compared to industry-wide utilization for behavioral health, substance abuse, pregnancy, childbirth, and newborn services. Methodology for determining this payment is based on a HRSF factor for all acute care general hospitals, expressed as a percentage, and is defined as the sum of Medicaid primary discharges for Medicaid and NJ FamilyCare program (Title XIX and Title XXI respectively from the federal Social Security Act) fee-for-service and encounter (HMO) claims for all Diagnosis-Related Groups (DRGs) in Major Diagnostic Categories (MDCs) 14, 15, 19, and 20 (as specified in the All Patient Refined Diagnosis Related Groups Patient Classification System Definitions Manual published by 3M Health Information Systems), excluding discharges from Medicaid Excluded Units, divided by the industry-wide sum of these discharges. The aforementioned discharge count will be obtained for each hospital using the

most recent calendar year of data available for which the Division of Medical Assistance and Health Services has 24 months of paid claims data as of February 1 of the year prior to the subsidy payment year. The HRSF factor for each hospital is then multiplied by the total appropriated HRSF amount, to arrive at the hospital's individual allocation. The division will use a phase-in process to transition to the new methodology over a three-year period (State Fiscal Year 2012-2014). During the transition period, the allocation will be determined using a sum of the previous three State Fiscal Year (SFY) allocation amounts plus the allocation amount calculated for the new year, using the new formula. The hospital four-year sum is divided by the sum of the four-year allocation for all hospitals to arrive at a percent to total. This percent is multiplied by the total appropriated HRSF amount. The new one-year methodology will be implemented beginning SFY 2015. These total enhanced allocated amounts shall be equal to the total State and federal funds appropriated and are not to exceed an amount to be approved by the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated to Graduate Medical Education (GME) is conditioned upon the following: Effective July 1, 2011, the new GME allocation shall be calculated based on the sum of Medicaid Primary (Title XIX of the federal Social Security Act) and Enhanced FamilyCare Part A Inpatient fee-for-service payments (Net of Administrative Payments and Medicaid Excluded unit payments) and data from the hospital's most recent available submitted cost report as of February 1 of the year prior to the subsidy payment year for acute care general hospitals. The aforementioned hospital payments will be obtained using the hospital's most recent fiscal year of data for which the Division of Medical Assistance and Health Services has 24 months of paid claims data prior to February 1 of the year prior to the rate year. An Indirect Medical Education (IME) Factor is calculated for each Medicaid identified acute care general hospital using a ratio of net available beds (less nursery beds) to submitted IME Resident Full Time Equivalencies (FTEs) and the Medicare IME Formula. This IME factor is applied to the above mentioned Medicaid and FamilyCare Part A payments to obtain a hospital specific IME payment. Each Medicaid identified acute care general hospital's IME payment amount is then divided by the sum of all Medicaid identified acute care general hospitals to arrive at a percent to total. This percentage is multiplied by the total appropriated GME amount to determine the hospital's individual allocation. The Division will use a phase-in process to transition to the new methodology over a three-year period (SFY 2012-2014). During the transition period, the allocation amount will be determined using a sum of the previous three state fiscal year (SFY) allocation amounts plus the allocation amount calculated for the new year using the new formula. This hospital four-year sum is divided by the sum of the four-year allocation for all hospitals to arrive at a percent to total. This percent is multiplied by the total appropriated GME amount. The new one-year methodology will be implemented beginning SFY 2015. The total amount of these

payments shall not exceed an amount approved by the Director of the Division of Budget and Accounting in combined State and federal funds.

Of the amounts hereinabove appropriated in State and federal funds in the Hospital Relief Offset Payment accounts in the Department of Human Services, Division of Medical Assistance and Health Services, such sums as may be necessary shall be transferred to the Hospital Relief Subsidy Fund within the Health Care Subsidy Fund established pursuant to P.L.1992, c.160 (C.26:2H-18.51 et seq.) to maximize federal revenues related to these accounts and maintain an appropriate level of hospital payments, subject to the approval of the Director of the Division of Budget and Accounting.

The appropriations within the General Medical Services program class shall be conditioned upon the following: the Division of Medical Assistance and Health Services (DMAHS), in coordination with the county welfare agencies, shall continue a program to outstation eligibility workers in disproportionate share hospitals and federally qualified health centers.

Non-contracted hospitals providing emergency services to Medicaid or NJ FamilyCare members enrolled in the managed care program shall accept, as payment in full, the amounts that the non-contracted hospital would receive from Medicaid for the emergency services and/or any related hospitalization if the beneficiary were enrolled in Medicaid fee-for-service.

Notwithstanding the provisions of any law or regulation to the contrary, effective January 1, 2009, payments for the Payments of Medical Assistance Recipients - Outpatient Hospital account for outpatient hospital reimbursement for all psychiatric services provided as an outpatient hospital service to all eligible individuals regardless of age, shall be paid at the lower of charges or the prospective hourly rates as defined in N.J.A.C.10:52. Cost related to such services shall be excluded from outpatient hospital cost settlements. Hospitals may provide continued services to all eligible individuals in partial hospitalization programs in need of additional care beyond the 24 month limit and shall bill for these extended services at the community partial care rate.

Notwithstanding the provisions of any law or regulation to the contrary, a sufficient portion of receipts generated or savings realized in Medical Assistance Grants-in-Aid accounts from initiatives may be transferred to the Health Services Administration and Management accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, effective commencing at the beginning of the current fiscal year and subject to federal approval, of the amounts hereinabove appropriated to Payments of Medical Assistance Recipients - Inpatient Hospital, inpatient medical services provided through the Division of Medical Assistance and Health Services shall be conditioned upon the following provision: No funds shall be expended for hospital services during which a preventable hospital error occurred or for hospital ser-

vices provided for the necessary inpatient treatment arising from a preventable hospital error, as shall be defined by the Commissioner of Human Services.

Of the amount hereinabove appropriated to Payments for Medical Assistance Recipients - Inpatient Hospital, the Division of Medical Assistance and Health Services is authorized to competitively bid and contract for performance of federally mandated inpatient hospital utilization reviews, and the funds necessary for the contracted utilization review of these hospital services are made available from the Payments for Medical Assistance Recipients - Inpatient Hospital account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205, of the amount hereinabove appropriated for Payments for Medical Assistance Recipients - Adult Mental Health Residential, personal care assistant services shall be limited to no more than 25 hours per week, per recipient.

Of the amount hereinabove appropriated to Eligibility Determination, the Division of Medical Assistance and Health Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources that is not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Of the amount hereinabove appropriated for Payments for Medical Assistance Recipients - Prescription Drugs, the Commissioners of Human Services and Health and Senior Services shall establish a system to utilize unopened prescription drugs at nursing facilities issued to patients at such facilities and which have not exceeded their expiration date.

The unexpended balance at the end of the preceding fiscal year in the NJ FamilyCare - Affordable and Accessible Health Coverage Benefits account is appropriated for the same purpose.

Of the amount hereinabove appropriated for the NJ FamilyCare program, there shall be transferred to various accounts, including Direct State Services and State Aid accounts, such amounts, not to exceed \$6,000,000, as are necessary to pay for the administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, commencing at the beginning of the fiscal year, of the amounts hereinabove appropriated to NJ FamilyCare - Affordable and Accessible Health Coverage Benefits, premiums will no longer be required for children from families with incomes at or below 200% of the federal poverty level.

Of the revenues received as a result of sanctions to health maintenance organizations participating in Medicaid Managed Care, an amount not to exceed \$500,000 is appropriated to the Managed Care Initiative or NJ KidCare A -

Administration account to improve access to medical services and quality care through such activities as outreach, education, and awareness, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, State funding for the New Jersey Health ACCESS program shall cease, and all enrollment shall be terminated as of July 1, 2001, or at such later date as shall be established by the Commissioner of Human Services.

Rebates from pharmaceutical manufacturing companies during the current fiscal year for prescription expenditures made to providers on behalf of Medicaid clients are appropriated for the Payments for Medical Assistance Recipients - Prescription Drugs account.

Notwithstanding the provisions of any law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205 where applicable, the amounts hereinabove appropriated to Payments for Medical Assistance Recipients - Prescription Drugs or General Assistance Medical Services are subject to the following conditions: reimbursement for the cost of certain prescription drugs shall be based on the maximum price which the State shall pay (the "State Maximum Allowable Cost"), which shall be established by the Commissioner of Human Services. The commissioner shall establish the State Maximum Allowable Costs for prescription drugs based on cost information and drug acquisition information obtained from suppliers of multi-source prescription drugs.

No funding shall be provided from the General Assistance Medical Services or NJ FamilyCare programs for anti-retroviral drugs for the treatment of HIV/AIDS, as specified in the Department of Health and Senior Services' formulary for the AIDS Drugs Distribution Program (ADDP).

Notwithstanding the provisions of any law or regulation to the contrary, the appropriation in the General Assistance Medical Services account hereinabove shall be conditioned upon the following provisions which shall apply to the dispensing of prescription drugs through that account: (a) all Maximum Allowable Cost (MAC) drugs dispensed shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs; and (b) each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to all requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Notwithstanding the provisions of any law or regulation to the contrary, the hereinabove appropriation for Payments for Medical Assistance Recipients - Prescription Drugs shall be conditioned upon the following provision: no funds shall be appropriated for the refilling of a prescription drug until such time as the original prescription is 85% finished.

Notwithstanding the provisions of any law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205 where applicable, the appropriation in the Payments for Medical Assistance Recipients - Physician Ser-

vices account shall be conditioned upon the following provisions: (a) reimbursement for the cost of physician-administered drugs shall be consistent with reimbursement for legend and non-legend drugs; and (b) reimbursement for physician-administered drugs shall be limited to those drugs supplied by manufacturers who have entered into the federal Medicaid Drug Rebate Agreement and are subject to drug rebate rules and regulations consistent with this agreement. The Division of Medical Assistance and Health Services shall collect and submit utilization and coding information to the Secretary of the United States Department of Health and Human Services for all single source drugs administered by physicians.

Notwithstanding the provisions of any law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205, approved nutritional supplements which are funded hereinabove in the Payments for Medical Assistance Recipients - Prescription Drug program shall be consistent with reimbursement for legend and non-legend drugs.

Notwithstanding the provisions of any law or regulation to the contrary, the appropriations in the Payments for Medical Assistance Recipients - Prescription Drugs, General Assistance Medical Services, and NJ FamilyCare accounts shall be conditioned upon the following provision: each prescription order for protein nutritional supplements and specialized infant formulas dispensed shall be filled with the generic equivalent unless the prescription order states "Brand Medically Necessary" in the prescriber's own handwriting.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated to the Payments for Medical Assistance Recipients - Prescription Drugs account, the capitated dispensing fee payments to providers of pharmaceutical services for residents of nursing facilities shall be adjusted to reflect the reduced prescription volume disbursed by Medicaid as a primary payer since the implementation of the Medicare Part D program; provided that subject to the execution of a signed agreement by all affected long-term care pharmacies and the Division of Medical Assistance and Health Services and the payment by all affected long-term care pharmacies pursuant to such agreement, the capitated dispensing fee payments to providers of pharmaceutical services for residents of nursing facilities shall be modified and paid at the per diem equivalent of the retail pharmacy rate for the average number of prescriptions filled when Medicaid is the primary payer.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated to Payments for Medical Assistance Recipients - Prescription Drugs and General Assistance Medical Services, no payment shall be expended for drugs used for the treatment of erectile dysfunction, select cough/cold medications as defined by the Commissioner of Human Services, or cosmetic drugs including but not limited to: drugs used for baldness, weight loss, and purely cosmetic skin conditions.

Of the amount hereinabove appropriated for Payments for Medical Assistance Recipients - Outpatient Hospital, an amount not to exceed \$1,900,000 is allocated

for limited prenatal medical care for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

Of the amount hereinabove appropriated for Payments for Medical Assistance Recipients - Clinic Services, an amount not to exceed \$1,900,000 is allocated for limited prenatal medical care provided by clinics, or in the case of radiology and clinical laboratory services ordered by a clinic, for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

In accordance with the "Family Health Care Coverage Act," P.L.2005, c.156 (C.30:4J-8 et al.), rebates collected during the current fiscal year from the pharmaceutical manufacturing companies for prescription expenditures made to providers on behalf of General Assistance Medical Services clients are appropriated to NJ FamilyCare - Affordable and Accessible Health Coverage Benefits.

The amount hereinabove appropriated to Payments for Medical Assistance Recipients - Clinic Services shall be conditioned upon the following: notwithstanding the provisions of subsection (b) of N.J.A.C.10:60-5.3 and subsection (a) of N.J.A.C.10:60-5.4 to the contrary, a person receiving the maximum number of Early and Periodic Screening, Diagnosis and Treatment/Private Duty Nursing (EPSDT/PDN) services, that is, 16 hours in any 24-hour period, may be authorized to receive additional PDN hours if private health insurance is available to cover the cost of the additional hours and appropriate medical documentation is provided that indicates that additional PDN hours are required and that the primary caregiver is not qualified to provide the additional PDN hours.

Notwithstanding the provisions of subsection (a) of N.J.A.C.10:60-5.7 and subsection (e) of N.J.A.C.10:60-11.2 to the contrary, the amount hereinabove appropriated for Payments for Medical Assistance Recipients - Clinic Services is conditioned upon the Commissioner of Human Services increasing the hourly nursing rates for Early and Periodic Screening, Diagnosis and Treatment/Private Duty Nursing (EPSDT/PDN) services by \$10 per hour above the fiscal year 2008 rate.

The amount hereinabove appropriated for Payments for Medical Assistance Recipients - Other Services, NJ FamilyCare, and NJ KidCare may be used to pay financial rewards to individuals or entities who report instances of health care-related fraud and/or abuse involving the programs administered by DMAHS (including, but not limited to, the New Jersey Medicaid and NJ FamilyCare programs), or the Pharmaceutical Assistance to the Aged and Disabled (PAAD) or Work First New Jersey General Public Assistance programs. Rewards may be paid only when the reports result in a recovery by DMAHS, and only if other conditions established by DMAHS are met, and shall be limited to 10% of the recovery or \$1,000, whichever is less. Notwithstanding the provisions of any law or regulation to the contrary, but subject to any necessary federal approval and/or change in federal law, receipt of such rewards shall not affect an

applicant's individual financial eligibility for the programs administered by DMAHS, or for PAAD or Work First New Jersey General Public Assistance programs.

The amount hereinabove appropriated for Payments for Medical Assistance Recipients - Clinic Services, may be used to reimburse Federally Qualified Health Centers (FQHCs) the higher of their Medicaid PPS encounter rate or the fee-for-service rate for specified deliveries and ob/gyn surgeries for clients not enrolled in managed care. Reimbursement for surgical assistants shall be at the fee-or-service rate for clients not enrolled in managed care. Managed care organizations shall reimburse FQHCs for these services and the FQHCs shall be carved out of wraparound reimbursement for these services.

Notwithstanding the provisions of any law or regulation to the contrary, from the amount hereinabove appropriated for the Payments for Medical Assistance Recipients - Inpatient Hospital program, the Commissioner of Human Services shall establish a disease management program to improve the quality of care for beneficiaries of the Division of Medical Assistance and Health Services and reduce costs in the General Medical Services program.

Notwithstanding the provisions of any law or regulation to the contrary, no funds appropriated for the Medicaid program as hereinabove appropriated in the Payments for Medical Assistance Recipients - Prescription Drugs account are available to any pharmacy that does not agree to allow Medicaid to bill on its behalf any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), by participating in a billing agreement executed between the State and the pharmacy.

Notwithstanding the provisions of any law or regulation to the contrary, effective January 1, 2005, inpatient hospital reimbursements for Medical Assistance services for dually eligible individuals shall exclude Medicare Part A crossover payments according to a plan designed by the Commissioner of Human Services and approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, the amounts expended from Payments for Medical Assistance Recipients - Medical Supplies shall be conditioned upon the following: reimbursement for adult incontinence briefs and oxygen concentrators shall be set at 70% of reasonable and customary charges.

Notwithstanding the provisions of any law or regulation to the contrary, the appropriation in the Payments for Medical Assistance Recipients - Clinic Services, Payments for Medical Assistance Recipients - Physician Services, Payments for Medical Assistance Recipients - Medical Supplies and Payments for Medical Assistance Recipients - Other Services shall be conditioned upon the following provision: no funds shall be expended for partial care services, chiropractic services, medical supplies except those sold in a pharmacy, or podiatry services to any provider who was not a Medicaid/NJ FamilyCare approved provider of partial care services, chiropractic services, medical supplies except those sold in a pharmacy, or podiatry services, respectively, prior to July 1, 2006 with the

exception of new providers whose services are deemed necessary to meet special needs by the Division of Medical Assistance and Health Services.

Notwithstanding the provisions of any State law or regulation to the contrary, effective July 1, 2009, no payments for partial care services in mental health clinics, as hereinabove appropriated in Payments for Medical Assistance Recipients - Clinic Services shall be provided unless the services are prior authorized by professional staff designated by the Department of Human Services.

Notwithstanding the provisions of any law or regulation to the contrary, the appropriation hereinabove for Payments for Medical Assistance Recipients - Outpatient Hospital shall be conditioned upon the following provision: certifications shall not be granted for new or relocating offsite hospital-based entities in accordance with N.J.A.C.10:52-1.3 with the exception of providers whose services are deemed necessary to meet special needs by the Division of Medical Assistance and Health Services.

The amounts hereinabove appropriated for the General Medical Services program classification are conditioned upon the Commissioner of Human Services making changes to such programs to make them consistent with the federal Deficit Reduction Act of 2005.

Notwithstanding the provisions of any law or regulation to the contrary, all financial recoveries obtained through the efforts of any entity authorized to undertake the prevention and detection of Medicaid fraud, waste and abuse, are appropriated to General Medical Services in the Division of Medical Assistance and Health Services.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Division of Medical Assistance and Health Services to fund the costs of enhanced audit recovery efforts of the division within the General Medical Services program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection d. of section 5 of P.L.2005, c.156 (C.30:4J-12) or any other law or regulation to the contrary, the appropriations hereinabove for Medicaid and NJ FamilyCare are subject to the following condition: the Department of Human Services may determine eligibility for the Medicaid and NJ FamilyCare programs by verifying income through any means authorized by the Children's Health Insurance Program Reauthorization Act of 2009, Pub.L. 111-3, including through electronic matching of data files provided that any consents if required under State or federal law for such matching are obtained.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated in Managed Care Initiative, Payments for Medical Assistance Recipients - Dental Services, and NJ FamilyCare - Affordable and Accessible Health Coverage Benefits, comprehensive orthodontic treatment benefits for Plan A children under the age of 21 and Plan B, C and D children under the age of 19 shall be limited to the correction of handicapping malocclusion, trauma or disease resulting in functional difficulties in speech

and mastication, cleft palate and lip and/or craniofacial anomalies and deformities, and services required by federal law. Malposed teeth having a profound effect on the child's psychological development, if extreme, may at the discretion of the Division of Medical Assistance and Health Services in individual cases be considered handicapping.

Notwithstanding the provisions of any other law or regulation to the contrary, and subject to any federal approval that may be necessary, the amounts hereinabove appropriated in the Managed Care Initiative account are subject to the following condition: Effective July 1, 2011, assuming receipt of any applicable federal approval, the following services, which were previously covered by Medicaid fee-for-service, shall be covered and provided instead through a managed care delivery system for all clients served by and/or enrolled in that system: 1) home health agency services; 2) medical day care, including both adult day health services and pediatric medical day care; 3) prescription drugs; and 4) rehabilitation services, including occupational, physical, and speech therapies. The above condition shall be effective for personal care assistant services.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated to Payments for Medical Assistance Recipients - Inpatient Hospital, effective January 1, 2012, the Medicaid Inpatient Fee-For-Service payment rates will not be adjusted to incorporate the annual excluded hospital inflation factor, also referred to as the economic factor recognized under the Centers for Medicare and Medicaid Services TEFRA target limitations.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated to NJ FamilyCare - Affordable and Accessible Health Coverage Benefits are subject to the following conditions:

- (a) as of August 1, 2011, or at such later date as shall be determined by the commissioner as needed to administratively effectuate these requirements, enrollment of parents who were enrolled in the New Jersey Health ACCESS program on October 31, 2001, and are currently enrolled in the NJ FamilyCare program, shall be terminated and there shall be no future enrollments of such persons in the NJ FamilyCare program;
- (b) as of August 1, 2011, or at such later date as shall be determined by the commissioner as needed to administratively effectuate these requirements, enrollment of single adults or couples without dependent children who were enrolled in the New Jersey Health ACCESS program on October 31, 2001, and who are currently enrolled in the NJ FamilyCare program shall be terminated and there shall be no future enrollments of such persons in the NJ FamilyCare program;
- (c) as of July 1, 2011, all parents or caretakers whose applications to enroll in the NJ FamilyCare program were received on or after March 1, 2010: (i) whose gross family income does not exceed 200% of the poverty level; (ii) who have no health insurance, as determined by the Commissioner of Human Services; and (iii) who are ineligible for Medicaid shall not be eligible for enroll-

ment in the NJ FamilyCare program and there shall be no future enrollments of such persons in the NJ FamilyCare program; and

(d) as of July 1, 2011, any adult alien lawfully admitted for permanent residence, but who has lived in the United States for less than five full years after such lawful admittance and whose enrollment in the NJ FamilyCare program was terminated on or before July 1, 2010 shall not be eligible to be enrolled in the NJ FamilyCare program, provided, however, that this termination of enrollment and benefits shall not apply to such persons who are either (i) pregnant or (ii) under the age of 19.

Notwithstanding the provisions of any other law or regulation to the contrary, and subject to any federal approval that may be necessary, the amounts hereinabove appropriated in the Managed Care Initiative account are subject to the following condition: only the following individuals shall be excluded from mandatory enrollment in the Medicaid/NJ FamilyCare managed care program: 1) individuals who are institutionalized in an inpatient psychiatric institution, a long-term care nursing facility, or an inpatient psychiatric program for children under the age of 21 or in a residential facility including facilities characterized by the federal government as ICFs/MR, except that individuals who are eligible through DYFS and are placed in a DYFS non-Joint Committee on Accreditation of Healthcare Organizations (JCAHO) accredited children's residential care facility and individuals in a mental health or substance abuse residential treatment facility shall not be excluded from enrollment pursuant to this paragraph; 2) individuals in out-of-State placements; 3) special low-income Medicare beneficiaries (SLMBs); and 4) individuals in the Program of All-Inclusive Care for the Elderly (PACE) program.

Notwithstanding the provisions of any law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205 where applicable, the amounts hereinabove appropriated for fee-for-service prescription drugs in the Payments for Medical Assistance Recipients - Prescription Drugs or General Assistance Medical Services account are subject to the following conditions: (1) through August 31, 2011 (a) reimbursement for the cost of all legend and non-legend drugs shall be calculated based on the lowest of: (i) the Average Wholesale Price less a volume discount not to exceed 17.5% as shall be determined by the Commissioner of Human Services and the Director of the Division of Budget and Accounting; or (ii) the federal upper limit (FUL); or (iii) the State upper limit (SUL); or (iv) a pharmacy's usual and customary charge; and (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$3.99 shall remain in effect through August 31, 2011; (2) on or after September 1, 2011 (a) drug cost for all legend and non-legend single source, brand-name multi-source, and multi-source drugs shall be calculated based upon, in the discretion of the commissioner: (i) cost acquisition data submitted by providers, suppliers, and/or wholesalers of pharmaceutical services for single source, brand-name multi-source, and multi-source drugs; or (ii) the wholesale acquisition cost (WAC) less a one percent volume discount for single-source and

multi-source brand-name drugs; or (iii) the lesser of the SUL or FUL for multi-source drugs; (3) on or after September 1, 2011, drug reimbursement shall be calculated, in the discretion of the commissioner, based on either: (i) the lesser of the acquisition data from providers, suppliers and/or wholesalers for single source, brand-name multi-source, and multi-source drugs plus a professional fee or a provider's usual and customary charge; or (ii) the lesser of WAC less one percent plus a dispensing fee of \$3.73 to \$3.99 for single-source and multi-source brand-name drugs or a provider's usual and customary charge; or (iii) the lesser of SUL or FUL plus \$3.73 to \$3.99 for multi-source drugs or a provider's usual and customary charge. In the absence of acquisition data on or after September 1, 2011, reimbursement shall be based on the lesser of 3.ii or 3.iii above. To effectuate the purposes of this paragraph, which is intended to be budget neutral, the Department of Human Services shall mandate ongoing submission of current drug acquisition data by providers, suppliers, and/or wholesalers of pharmaceutical services for reimbursement of dispensing or administering single source, brand-name multi-source, and multi-source drugs, and no funds hereinabove appropriated shall be paid to any entity that fails to submit required data.

The amount hereinabove appropriated for payments for Medical Assistance Recipients - Prescription Drugs and General Assistance Medical Services accounts is available to pay supplemental pharmacy payments to pharmacies in recognition of reduced claim payments for prescription drugs impacted by the First Data Bank Average Wholesale Price settlement, using drug utilization information and calculations to determine supplemental payments reflecting the differences in reimbursement resulting from the settlement.

Premiums received from families enrolled in the NJ FamilyCare program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) are appropriated for NJ FamilyCare payments.

### ***27 Disability Services***

#### ***7545 Division of Disability Services***

#### **DIRECT STATE SERVICES**

|                                            |                    |
|--------------------------------------------|--------------------|
| 27-7545 Disability Services.....           | <u>\$1,333,000</u> |
| Total Direct State Services Appropriation, |                    |
| Division of Disability Services.....       | <u>\$1,333,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$1,163,000) |
| Materials and Supplies.....        | (4,000)       |
| Services Other Than Personal.....  | (157,000)     |
| Maintenance and Fixed Charges..... | (9,000)       |

#### **GRANTS-IN-AID**

|                                  |                      |
|----------------------------------|----------------------|
| 27-7545 Disability Services..... | <u>\$194,872,000</u> |
|----------------------------------|----------------------|

|                                                |                      |
|------------------------------------------------|----------------------|
| <i>(From General Fund.....</i>                 | <i>\$96,931,000)</i> |
| <i>(From Casino Revenue Fund.....</i>          | <i>97,941,000)</i>   |
| Total Grants-in-Aid Appropriation, Division of |                      |
| Disability Services.....                       | <u>\$194,872,000</u> |
| <i>(From General Fund.....</i>                 | <i>\$96,931,000)</i> |
| <i>(From Casino Revenue Fund.....</i>          | <i>97,941,000)</i>   |
| Total State Appropriation, Division of         |                      |
| Disability Services.....                       | <u>\$194,872,000</u> |
| <i>(From General Fund.....</i>                 | <i>\$96,931,000)</i> |
| <i>(From Casino Revenue Fund.....</i>          | <i>97,941,000)</i>   |
| <b>Grants-in-Aid:</b>                          |                      |
| 27 Personal Assistance Services Program .....  | (\$7,383,000)        |
| 27 Personal Assistance Services                |                      |
| Program (CRF).....                             | (3,734,000)          |
| 27 Community Supports to Allow                 |                      |
| Discharge from Nursing Homes .....             | (2,000,000)          |
| 27 Payments for Medical Assistance             |                      |
| Recipients - Personal Care.....                | (80,675,000)         |
| 27 Payments for Medical Assistance             |                      |
| Recipients - Personal Care (CRF) .....         | (77,705,000)         |
| 27 Payments for Medical Assistance             |                      |
| Recipients - Waiver Initiatives .....          | (5,702,000)          |
| 27 Payments for Medical Assistance             |                      |
| Recipients - Waiver Initiatives (CRF) .....    | (16,502,000)         |
| 27 Payments for Medical Assistance             |                      |
| Recipients - Other Services .....              | (1,171,000)          |

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from Payments for Medical Assistance Recipients - Adult Mental Health Residential and Payments for Medical Assistance Recipients - Other Services accounts within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients - Personal Care and the Payments for Medical Assistance Recipients - Other Services accounts in the Division of Disability Services in the Department of Human Services. Amounts may also be transferred to and from various items of appropriations within the General Medical Services program classification of the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in the Division of Aging and Community Services in the Department of Health and Senior Services. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law or regulation to the contrary, and subject to the notice provisions of 42 CFR 447.205, of the amount hereinabove appropriated for Payments for Medical Assistance Recipients - Personal Care, personal care assistant services shall be authorized prior to the beginning of services by the Director of the Division of Disability Services. The hourly rate for fee-for-service personal care services shall not exceed \$15.50.

**30 Educational, Cultural, and Intellectual Development**

**32 Operation and Support of Educational Institutions**

**DIRECT STATE SERVICES**

|                                                          |                      |
|----------------------------------------------------------|----------------------|
| 05-7610 Residential Care and Habilitation Services ..... | \$441,842,000        |
| (From General Fund.....)                                 | \$113,624,000        |
| (From Federal Funds.....)                                | 328,218,000          |
| 99-7610 Administration and Support Services .....        | <u>41,145,000</u>    |
| (From General Fund.....)                                 | 14,563,000           |
| (From Federal Funds.....)                                | 26,582,000           |
| Total Appropriation, State and Federal Funds.....        | <u>\$482,987,000</u> |
| (From General Fund.....)                                 | \$128,187,000        |
| (From Federal Funds.....)                                | 354,800,000          |

**Less:**

|                                                                                                       |                      |
|-------------------------------------------------------------------------------------------------------|----------------------|
| Federal Funds .....                                                                                   | \$354,800,000        |
| Total Deductions.....                                                                                 | <u>\$354,800,000</u> |
| Total Direct State Services Appropriation, Operation<br>and Support of Educational Institutions ..... | <u>28,187,000</u>    |

**Direct State Services:**

Personal Services:

|                                    |                 |
|------------------------------------|-----------------|
| Salaries and Wages.....            | (\$441,414,000) |
| Materials and Supplies.....        | (24,083,000)    |
| Services Other Than Personal.....  | (13,556,000)    |
| Maintenance and Fixed Charges..... | (3,258,000)     |

Special Purpose:

|                                             |           |
|---------------------------------------------|-----------|
| 05 Family Care .....                        | (6,000)   |
| Additions, Improvements and Equipment ..... | (670,000) |

**Less:**

|                     |             |
|---------------------|-------------|
| Federal Funds ..... | 354,800,000 |
|---------------------|-------------|

The State appropriation for the State's developmental centers is based on ICF/MR revenues of \$345,584,000 provided that if the ICF/MR revenues exceed \$345,584,000, an amount equal to the excess ICF/MR revenues may be deducted from the State appropriation for the developmental centers, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Operation and Support of Educational Institutions of the Division of Developmental Disabilities, such other sums provided in Interdepartmental accounts for Employee Benefits, as the Director of the Division of Budget and Accounting shall determine, are

considered as appropriated on behalf of the developmental centers and are available for matching federal funds.

An amount not to exceed \$60,000 from receipts from individuals for whom the Division of Developmental Disabilities in the Department of Human Services collects contribution to care reimbursements is appropriated for participation in the Senior Companions program.

**7600 Division of Developmental Disabilities**

**DIRECT STATE SERVICES**

|                                                                                            |                           |
|--------------------------------------------------------------------------------------------|---------------------------|
| 99-7600 Administration and Support Services .....                                          | <u>\$12,423,000</u>       |
| <i>(From General Fund .....</i>                                                            | <i>\$4,223,000)</i>       |
| <i>(From Federal Funds .....</i>                                                           | <i>8,200,000)</i>         |
| Total Appropriation, State and Federal Funds .....                                         | <u>\$12,423,000</u>       |
| <i>(From General Fund .....</i>                                                            | <i>\$4,223,000)</i>       |
| <i>(From Federal Funds .....</i>                                                           | <i>8,200,000)</i>         |
| <b>Less:</b>                                                                               |                           |
| <i>Federal Funds .....</i>                                                                 | <i>\$8,200,000</i>        |
| <b>Total Deductions .....</b>                                                              | <b><u>\$8,200,000</u></b> |
| Total Direct State Services Appropriation,<br>Division of Developmental Disabilities ..... | <u>\$4,223,000</u>        |

**Direct State Services:**

Personal Services:

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$11,692,000) |
| Materials and Supplies .....        | (64,000)       |
| Services Other Than Personal .....  | (237,000)      |
| Maintenance and Fixed Charges ..... | (99,000)       |

Special Purpose:

|                                             |           |
|---------------------------------------------|-----------|
| 99 Developmental Disabilities Council ..... | (306,000) |
| Additions, Improvements and Equipment ..... | (25,000)  |

**Less:**

|                            |                  |
|----------------------------|------------------|
| <i>Federal Funds .....</i> | <i>8,200,000</i> |
|----------------------------|------------------|

**GRANTS-IN-AID**

|                                                                                    |                  |
|------------------------------------------------------------------------------------|------------------|
| 99-7600 Administration and Support Services .....                                  | <u>\$573,000</u> |
| Total Grants-in-Aid Appropriation, Division<br>of Developmental Disabilities ..... | <u>\$573,000</u> |

**Grants-in-Aid:**

|                                                                 |             |
|-----------------------------------------------------------------|-------------|
| 99 Office for Prevention of Developmental<br>Disabilities ..... | (\$573,000) |
|-----------------------------------------------------------------|-------------|

**7601 Community Programs**

**DIRECT STATE SERVICES**

|                                          |                    |
|------------------------------------------|--------------------|
| 01-7601 Purchased Residential Care ..... | <u>\$4,438,000</u> |
|------------------------------------------|--------------------|

|                               |                                                   |                            |
|-------------------------------|---------------------------------------------------|----------------------------|
|                               | <i>(From General Fund.....</i>                    | <i>\$1,048,000)</i>        |
|                               | <i>(From Federal Funds.....</i>                   | <i>3,390,000)</i>          |
| 02-7601                       | Social Supervision and Consultation.....          | 32,033,000                 |
|                               | <i>(From General Fund.....</i>                    | <i>2,923,000)</i>          |
|                               | <i>(From Federal Funds.....</i>                   | <i>29,110,000)</i>         |
| 03-7601                       | Adult Activities .....                            | 2,644,000                  |
|                               | <i>(From General Fund.....</i>                    | <i>1,429,000)</i>          |
|                               | <i>(From Federal Funds.....</i>                   | <i>1,215,000)</i>          |
|                               | Total Appropriation, State and Federal Funds..... | <u>\$39,115,000</u>        |
|                               | <i>(From General Fund.....</i>                    | <i>\$5,400,000)</i>        |
|                               | <i>(From Federal Funds.....</i>                   | <i>33,715,000)</i>         |
| <b>Less:</b>                  |                                                   |                            |
|                               | <i>Federal Funds .....</i>                        | <i>\$33,715,000</i>        |
|                               | <i>Total Deductions.....</i>                      | <i><u>\$33,715,000</u></i> |
|                               | Total Direct State Services Appropriation,        |                            |
|                               | Community Programs .....                          | <u>\$5,400,000</u>         |
| <b>Direct State Services:</b> |                                                   |                            |
| Personal Services:            |                                                   |                            |
|                               | Salaries and Wages.....                           | (\$36,637,000)             |
|                               | Materials and Supplies.....                       | (76,000)                   |
|                               | Services Other Than Personal.....                 | (681,000)                  |
|                               | Maintenance and Fixed Charges.....                | (464,000)                  |
|                               | Additions, Improvements and Equipment .....       | (1,257,000)                |
| <b>Less:</b>                  |                                                   |                            |
|                               | <i>Federal Funds .....</i>                        | <i>33,715,000</i>          |

**GRANTS-IN-AID**

|         |                                                              |                       |
|---------|--------------------------------------------------------------|-----------------------|
| 01-7601 | Purchased Residential Care .....                             | \$740,435,000         |
|         | <i>(From General Fund.....</i>                               | <i>\$408,005,000)</i> |
|         | <i>(From Casino Revenue Fund.....</i>                        | <i>22,934,000)</i>    |
|         | <i>(From Federal Funds.....</i>                              | <i>257,439,000)</i>   |
|         | <i>(From All Other Funds .....</i>                           | <i>52,057,000)</i>    |
| 02-7601 | Social Supervision and Consultation.....                     | 71,962,000            |
|         | <i>(From General Fund.....</i>                               | <i>46,385,000)</i>    |
|         | <i>(From Casino Revenue Fund.....</i>                        | <i>2,208,000)</i>     |
|         | <i>(From Federal Funds.....</i>                              | <i>23,369,000)</i>    |
| 03-7601 | Adult Activities .....                                       | <u>176,386,000</u>    |
|         | <i>(From General Fund.....</i>                               | <i>118,078,000)</i>   |
|         | <i>(From Casino Revenue Fund.....</i>                        | <i>7,374,000)</i>     |
|         | <i>(From Federal Funds.....</i>                              | <i>50,934,000)</i>    |
|         | Total Appropriation, State, Federal and All Other Funds..... | <u>\$988,783,000</u>  |
|         | <i>(From General Fund.....</i>                               | <i>\$572,468,000)</i> |
|         | <i>(From Casino Revenue Fund.....</i>                        | <i>32,516,000)</i>    |
|         | <i>(From Federal Funds.....</i>                              | <i>331,742,000)</i>   |

|                                                                                              |                       |                             |
|----------------------------------------------------------------------------------------------|-----------------------|-----------------------------|
| <i>(From All Other Funds .....</i>                                                           |                       | <i>52,057,000)</i>          |
| <i>Less:</i>                                                                                 |                       |                             |
| <i>Federal Funds.....</i>                                                                    | <i>\$331,742,000</i>  |                             |
| <i>All Other Funds .....</i>                                                                 | <i>52,057,000</i>     |                             |
| <i>Total Deductions.....</i>                                                                 |                       | <i><u>\$383,799,000</u></i> |
| Total Grants-in-Aid Appropriation, Community Programs.....                                   |                       | <u>\$604,984,000</u>        |
| <i>(From General Fund.....</i>                                                               | <i>\$572,468,000)</i> |                             |
| <i>(From Casino Revenue Fund.....</i>                                                        | <i>32,516,000)</i>    |                             |
| <i>Grants-in-Aid:</i>                                                                        |                       |                             |
| 01 Supervised Apartments.....                                                                | (\$87,235,000)        |                             |
| 01 Supported Living .....                                                                    | (24,816,000)          |                             |
| 01 Community Services Waiting List<br>Placements.....                                        | (16,824,000)          |                             |
| 01 Dental Program for Non-Institutionalized<br>Children.....                                 | (564,000)             |                             |
| 01 Private Residential Facilities .....                                                      | (10,163,000)          |                             |
| 01 Private Institutional Care .....                                                          | (51,363,000)          |                             |
| 01 Private Institutional Care (CRF).....                                                     | (1,311,000)           |                             |
| 01 Skill Development Homes .....                                                             | (21,908,000)          |                             |
| 01 Skill Development Homes (CRF).....                                                        | (1,269,000)           |                             |
| 01 Group Homes.....                                                                          | (416,034,000)         |                             |
| 01 Group Homes (CRF) .....                                                                   | (20,354,000)          |                             |
| 01 Olmstead Residential Services .....                                                       | (62,711,000)          |                             |
| 01 Emergency Placements.....                                                                 | (25,883,000)          |                             |
| 02 Addressing the Needs of the Autism<br>Community.....                                      | (4,000,000)           |                             |
| 02 Essex ARC - Expanded Respite Care<br>Services for Families with Autistic<br>Children..... | (75,000)              |                             |
| 02 Autism Respite Care .....                                                                 | (1,000,000)           |                             |
| 02 Developmental Disabilities Council .....                                                  | (1,183,000)           |                             |
| 02 Home Assistance .....                                                                     | (37,406,000)          |                             |
| 02 Home Assistance (CRF) .....                                                               | (1,657,000)           |                             |
| 02 Purchase of After School and<br>Camp Services .....                                       | (1,339,000)           |                             |
| 02 Purchase of After School and<br>Camp Services (CRF).....                                  | (551,000)             |                             |
| 02 Real Life Choices .....                                                                   | (20,680,000)          |                             |
| 02 Social Services.....                                                                      | (3,600,000)           |                             |
| 02 Case Management.....                                                                      | (471,000)             |                             |
| 03 Purchase of Adult Activity Services .....                                                 | (163,126,000)         |                             |
| 03 Purchase of Adult Activity<br>Services (CRF) .....                                        | (7,374,000)           |                             |
| 03 Day Program Age Outs.....                                                                 | (5,886,000)           |                             |

**Less:****Federal Funds ..... 331,742,000****All Other Funds..... 52,057,000**

Notwithstanding the provisions of Title 30 of the Revised Statutes or any other law or regulation to the contrary, the Assistant Commissioner of the Division of Developmental Disabilities is authorized to waive statutory, regulatory, or licensing requirements in the use of funds appropriated hereinabove for the operation of the self-determination program including participants from the Community Services Waiting List Reduction Initiatives - FY1997 through FY2002, subject to the approval of a plan by the Assistant Commissioner of the Division of Developmental Disabilities, which allowed an individual to be removed from the waiting list. This waiver also applies to those persons identified as part of the Community Transition Initiative -FY2001 and FY2002, and the Community Nursing Care Initiative - FY2002, who chose self-determination.

Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to State Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan to be submitted by the Commissioner of Human Services. Notwithstanding the provisions of any law or regulation to the contrary, only the federal share of funds anticipated from these assessments shall be available to the Department of Human Services for the purposes set forth in P.L.1998, c.40 (C.30:6D-43 et seq.).

Notwithstanding the provisions of any law or regulation to the contrary, \$353,425,000 of federal Community Care Waiver funds is appropriated for community-based programs in the Division of Developmental Disabilities. The appropriation of federal Community Care Waiver funds above this amount is conditional upon the approval of a plan submitted by the Department of Human Services that must be approved by the Director of the Division of Budget and Accounting.

In order to permit flexibility in the handling of appropriations and assure timely payment to service providers, funds may be transferred within the Grants-in-Aid accounts within the Division of Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from consumers with developmental disabilities collected during the current fiscal year, not to exceed \$52,057,000, are appropriated for the continued operation of the Division of Developmental Disabilities community-based residential programs, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts required to return persons with developmental disabilities presently residing in out-of-State institutions to community residences within the State may be transferred from the Private Institutional Care account to other Casino Revenue Fund Grants-in-Aid accounts within the Division of Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting.

**33 Supplemental Education and Training Programs**  
**7560 Commission for the Blind and Visually Impaired**  
**DIRECT STATE SERVICES**

|                                                           |                     |
|-----------------------------------------------------------|---------------------|
| 11-7560 Services for the Blind and Visually Impaired..... | \$8,747,000         |
| 99-7560 Administration and Support Services .....         | <u>2,297,000</u>    |
| Total Direct State Services Appropriation, Commission     |                     |
| for the Blind and Visually Impaired .....                 | <u>\$11,044,000</u> |

***Direct State Services:***

Personal Services:

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$9,119,000) |
| Materials and Supplies .....        | (68,000)      |
| Services Other Than Personal .....  | (693,000)     |
| Maintenance and Fixed Charges ..... | (304,000)     |

Special Purpose:

|                                               |           |
|-----------------------------------------------|-----------|
| 11 Technology for the Visually Impaired ..... | (765,000) |
| Additions, Improvements and Equipment .....   | (95,000)  |

There is appropriated from funds recovered from audits or other collection activities, an amount sufficient to pay vendors' fees to compensate the recoveries and the administration of the State's vending machine program, subject to the approval of the Director of the Division of Budget and Accounting. Receipts in excess of \$130,000 are appropriated for the purpose of expanding vision screening services and other prevention services, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance at the end of the preceding fiscal year of such receipts is appropriated.

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any law or regulation to the contrary, local boards of education shall reimburse the Commission for the Blind and Visually Impaired for the documented costs of providing services to children who are classified as "educationally handicapped," provided however, each local board of education shall pay that portion of cost which the number of children classified "educationally handicapped" bears to the total number of such children served, provided further, however, that payments shall be made by each local board in accordance with a schedule adopted by the Commissioners of Education and Human Services, and further, the Director of the Division of Budget and Accounting is authorized to deduct such reimbursements from the State Aid payments to the local boards of education.

The unexpended balances at the end of the preceding fiscal year in the Technology for the Visually Impaired account are appropriated for the Commission for the Blind and Visually Impaired, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

|                                                                                            |                    |
|--------------------------------------------------------------------------------------------|--------------------|
| 11-7560 Services for the Blind and Visually Impaired.....                                  | <u>\$3,305,000</u> |
| Total Grants-in-Aid Appropriation, Commission for the<br>Blind and Visually Impaired ..... | <u>\$3,305,000</u> |

**Grants-in-Aid:**

|                                            |             |
|--------------------------------------------|-------------|
| 11 State Match for Federal Grants.....     | (\$617,000) |
| 11 Educational Services for Children.....  | (1,670,000) |
| 11 Services to Rehabilitation Clients..... | (1,018,000) |

**50 Economic Planning, Development, and Security****53 Economic Assistance and Security****7550 Division of Family Development****DIRECT STATE SERVICES**

|                                                   |                       |
|---------------------------------------------------|-----------------------|
| 15-7550 Income Maintenance Management.....        | <u>\$144,517,000</u>  |
| (From General Fund.....                           | <u>\$40,239,000</u> ) |
| (From Federal Funds.....                          | <u>104,278,000</u> )  |
| Total Appropriation, State and Federal Funds..... | <u>\$144,517,000</u>  |
| (From General Fund.....                           | <u>\$40,239,000</u> ) |
| (From Federal Funds.....                          | <u>104,278,000</u> )  |

**Less:**

|                                                                                    |                      |
|------------------------------------------------------------------------------------|----------------------|
| Federal Funds .....                                                                | <u>\$104,278,000</u> |
| Total Deductions.....                                                              | <u>\$104,278,000</u> |
| Total Direct State Services Appropriation,<br>Division of Family Development ..... | <u>\$40,239,000</u>  |

**Direct State Services:**

## Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$24,063,000) |
| Materials and Supplies.....        | (2,878,000)    |
| Services Other Than Personal.....  | (33,723,000)   |
| Maintenance and Fixed Charges..... | (3,639,000)    |

## Special Purpose:

|                                                             |              |
|-------------------------------------------------------------|--------------|
| 15 Electronic Benefit Transfer/Distribution<br>System ..... | (4,338,000)  |
| 15 Work First New Jersey - Technology<br>Investment .....   | (73,484,000) |
| Additions, Improvements and Equipment .....                 | (2,392,000)  |

**Less:**

|                     |                    |
|---------------------|--------------------|
| Federal Funds ..... | <u>104,278,000</u> |
|---------------------|--------------------|

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances at the end of the preceding fiscal year in accounts where expenditures are required to comply with Maintenance of Effort requirements

as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L. 104-193, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### GRANTS-IN-AID

|                                                              |                             |
|--------------------------------------------------------------|-----------------------------|
| 15-7550 Income Maintenance Management.....                   | \$458,285,000               |
| <i>(From General Fund.....</i>                               | <i>\$168,544,000)</i>       |
| <i>(From Federal Fund.....</i>                               | <i>258,741,000)</i>         |
| <i>(From All Other Funds .....</i>                           | <i>31,000,000)</i>          |
| Total Appropriation, State, Federal and All Other Funds..... | <u>\$458,285,000</u>        |
| <i>(From General Fund.....</i>                               | <i>\$168,544,000)</i>       |
| <i>(From Federal Funds.....</i>                              | <i>258,741,000)</i>         |
| <i>(From All Other Funds .....</i>                           | <i>31,000,000)</i>          |
| <b>Less:</b>                                                 |                             |
| <i>Federal Funds.....</i>                                    | <i>\$258,741,000</i>        |
| <i>All Other Funds .....</i>                                 | <i>31,000,000</i>           |
| <i>Total Deductions.....</i>                                 | <i><u>\$289,741,000</u></i> |
| Total Grants-in-Aid Appropriation, Division of               |                             |
| Family Development .....                                     | <u>\$168,544,000</u>        |

#### Grants-in-Aid:

|                                                |                |
|------------------------------------------------|----------------|
| 15 Work First New Jersey - Training            |                |
| Related Expenses.....                          | (\$16,440,000) |
| 15 Work First New Jersey Support               |                |
| Services .....                                 | (76,751,000)   |
| 15 Work First New Jersey - Breaking            |                |
| the Cycle.....                                 | (1,055,000)    |
| 15 Work First New Jersey - Child Care.....     | (305,163,000)  |
| 15 Kinship Care Initiatives .....              | (5,555,000)    |
| 15 Wage Supplement Program .....               | (1,989,000)    |
| 15 Kinship Care Guardianship and Subsidy ..... | (2,592,000)    |
| 15 Social Services for the Homeless.....       | (15,194,000)   |
| 15 SSI Attorney Fees.....                      | (2,914,000)    |
| 15 Substance Abuse Initiatives .....           | (30,632,000)   |

#### Less:

|                              |                    |
|------------------------------|--------------------|
| <i>Federal Funds.....</i>    | <i>258,741,000</i> |
| <i>All Other Funds .....</i> | <i>31,000,000</i>  |

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances at the end of the preceding fiscal year in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity

Reconciliation Act of 1996,” Pub.L. 104-193 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts appropriated for Work First New Jersey, amounts may be transferred to the various departments in accordance with the Division of Family Development’s agreements, subject to the approval of the Director of the Division of Budget and Accounting. Any unobligated balances remaining from funds transferred to the departments shall be transferred back to the Division of Family Development, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for the Income Maintenance Management program classification are subject to the following condition: the Commissioner of Human Services shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with quarterly reports, due within 60 days after the end of each quarter, containing written statistical and financial information on the Work First New Jersey program and any subsequent welfare reform program the State may undertake.

Notwithstanding any law or regulation to the contrary, in addition to the amounts hereinabove for Work First New Jersey Child Care, an amount not to exceed \$31,000,000 is appropriated from the Workforce Development Partnership Fund established pursuant to section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, no funds hereinabove appropriated for before-school, after-school, and summer "wrap around" child care shall be expended except in accordance with the following condition: Effective September 1, 2010, families with incomes between 101% and 250% of the federal poverty level who reside in districts who received Preschool Expansion Aid or Education Opportunity Aid in the 2007-2008 school year shall be subject to a copayment for "wrap around" child care, based upon a schedule approved by the Department of Human Services and published in the New Jersey Register, and effective September 1, 2010, families who reside in districts who received Preschool Expansion Aid or Education Opportunity Aid in the 2007-2008 school year must meet the eligibility requirements under the New Jersey Cares for Kids child care program (N.J.A.C.10:15-5.1 et seq.) in order to receive free or subsidized "wrap around" child care.

#### STATE AID

|                                                              |                       |
|--------------------------------------------------------------|-----------------------|
| 15-7550 Income Maintenance Management .....                  | <u>\$858,991,000</u>  |
| <i>(From General Fund.....</i>                               | <i>\$394,374,000)</i> |
| <i>(From Federal Funds.....</i>                              | <i>459,517,000)</i>   |
| <i>(From All Other Funds .....</i>                           | <i>5,100,000)</i>     |
| Total Appropriation, State, Federal and All Other Funds..... | <u>\$858,991,000</u>  |
| <i>(From General Fund.....</i>                               | <i>\$394,374,000)</i> |
| <i>(From Federal Funds.....</i>                              | <i>459,517,000)</i>   |

*(From All Other Funds ..... 5,100,000)*

**Less:**

**Federal Funds..... \$459,517,000**

**All Other Funds ..... 5,100,000**

**Total Deductions..... \$464,617,000**

Total State Aid Appropriation, Division of

Family Development ..... \$394,374,000

**State Aid:**

15 County Administration Funding ..... (\$273,491,000)

15 Work First New Jersey -

Client Benefits ..... (111,699,000)

15 Earned Income Tax Credit Program ..... (18,393,000)

15 General Assistance Emergency

Assistance Program ..... (81,740,000)

15 Payments for Cost of General

Assistance..... (98,861,000)

15 Work First New Jersey - Emergency

Assistance..... (112,395,000)

15 Payments for Supplemental Security

Income ..... (86,089,000)

15 State Supplemental Security Income

Administrative Fee to SSA ..... (21,966,000)

15 General Assistance County

Administration..... (29,678,000)

15 Food Stamp Administration - State ..... (24,225,000)

15 Fair Labor Standards Act - Minimum

Wage Requirements (TANF)..... (454,000)

**Less:**

**Federal Funds..... 459,517,000**

**All Other Funds ..... 5,100,000**

The net State share of reimbursements and the net balances remaining after full payment of sums due the federal government of all funds recovered under P.L.1997, c.38 (C.44:10-55 et seq.), and P.L.1950, c.166 (C.30:4B-1 et seq.), at the end of the preceding fiscal year are appropriated for the Work First New Jersey Program.

Receipts from State administered municipalities during the preceding fiscal year are appropriated for the same purpose.

Notwithstanding the provisions of any law or regulation to the contrary, the sums hereinabove appropriated for Income Maintenance Management are available for payment of obligations applicable to prior fiscal years.

The amounts hereinabove appropriated for Income Maintenance Management are conditioned upon the following provision: any change by the Department of Human Services in the standards upon which or from which grants of categori-

cal public assistance are determined, shall first be approved by the Director of the Division of Budget and Accounting.

In order to permit flexibility and ensure the timely payment of benefits to welfare recipients, amounts may be transferred between the various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law or regulation to the contrary, the Director of the Division of Budget and Accounting is authorized to withhold State Aid payments to municipalities to satisfy any obligations due and owing from audits of that municipality's General Assistance program.

The unexpended balances at the end of the preceding fiscal year in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L. 104-193, and in the Payments for Cost of General Assistance and General Assistance Emergency Assistance Program accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons receiving Old Age Assistance, Disability Assistance, and Assistance for the Blind under the Supplemental Security Income (SSI) program are appropriated for the purpose of providing State Aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated an amount equal to the difference between actual revenue loss reflected in the Earned Income Tax Credit program and the amount anticipated as the revenue loss from the Earned Income Tax Credit to meet federal Maintenance of Effort requirements to allow the Department of Human Services to comply with the Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L. 104-193, and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated, to the extent that federal child support incentive earnings are available, such additional sums are appropriated from federal child support incentive earnings to pay on behalf of individuals on whom is imposed a \$25 annual child support user fee, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amounts hereinabove appropriated for Work First New Jersey - Client Benefits and General Assistance-Emergency Assistance Programs, an amount not to exceed \$5,100,000 is appropriated from the Universal Service Fund for

utility payments for Work First New Jersey recipients, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, no funds hereinabove appropriated for Work First New Jersey - Client Benefits shall be expended for supplemental living support payments.

**50 Economic Planning, Development, and Security**

**55 Social Services Programs**

**7580 Division of the Deaf and Hard of Hearing**

**DIRECT STATE SERVICES**

|                                                                                             |                    |
|---------------------------------------------------------------------------------------------|--------------------|
| 23-7580 Services for the Deaf .....                                                         | <u>\$1,022,000</u> |
| Total Direct State Services Appropriation, Division of<br>the Deaf and Hard of Hearing..... | <u>\$1,022,000</u> |

**Direct State Services:**

Personal Services:

|                                     |             |
|-------------------------------------|-------------|
| Salaries and Wages .....            | (\$642,000) |
| Services Other Than Personal .....  | (40,000)    |
| Maintenance and Fixed Charges ..... | (1,000)     |

Special Purpose:

|                                       |           |
|---------------------------------------|-----------|
| 23 Services to Deaf Clients.....      | (284,000) |
| 23 Communication Access Services..... | (55,000)  |

**70 Government Direction, Management, and Control**

**76 Management and Administration**

**7500 Division of Management and Budget**

**DIRECT STATE SERVICES**

|                                                                                       |                     |
|---------------------------------------------------------------------------------------|---------------------|
| 96-7500 Institutional Security Services .....                                         | \$7,473,000         |
| 99-7500 Administration and Support Services .....                                     | <u>25,197,000</u>   |
| Total Direct State Services Appropriation, Division of<br>Management and Budget ..... | <u>\$32,670,000</u> |

**Direct State Services:**

Personal Services:

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$23,586,000) |
| Materials and Supplies .....        | (365,000)      |
| Services Other Than Personal .....  | (5,437,000)    |
| Maintenance and Fixed Charges ..... | (148,000)      |

Special Purpose:

|                                                                                              |             |
|----------------------------------------------------------------------------------------------|-------------|
| 99 Health Care Billing System .....                                                          | (95,000)    |
| 99 Transfer to State Police for Fingerprinting/<br>Background Checks of Job Applicants ..... | (1,633,000) |

|                                             |             |
|---------------------------------------------|-------------|
| Additions, Improvements and Equipment ..... | (1,406,000) |
|---------------------------------------------|-------------|

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for these

purposes; except that the total amount herein for these allowances shall not exceed \$750,000 and any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Revenues received from fees derived from the licensing of all community mental health programs as specified in N.J.A.C.10:190-1.1 et seq. are appropriated to the Division of Management and Budget to offset the costs of performing the required reviews.

#### **GRANTS-IN-AID**

99-7500 Administration and Support Services ..... \$8,831,000  
 Total Grants-in-Aid Appropriation, Division of  
 Management and Budget..... \$8,831,000

***Grants-in-Aid:***

99 United Way 2-1-1 System ..... (\$348,000)  
 99 Unit Dose Contracting Services ..... (4,307,000)  
 99 Consulting Pharmacy Services ..... (4,176,000)  
 Department of Human Services,  
 Total State Appropriation..... \$5,294,513,000

Of the amount hereinabove appropriated for the Department of Human Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Message and Recommendations first shall be charged to the State Lottery Fund.

Balances on hand at the end of the preceding fiscal year of funds held for the benefit of patients in the several institutions, and such funds as may be received, are appropriated for the use of the patients.

Funds received from the sale of articles made in occupational therapy departments of the several institutions are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated to the Department of Human Services shall be conditioned upon the following provision: any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Human Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, receipts from payments collected from clients receiving services from the Department of Human Services and collected from their chargeable relatives, are appropriated to offset administrative and contract expenses related to the charging, collecting, and accounting of payments from clients receiving services from the Department and from their chargeable relatives pursuant to R.S.30:1-12, subject to the approval of the Director of the Division of Budget and Accounting.

Payment to vendors for their efforts in maximizing federal revenues is appropriated and shall be paid from the federal revenues received, subject to the approval of

- the Director of the Division of Budget and Accounting. The unexpended balance at the end of the preceding fiscal year in this account is appropriated.
- Unexpended State balances may be transferred among Department of Human Services accounts in order to comply with the State Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L. 104-193, and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting. Notice of such transfers that would result in appropriations or expenditures exceeding the State's Maintenance of Effort requirement obligation shall be subject to the approval of the Joint Budget Oversight Committee. In addition, unobligated balances remaining from funds allocated to the Department of Labor and Workforce Development for Work First New Jersey as of June 1 of each year are to be reverted to the Work First New Jersey-Client Benefits account in order to comply with the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" and as legislatively required by the Work First New Jersey program.
- Notwithstanding the provisions of R.S.30:4-78, or any law or regulation to the contrary, with respect to the amount hereinabove appropriated for Support of Patients in County Psychiatric Hospitals, commencing January 1, 2010, the State shall pay to each county an amount equal to 35% of the total per capita costs for the reasonable cost of maintenance and clothing of county patients in State psychiatric facilities.
- Notwithstanding the provisions of any law or regulation to the contrary, the Department of Human Services is authorized to identify opportunities for increased recoveries to the General Fund and to the department. Such funds collected are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, in accordance with a plan prepared by the department, and approved by the Director of the Division of Budget and Accounting.
- The unexpended balances at the end of the preceding fiscal year due to opportunities for increased recoveries in the Department of Human Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. These recoveries may be transferred to the Division of Developmental Disabilities for operating costs in the developmental centers and to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Human Services Appropriations***  
**(For Display Purposes Only)**

***Appropriations by Category:***

|                            |               |
|----------------------------|---------------|
| Direct State Services..... | \$633,415,000 |
| Grants-in-Aid.....         | 4,135,065,000 |
| State Aid .....            | 526,033,000   |

***Appropriations by Fund:***

|                           |                 |
|---------------------------|-----------------|
| General Fund .....        | \$5,164,056,000 |
| Casino Revenue Fund ..... | 130,457,000     |

**62 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT*****50 Economic Planning, Development, and Security******51 Economic Planning and Development*****DIRECT STATE SERVICES**

|                                                                                       |                  |
|---------------------------------------------------------------------------------------|------------------|
| 99-4565 Administration and Support Services .....                                     | <u>\$715,000</u> |
| Total Direct State Services Appropriation, Economic<br>Planning and Development ..... | <u>\$715,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |             |
|-------------------------------------|-------------|
| Salaries and Wages .....            | (\$507,000) |
| Materials and Supplies .....        | (11,000)    |
| Services Other Than Personal .....  | (172,000)   |
| Maintenance and Fixed Charges ..... | (25,000)    |

Of the amount hereinabove appropriated for the Administration and Support Services program classification, \$538,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

In addition to the amount hereinabove appropriated for the Administration and Support Services program, an amount not to exceed \$550,000 is appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Administration and Support Services program, \$31,000 is payable out of the State Disability Benefits Fund and, in addition to the amount hereinabove appropriated for the Administration and Support Services program, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Department of Labor and Workforce Development to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), there is appropriated to the Department of Labor and Workforce Development from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting, such sums as are necessary to pay for employer rebate awards as approved by the Commissioner of the Department of Community Affairs.

**53 Economic Assistance and Security****DIRECT STATE SERVICES**

|                                                                                   |                     |
|-----------------------------------------------------------------------------------|---------------------|
| 03-4520 State Disability Insurance Plan.....                                      | \$31,838,000        |
| 04-4520 Private Disability Insurance Plan.....                                    | 4,819,000           |
| 05-4525 Workers' Compensation.....                                                | 13,183,000          |
| 06-4530 Special Compensation .....                                                | <u>1,862,000</u>    |
| Total Direct State Services Appropriation, Economic Assistance and Security ..... | <u>\$51,702,000</u> |

**Direct State Services:**

## Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$31,108,000) |
| Materials and Supplies.....        | (269,000)      |
| Services Other Than Personal.....  | (5,895,000)    |
| Maintenance and Fixed Charges..... | (3,137,000)    |

## Special Purpose:

|                                                                          |             |
|--------------------------------------------------------------------------|-------------|
| 03 State Disability Insurance Plan.....                                  | (300,000)   |
| 03 Reimbursement to Unemployment Insurance for Joint Tax Functions ..... | (5,500,000) |
| 04 Family Leave Insurance.....                                           | (5,040,000) |
| 04 Private Disability Insurance Plan.....                                | (50,000)    |
| 05 Workers' Compensation .....                                           | (363,000)   |
| 06 Special Compensation .....                                            | (40,000)    |

The amounts hereinabove appropriated for the State Disability Insurance Plan and Private Disability Insurance Plan are payable out of the State Disability Benefits Fund.

In addition to the amounts hereinabove appropriated for the State Disability Insurance Plan and Private Disability Insurance Plan, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to pay disability benefits, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for administrative costs associated with the State Disability Insurance Plan, there is appropriated from the State Disability Benefits Fund an amount not to exceed \$10,000,000, such amount to include \$1,000,000 for a reengineering study of the business process, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated for the State Disability Insurance Plan and the Private Disability Insurance Plan, there are appropriated from the State Disability Benefits Fund such additional sums as may be required to administer the Private Disability Insurance Plan.

In addition to the amounts hereinabove appropriated for the State Disability Insurance Plan, there are appropriated from the Family Temporary Disability Leave Account within the State Disability Benefits Fund such sums as may be required to pay benefits during periods of family temporary disability leave and

the associated administrative costs subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated for the Workers' Compensation program, there are appropriated receipts in excess of the amount anticipated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated for the Special Compensation program, there are appropriated receipts in excess of the amount anticipated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Special Compensation program shall be payable out of the Second Injury Fund and, notwithstanding the \$12,500 limitation set forth in R.S.34:15-95, in addition to the amounts hereinabove appropriated for the Special Compensation program, there are appropriated from the Second Injury Fund such additional sums as may be required for costs of administration and beneficiary payments.

There is appropriated out of the balance in the Second Injury Fund an amount not to exceed \$1,000,000 to be deposited to the credit of the Uninsured Employers Fund for the payment of benefits as determined in accordance with section 11 of P.L.1966, c.126 (C.34:15-120.2). Any amount so transferred shall be included in the next Uninsured Employers Fund surcharge imposed in accordance with section 10 of P.L.1966, c.126 (C.34:15-120.1) and any amount so transferred shall be returned to the Second Injury Fund without interest and shall be included in net assets of the Second Injury Fund pursuant to paragraph (4) of subsection c. of R.S.34:15-94.

Notwithstanding the provisions of any law or regulation to the contrary, the funds appropriated for Second Injury Fund benefits are available for the payment of obligations applicable to prior fiscal years.

Amounts to administer the Uninsured Employers Fund are appropriated from the Uninsured Employers Fund, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$150,000 for the cost of notifying unemployment compensation recipients of the availability of New Jersey Earned Income Tax Credit information, pursuant to P.L.2005, c.210 (C.43:21-4.2), is appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated, there is appropriated out of the Unemployment Compensation Auxiliary Fund, an amount not to exceed \$2,500,000 to support collection activities in the program as well as costs associated with certain State required notifications to Unemployment Insurance claimants, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to pay interest due on any advances made from the federal unemployment account under Title XII of the Social Security Act (42 U.S.C. 1321 et seq.) is hereby appropriated from the Unemployment Compensation Interest Repayment Fund established in the Department of Labor and Workforce Development subject to the approval of the Director of the Division of Budget and Accounting.

**54 Manpower and Employment Services**

**DIRECT STATE SERVICES**

|                                                                                      |                     |
|--------------------------------------------------------------------------------------|---------------------|
| 07-4535 Vocational Rehabilitation Services.....                                      | \$2,446,000         |
| 09-4545 Employment Services.....                                                     | 9,827,000           |
| 12-4550 Workplace Standards.....                                                     | 4,696,000           |
| 16-4555 Public Sector Labor Relations.....                                           | 3,408,000           |
| 17-4560 Private Sector Labor Relations.....                                          | <u>484,000</u>      |
| Total Direct State Services Appropriation, Manpower<br>and Employment Services ..... | <u>\$20,861,000</u> |

**Direct State Services:**

Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$15,694,000) |
| Materials and Supplies.....        | (38,000)       |
| Services Other Than Personal.....  | (240,000)      |
| Maintenance and Fixed Charges..... | (28,000)       |

Special Purpose:

|                                                           |             |
|-----------------------------------------------------------|-------------|
| 09 Workforce Development<br>Partnership Program .....     | (1,909,000) |
| 09 Workforce Development Partnership -<br>Counselors..... | (81,000)    |
| 09 Workforce Literacy and Basic<br>Skills Program .....   | (2,000,000) |
| 12 Worker and Community Right-to-<br>Know Act .....       | (38,000)    |
| 12 Public Employees Occupational Safety .....             | (378,000)   |
| 12 Public Works Contractor Registration .....             | (450,000)   |
| 12 Safety Commission.....                                 | (3,000)     |

Additions, Improvements and Equipment .....

Notwithstanding the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

The amount hereinabove appropriated for the Vocational Rehabilitation Services program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

The amounts hereinabove appropriated for the Workforce Development Partnership Program and Workforce Development Partnership - Counselors shall be appropriated from receipts received pursuant to P.L.1992, c.44 (C.34:15D-12 et seq.), together with such additional sums as may be required to administer the Workforce Development Partnership Program, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for the Workforce Literacy and Basic Skills Program shall be appropriated from receipts received pursuant to P.L.2001, c.152 (C.34:15D-21 et seq.), together with such additional sums as may be required to administer the Workforce Literacy Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Supplemental Workforce Fund for Basic Skills," P.L.2001, c.152 (C.34:15D-21 et seq.), or any law or regulation to the contrary, the unexpended balance at the end of the preceding fiscal year in the Supplemental Workforce Fund for Basic Skills is appropriated to such fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1992, c.44 (C.34:15D-12 et seq.), or any other law or regulation to the contrary, the unexpended balance at the end of the preceding fiscal year in the Workforce Development Partnership Fund is appropriated to such fund, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workplace Standards Program are appropriated for the same program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Public Works Contractor Registration Program and the unexpended balance at the end of the preceding fiscal year are appropriated for the Public Works Contractor Registration Program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Worker and Community Right To Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove appropriated for the Worker and Community Right To Know Act account is payable from the Worker and Community Right To Know Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

In addition to the amounts hereinabove appropriated for the Employment and Training Services program classification, an amount not to exceed \$50,000 is appropriated from the Unemployment Compensation Auxiliary Fund for costs incurred by the Disadvantaged Youth Employment Opportunities Council, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the Wage and Hour Trust Fund and the Prevailing Wage Act Trust Fund such sums as may be necessary for payments.

The amount hereinabove appropriated for the Private Sector Labor Relations program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

From the appropriation provided hereinabove in support of office leases, and notwithstanding the provisions of P.L.1992, c.130 (C.52:18A-191.1 et seq.), the State Treasurer, in consultation with the Commissioner of Labor and Workforce Development, is hereby authorized to enter into cost-sharing agreements with any authorized non-State partner that offers programs and activities supported primarily by federal funds from the United States Departments of Labor and Education in the State's one-stop centers for the purpose of co-locating such partner in an office with the Department of Labor and Workforce Development providing rent costs shall be equitably shared in accordance with a cost allocation plan approved by the Commissioner of Labor and Workforce Development.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amount hereinabove appropriated for the Council on Gender Parity, an amount not to exceed \$72,000 is appropriated from the Unemployment Compensation Auxiliary Fund for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

07-4535 Vocational Rehabilitation Services.....\$36,876,000

*(From General Fund..... \$34,680,000)*

*(From Casino Revenue Fund..... 2,196,000)*

10-4545 Employment and Training Services.....30,076,000

Total Grants-in-Aid Appropriation, Manpower and

Employment Services.....\$66,952,000

*(From General Fund..... \$64,756,000)*

*(From Casino Revenue Fund..... 2,196,000)*

#### **Grants-in-Aid:**

07 Vocational Rehabilitation Services.....(\$30,394,000)

07 Vocational Rehabilitation Services (CRF)....(2,196,000)

07 Services to Clients (State Share).....(4,286,000)

10 New Jersey Youth Corps .....(2,325,000)

10 Work First New Jersey Work Activities....(27,751,000)

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

Of the amount hereinabove appropriated for the Vocational Rehabilitation Services program classification, an amount not to exceed \$14,114,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amounts hereinabove appropriated for the Work First New Jersey Work Activities and Work First New Jersey - Training Related Expenses accounts, an amount not to exceed \$25,500,000 is appropriated from the Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated for Work First New Jersey Work Activities and Work First New Jersey - Training Related Expenses, \$8,190,000 is appropriated from the Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for Work First New Jersey Work Activities, an amount not to exceed 3% shall be made available for administrative costs incurred by the Department of Labor and Workforce Development.

Notwithstanding the provisions of any law or regulation to the contrary, of the amount hereinabove appropriated for New Jersey Youth Corps, \$1,850,000 is appropriated from the Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9) and an amount not to exceed 10% from all funds available to the program shall be made available for administrative costs incurred by the Department of Labor and Workforce Development.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amounts hereinabove appropriated for New Jersey Youth Corps, there is appropriated an amount not to exceed \$2,200,000 from the Supplemental Workforce Fund for Basic Skills, P.L.2001, c.152 (C.34:15D-21 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the New Jersey Youth Corps program, \$475,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

Notwithstanding the provisions of any law or regulation to the contrary, up to 15% of the amount available from the Workforce Development Partnership Fund for the Supplemental Workforce Development Benefits Program shall be appropriated as necessary to fund additional administrative costs relating to the processing and payment of benefits, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any law or regulation to the contrary, of the amount hereinabove appropriated for Vocational Rehabilitation Services, there is appropriated \$9,000,000 from the Workforce Development Partnership Fund.

## ***70 Government Direction, Management, and Control***

### ***74 General Government Services***

#### **DIRECT STATE SERVICES**

22-4575 General Administration and State

and Local Government Operations.....\$14,454,000

|                                                    |                     |
|----------------------------------------------------|---------------------|
| 24-4580 Commission Services .....                  | <u>2,046,000</u>    |
| Total Direct State Services Appropriation, General |                     |
| Government Services.....                           | <u>\$16,500,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |              |
|-------------------------------------|--------------|
| Civil Service Commission .....      | (\$10,000)   |
| Salaries and Wages .....            | (14,111,000) |
| Materials and Supplies .....        | (147,000)    |
| Services Other Than Personal .....  | (1,621,000)  |
| Maintenance and Fixed Charges ..... | (88,000)     |

**Special Purpose:**

|                                          |           |
|------------------------------------------|-----------|
| 22 Microfilm Service Charges .....       | (29,000)  |
| 22 Test Validation/Police Testing .....  | (434,000) |
| 22 Americans with Disabilities Act ..... | (60,000)  |

Receipts derived from fees charged to applicants for open competitive or promotional examinations, and the unexpended fee balance at the end of the preceding fiscal year, collected from firefighter and law enforcement examination receipts, are appropriated for the costs of administering these exams, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees charged for appeals to the Merit Systems Board are appropriated for the costs of administering the appeals process, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Labor and Workforce Development,

    Total State Appropriation ..... \$156,730,000

***Summary of Department of Labor and Workforce Development Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                             |              |
|-----------------------------|--------------|
| Direct State Services ..... | \$89,778,000 |
| Grants-in-Aid .....         | 66,952,000   |

***Appropriations by Fund:***

|                           |               |
|---------------------------|---------------|
| General Fund .....        | \$154,534,000 |
| Casino Revenue Fund ..... | 2,196,000     |

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY*****10 Public Safety and Criminal Justice******12 Law Enforcement*****DIRECT STATE SERVICES**

|                                                   |                      |
|---------------------------------------------------|----------------------|
| 06-1200 State Police Operations .....             | \$255,422,000        |
| 09-1020 Criminal Justice .....                    | 31,203,000           |
| 11-1050 State Medical Examiner .....              | 482,000              |
| 30-1460 Gaming Enforcement .....                  | 46,754,000           |
| ( <i>From Casino Control Fund .....</i>           | <i>\$46,754,000)</i> |
| 99-1200 Administration and Support Services ..... | <u>34,001,000</u>    |

Total Direct State Services Appropriation,  
 Law Enforcement .....\$367,862,000

*(From General Fund..... \$321,108,000)*

*(From Casino Control Fund..... 46,754,000)*

**Direct State Services:**

Personal Services:

Salaries and Wages.....(\$196,631,000)

Salaries and Wages (CCF).....(39,748,000)

Cash in Lieu of Maintenance.....(28,965,000)

Cash in Lieu of Maintenance (CCF).....(838,000)

*(From General Fund..... \$225,596,000)*

*(From Casino Control Fund..... 40,586,000)*

Materials and Supplies.....(11,799,000)

Materials and Supplies (CCF) .....(776,000)

Services Other Than Personal.....(6,492,000)

Services Other Than Personal (CCF).....(1,631,000)

Maintenance and Fixed Charges.....(4,424,000)

Maintenance and Fixed Charges (CCF).....(2,100,000)

Special Purpose:

06 Nuclear Emergency Response Program .....(1,591,000)

06 Drunk Driver Fund Program.....(350,000)

06 Camden Initiative .....(1,500,000)

06 Enhanced DNA Testing.....(450,000)

06 State Police DNA Laboratory

Enhancement .....(1,150,000)

06 Urban Search and Rescue .....(1,000,000)

06 Computer Aided Dispatch Maintenance.....(600,000)

06 Rural Section Policing .....(53,398,000)

09 Division of Criminal Justice - State Match.....(750,000)

09 Expenses of State Grand Jury .....(356,000)

09 Medicaid Fraud Investigation -

State Match.....(500,000)

30 Gaming Enforcement (CCF) .....(1,028,000)

99 Consent Decree Vehicles.....(260,000)

99 Hamilton TechPlex Maintenance .....(1,616,000)

99 Central Monitoring Station.....(274,000)

99 N.C.I.C. 2000 Project .....(2,000,000)

99 State Police Information Technology

Maintenance .....(2,000,000)

99 State Police Enhanced Systems and

Procedures.....(1,900,000)

Additions, Improvements and Equipment .....(3,102,000)

Additions, Improvements and Equipment (CCF) .....(633,000)

Notwithstanding the provisions of any law or regulation to the contrary, funds in excess of \$250,000 obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General.

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from the recovery of costs associated with the implementation of the "Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.), are appropriated for the purpose of offsetting the costs of the Division of Criminal Justice, and the unexpended balance at the end of the preceding fiscal year in the Criminal Justice Cost Recovery account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Victim and Witness Advocacy Fund account, together with receipts derived pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) is appropriated.

Such additional amounts as may be required to carry out the provisions of the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) are appropriated from the General Fund, provided however, that any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the requirements to act as Joint Negotiation Representatives under P.L.2001, c.371 (C.52:17B-196 et seq.) are appropriated to the Division of Criminal Justice to offset operating costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from license fees and/or audits conducted to insure compliance with the "Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.), are appropriated to defray the cost of this activity.

All fees and receipts collected, pursuant to paragraph (7) of subsection l. of N.J.S.2C:39-6, "The Retired Officer Handgun Permit Program," and the unexpended balance at the end of the preceding fiscal year, are appropriated to offset the costs of administering the application process, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Nuclear Emergency Response Program account is payable from receipts received pursuant to the assessment of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.). The unexpended balance at the end of the preceding fiscal year in the Nuclear Emergency Response Program account is appropriated for the same purpose.

The unexpended balance at the end of the preceding fiscal year in the Drunk Driver Fund program account, together with any receipts in excess of the amount anticipated, is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Drunk Driver Fund program is payable out of the Drunk Driver Enforcement Fund established pursuant to section 1 of P.L.1984, c.4 (C.39:4-50.8) designated for this purpose and any amount remaining therein. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of section 3 of P.L.1985, c.69 (C.53:1-20.7), the unexpended balance at the end of the preceding fiscal year, in the Noncriminal Record Checks account, together with any receipts in excess of the amount anticipated are appropriated for use of the Division of State Police, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for State Police Operations, such amounts as may be required for the purpose of offsetting costs of the provision of State Police services are appropriated from indirect cost recoveries received from the New Jersey Highway Authorities and other agencies, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived pursuant to the New Jersey Medical Service Helicopter Act, under subsection a. of section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the Medical Service Helicopter Response Program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.) and the general Aviation Program. The unexpended balance at the end of the preceding fiscal year is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of medevac and general aviation helicopter equipment and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting. Receipts derived pursuant to the New Jersey Medical Service Helicopter Response Act under section c. of section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police to fund the costs of new State Police recruit training classes. The unexpended balance at the end of the preceding fiscal year is appropriated for this purpose subject to the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, receipts and available balances pursuant to the New Jersey Emergency Medical Service Helicopter Response Act under subsection a. of section 1 of P.L.1992, c.87 (C.39:3-8.2), not to exceed \$4,900,000 are appropriated for State Police salaries, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, receipts and available balances pursuant to the New Jersey Emergency Medical Service Helicopter Response Act under subsection a. of section 1 of P.L.1992, c.87 (C.39:3-8.2), not to exceed \$8,000,000 are appropriated for State Police vehicles, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75) are appropriated to offset all reasonable and necessary expenses of the Division of State Police and Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts and available balances derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$8,205,000 for State Police salaries related to Statewide security services, are appropriated for those purposes and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

All fees, penalties and receipts collected, pursuant to the "Security Officers Registration Act," P.L.2004, c.134 (C.45:19A-1 et seq.) and the unexpended balance at the end of the preceding fiscal year, are appropriated to offset the costs of administering this process, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove appropriated to the Divisions of State Police and Criminal Justice and the Office of the State Medical Examiner, there are appropriated to the respective State departments and agencies such sums as may be received or receivable from any instrumentality, municipality, or public authority for direct and indirect costs of all services furnished thereto, except as to such costs for which funds have been included in appropriations otherwise made to the respective State departments and agencies as the Director of the Division of Budget and Accounting shall determine; provided however, that payments from such instrumentalities, municipalities, or authorities for employer contributions to the State Police and Public Employees' Retirement Systems shall be deposited into the General Fund.

There is appropriated, an amount up to \$25,000, from the General Fund, to pay for each award or each tip for information that prevents, frustrates, or favorably resolves acts of international or domestic terrorism against New Jersey persons or property, as well as tips related to the identification of illegal guns, drugs and gangs. Rewards may also be paid for information leading to the arrest or conviction of terrorists and/or gang members attempting, committing, conspiring to commit or aiding and abetting in the commission of such acts or to the identification or location of an individual who holds a key leadership position in a terrorist and/or gang organization, subject to the approval of the Attorney General and the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated to the Division of State Police, there shall be credited against such amounts such monies as are received by the Division of State Police pursuant to a Memorandum of Understanding between the Division of State Police and the New Jersey Schools Development Authority for services rendered by the Division of State Police in connection with the school construction program.

In addition to the amount hereinabove appropriated for the Drunk Driver Fund Program, there is appropriated \$612,000 from the Motor Vehicle Commission for the Drunk Driver Fund Program.

Notwithstanding the provisions of any other law or regulation to the contrary, none of the monies appropriated to the Division of State Police shall be used to provide police protection to the inhabitants of rural sections pursuant to R.S.53:2-1 in a municipality in which such services were not provided in the previous fiscal year or to expand such services in a municipality beyond the level at which such services were provided in the previous fiscal year.

Of the amounts hereinabove appropriated in the Rural Section Policing account, amounts may be transferred to salary and other operating accounts within the Division of State Police, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from the sale of a State Police helicopter are appropriated to the Division of State Police for the purposes of offsetting salary costs, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Gaming Enforcement, there are appropriated from the Casino Control Fund such additional sums as may be required for gaming enforcement, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                                          |                  |
|----------------------------------------------------------|------------------|
| 06-1200 State Police Operations .....                    | <u>\$265,000</u> |
| Total Grants-in-Aid Appropriation, Law Enforcement ..... | <u>\$265,000</u> |

#### ***Grants-in-Aid:***

06 Nuclear Emergency Response Program .....(\$265,000)

#### ***13 Special Law Enforcement Activities***

##### **DIRECT STATE SERVICES**

|                                                                                       |                    |
|---------------------------------------------------------------------------------------|--------------------|
| 03-1160 Office of Highway Traffic Safety.....                                         | \$598,000          |
| 17-1420 Election Law Enforcement .....                                                | 4,281,000          |
| 20-1450 Review and Enforcement of Ethical Standards .....                             | <u>1,024,000</u>   |
| Total Direct State Services Appropriation, Special<br>Law Enforcement Activities..... | <u>\$5,903,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$4,800,000) |
| Materials and Supplies.....        | (66,000)      |
| Services Other Than Personal.....  | (414,000)     |
| Maintenance and Fixed Charges..... | (10,000)      |

##### **Special Purpose:**

|                                                         |           |
|---------------------------------------------------------|-----------|
| 03 Federal Highway Safety Program -<br>State Match..... | (598,000) |
|---------------------------------------------------------|-----------|

**17 Per Diem Payment to Members of Election**

Law Enforcement Commission .....(15,000)

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1) or any law to the contrary, an amount not to exceed \$3,960,000 from receipts derived from fees and penalties collected by the Division of Alcoholic Beverage Control shall be deposited in the General Fund as State revenue.

From the receipts derived from uncashed pari-mutuel winning tickets and the regulation, supervision, licensing, and enforcement of all New Jersey Racing Commission activities and functions, such sums as may be required are appropriated for the purpose of offsetting the costs of the administration and operation of the New Jersey Racing Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from breakage monies and uncashed pari-mutuel winning tickets resulting from off-track and account wagering and any reimbursement assessment against permit holders or successors in interest to permit holders shall be distributed to the New Jersey Racing Commission in accordance with the provisions of the "Off Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

All fees, fines, and penalties collected pursuant to P.L.1973, c.83 (C.19:44A-1 et al.) and section 11 of P.L.1991, c.244 (C.52:13C-23.1) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, amounts received pursuant to P.L.1971, c.183 (C.52:13C-18 et seq.) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Of the receipts derived from the regulation, supervision, and licensing of all State Athletic Control Board activities and functions, an amount is appropriated for the purpose of offsetting the costs of the administration and operation of the State Athletic Control Board, subject to the approval of the Director of the Division of Budget and Accounting.

**18 Juvenile Services****DIRECT STATE SERVICES**

|                                            |                                                 |                      |
|--------------------------------------------|-------------------------------------------------|----------------------|
| 34-1500                                    | Juvenile Community Programs.....                | \$27,116,000         |
| 35-1505                                    | Institutional Control and Supervision .....     | 34,192,000           |
| 36-1505                                    | Institutional Care and Treatment .....          | 17,683,000           |
| 40-1500                                    | Juvenile Parole and Transitional Services ..... | 6,328,000            |
| 99-1500                                    | Administration and Support Services .....       | <u>15,349,000</u>    |
| Total Direct State Services Appropriation, |                                                 |                      |
|                                            | Juvenile Services .....                         | <u>\$100,668,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$77,271,000) |
| Food In Lieu of Cash .....          | (203,000)      |
| Materials and Supplies .....        | (7,334,000)    |
| Services Other Than Personal .....  | (11,167,000)   |
| Maintenance and Fixed Charges ..... | (1,760,000)    |

**Special Purpose:**

|                                                    |           |
|----------------------------------------------------|-----------|
| 34 Juvenile Justice Initiatives .....              | (745,000) |
| 34 Social Services Block Grant - State Match ..... | (42,000)  |
| 34 Female Substance Abuse Program .....            | (305,000) |
| 36 Secure Care Mental Health Program .....         | (503,000) |
| 99 Johnstone Facility Maintenance .....            | (687,000) |
| 99 Juvenile Justice - State Matching Funds .....   | (322,000) |
| 99 Custody and Civilian Staff Training .....       | (185,000) |

Additions, Improvements and Equipment ..... (144,000)

Receipts derived from the Eyeglass Program at the New Jersey Training School for Boys and any unexpended balance at the end of the preceding fiscal year are appropriated for the operation of the program.

**GRANTS-IN-AID**

|                                                            |                     |
|------------------------------------------------------------|---------------------|
| 34-1500 Juvenile Community Programs .....                  | <u>\$16,983,000</u> |
| Total Grants-in-Aid Appropriation, Juvenile Services ..... | <u>\$16,983,000</u> |

***Grants-in-Aid:***

|                                                          |               |
|----------------------------------------------------------|---------------|
| 34 Juvenile Detention Alternative Initiative .....       | (\$1,900,000) |
| 34 Alternatives to Juvenile Incarceration Programs ..... | (2,008,000)   |
| 34 Crisis Intervention Program .....                     | (4,292,000)   |
| 34 State/Community Partnership Grants .....              | (8,470,000)   |
| 34 Purchase of Services for Juvenile Offenders .....     | (313,000)     |

Of the amounts hereinabove appropriated for the Juvenile Detention Alternatives Initiative, such sums as may be required may be transferred to various Direct State Service operating accounts, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated in the various grant-in-aid accounts, the Juvenile Justice Commission shall assure that grant-in-aid recipients demonstrate cultural competency to serve clients within their respective communities and offer training opportunities in cultural competence to staff of community-based organizations the recipients may serve.

***19 Central Planning, Direction and Management***  
**DIRECT STATE SERVICES**

|                                                    |                     |
|----------------------------------------------------|---------------------|
| 13-1005 Homeland Security and Preparedness .....   | \$3,658,000         |
| 99-1000 Administration and Support Services .....  | <u>10,573,000</u>   |
| Total Direct State Services Appropriation, Central |                     |
| Planning, Direction and Management .....           | <u>\$14,231,000</u> |

***Direct State Services:***

## Personal Services:

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$8,239,000) |
| Materials and Supplies.....        | (74,000)      |
| Services Other Than Personal.....  | (60,000)      |
| Maintenance and Fixed Charges..... | (22,000)      |

## Special Purpose:

|                                                         |             |
|---------------------------------------------------------|-------------|
| 13 Office of Homeland Security and<br>Preparedness..... | (3,658,000) |
| 99 Emergency Operations Center -<br>Operating.....      | (2,157,000) |
| Additions, Improvements and Equipment .....             | (21,000)    |

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and the proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General.

The Attorney General shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with written reports on August 1, 2011 and February 1, 2012, of the use and disposition by State law enforcement agencies, including the offices of the county prosecutors, of any interest in property or money seized, or proceeds resulting from seized or forfeited property, and any interest or income earned thereon, arising from any State law enforcement agency involvement in a surveillance, investigation, arrest or prosecution involving offenses under N.J.S.2C:35-1 et seq. and N.J.S.2C:36-1 et seq. leading to such seizure or forfeiture. The reports shall specify for the preceding period of the fiscal year the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended, whether obtained directly or as contributive share, including but not limited to the use thereof for asset maintenance, forfeiture prosecution costs, costs of extinguishing any perfected security interest in seized property and the contributive share of property and proceeds of other participating local law enforcement agencies. The reports shall provide an itemized accounting of all proceeds expended and shall specify with particularity the nature and purpose of each such expenditure.

Penalties, fines, and other fees collected pursuant to N.J.S.2C:35-20 and deposited in the State Forensic Laboratory Fund, together with the unexpended balance at the end of the preceding fiscal year, are appropriated to defray additional labo-

ratory related administration and operational expenses of the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al., subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Office of Homeland Security and Preparedness is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$7,200,000, are appropriated for the Office of Homeland Security and Preparedness and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Office of Homeland Security and Preparedness, such additional sums as may be required are appropriated for the purposes of providing state matching funds for federal grants related to homeland security and such amounts may be transferred to other departments and State agencies for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

The unexpended balance at the end of the preceding fiscal year in the Capital for Homeland Security Critical Infrastructure account is appropriated and such amounts may be transferred to other departments and State agencies for any State and/or local homeland security purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law, regulation or Executive Order to the contrary, any purchase by the State or by a State agency or local government unit of equipment, goods or services related to homeland security and domestic preparedness, that is paid for or reimbursed by State funds appropriated in this fiscal year, to the Department of Law and Public Safety, for Homeland Security and Preparedness under program classification, may be made through the receipt of public bids or as an alternative to public bidding and subject to the provisions of this paragraph, through direct purchase without advertising for bids or rejecting bids already received but not awarded. Purchases made without public bidding shall be from vendors that shall either (1) be holders of a current State contract for the equipment, goods or services sought, or (2) be participating in a federal procurement program established by a federal department or agency, or (3) have been approved by the State Treasurer in consultation with the Director of the Office of Homeland Security and Preparedness. The equipment, goods or services purchased by a local government unit receiving such State funds by subgrant, shall be referred to in the grant agreement issued by the Office of Homeland Security and Preparedness and shall be authorized by resolution of the governing body of the local government unit entering into the grant agreement. Such resolution may, without subsequent action of the local governing body, simultaneously accept the grant from the State administrative

agency, authorize the insertion of the revenue and offsetting appropriation in the budget of the local government unit, and authorize the contracting agent of the local government unit to procure the equipment, goods or services. A copy of such resolution shall be filed with the chief financial officer of the local government unit and the Division of Local Government Services in the Department of Community Affairs.

**70 Government Direction, Management, and Control**

**74 General Government Services**

**DIRECT STATE SERVICES**

12-1010 Legal Services .....\$71,268,000  
 Subtotal Direct State Services, General Government Services....\$71,268,000

**Less:**

**Legal Services** ..... **\$55,796,000**  
**Total Income Deductions** ..... **\$55,796,000**  
 Total Direct State Services Appropriation,  
 General Government Services .....\$15,472,000

**Direct State Services:**

Personal Services:

Salaries and Wages.....(\$13,146,000)  
 Materials and Supplies.....(89,000)  
 Services Other Than Personal.....(557,000)  
 Maintenance and Fixed Charges.....(238,000)

Special Purpose:

12 Legal Services.....(55,796,000)  
 12 Child Welfare Unit .....(1,442,000)

**Less:**

**Income Deductions** ..... **55,796,000**

In addition to the \$55,796,211 attributable to Reimbursements from Other Sources and the corresponding additional amount associated with employee fringe benefit costs, there are appropriated such sums as may be received or receivable from any State agency, instrumentality or public authority for direct or indirect costs of legal services furnished thereto and attributable to a change in or the addition of a client agency agreement, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to credit or transfer to the General Fund from any other department, branch, or non-State fund source, out of funds appropriated thereto, such funds as may be required to cover the costs of legal services attributable to that other department, branch, or non-State fund source as the Director of the Division of Budget and Accounting shall determine. Receipts in any non-State fund are appropriated for the purpose of such transfer.

Notwithstanding the provisions of any law or regulation to the contrary, revenues derived from penalties, cost recoveries, restitution or other recoveries to the

State are appropriated to offset unbudgeted, extraordinary costs of legal, investigative, administrative, expert witnesses and other services incurred by the Division of Law related to litigation and acting on behalf of the State and State agencies. Such sums shall first be charged to any revenues derived from recoveries collected by the State but may also be provided from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting.

**80 Special Government Services**

**82 Protection of Citizens' Rights**

**DIRECT STATE SERVICES**

|                                                                                   |                      |
|-----------------------------------------------------------------------------------|----------------------|
| 14-1310 Consumer Affairs .....                                                    | \$7,346,000          |
| 15-1319 Operation of State Professional Boards.....                               | 17,633,000           |
| <i>(From General Fund.....</i>                                                    | <i>\$17,541,000)</i> |
| <i>(From Casino Revenue Fund.....</i>                                             | <i>92,000)</i>       |
| 16-1350 Protection of Civil Rights.....                                           | 4,580,000            |
| 19-1440 Victims of Crime Compensation Office .....                                | 4,424,000            |
| Total Direct State Services Appropriation, Protection<br>of Citizens' Rights..... | <u>\$33,983,000</u>  |
| <i>(From General Fund.....</i>                                                    | <i>\$33,891,000)</i> |
| <i>(From Casino Revenue Fund.....</i>                                             | <i>92,000)</i>       |

**Direct State Services:**

Personal Services:

|                                         |                     |
|-----------------------------------------|---------------------|
| Salaries and Wages.....                 | (\$7,489,000)       |
| Salaries and Wages (CRF).....           | (64,000)            |
| Employee Benefits (CRF) .....           | (22,000)            |
| <i>(From General Fund.....</i>          | <i>\$7,489,000)</i> |
| <i>(From Casino Revenue Fund.....</i>   | <i>86,000)</i>      |
| Materials and Supplies.....             | (98,000)            |
| Services Other Than Personal.....       | (14,841,000)        |
| Services Other Than Personal (CRF)..... | (6,000)             |
| Maintenance and Fixed Charges.....      | (2,329,000)         |

Special Purpose:

|                                                               |             |
|---------------------------------------------------------------|-------------|
| 14 Consumer Affairs Legalized Games<br>of Chance .....        | (1,200,000) |
| 14 Securities Enforcement Fund.....                           | (893,000)   |
| 14 Consumer Affairs Weights and<br>Measures Program.....      | (2,612,000) |
| 14 Consumer Affairs Charitable<br>Registrations Program ..... | (556,000)   |
| 15 Personal Care Attendants -<br>Background Checks.....       | (500,000)   |
| 19 Claims - Victims of Crime.....                             | (3,372,000) |
| Additions, Improvements and Equipment .....                   | (1,000)     |

In addition to the amount hereinabove appropriated for Consumer Affairs, receipts in excess of the amount anticipated, attributable to changes in fee structure or fee increases, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

All fees, penalties, and costs collected pursuant to P.L.1988, c.123 (C.56:12-29 et seq.) are appropriated for the purpose of offsetting costs associated with the handling and resolution of consumer automotive complaints.

Fees and cost recoveries collected pursuant to P.L.1989, c.331 (C.34:8-43 et al.) are appropriated in an amount not to exceed additional expenses associated with mandated duties of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from penalties and the unexpended balance at the end of the preceding fiscal year in the Consumer Fraud Education Fund program account pursuant to P.L.1999, c.129 (C.56:8-14.2 et seq.) are appropriated for the purpose of offsetting the cost of operating the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to P.L.1954, c.7 (C.5:8-1 et seq.) from the operations of the Division of Consumer Affairs Legalized Games of Chance program and the unexpended balances at the end of the preceding fiscal year, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Securities Enforcement Fund account is payable from receipts from fees and penalties deposited in the Securities Enforcement Fund pursuant to section 15 of P.L.1985, c.405 (C.49:3-66.1). Receipts in excess of the amount anticipated and the unexpended balances at the end of the preceding fiscal year are appropriated to the Securities Enforcement Fund program account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, receipts in excess of the amount anticipated and the unexpended balances at the end of the preceding fiscal year are appropriated to the Controlled Dangerous Substance Registration program for the purpose of offsetting the costs of the administration and operation of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the assessment and recovery of costs, fines, and penalties as well as other receipts received pursuant to the Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et seq.), are appropriated and may be transferred for additional operational costs of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to R.S.51:1-1 et seq. from the operations of the Division of Consumer Affairs, Office of Weights and Measures program and the unexpended balances at the end of the preceding fiscal year, are appropriated for the purposes of offsetting the operational costs of

the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) from the operations of the Division of Consumer Affairs Charitable Registration and Investigation program and the unexpended balances at the end of the preceding fiscal year, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for each of the several State professional boards, advisory boards, and committees shall be payable from receipts of those entities, and any receipts in excess of the amounts specifically provided to each of the entities, and the unexpended balances at the end of the preceding fiscal year are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of films, pamphlets, and other educational materials developed or produced by the Division on Civil Rights are appropriated to offset operational costs of the division.

Notwithstanding the provisions of section 2 of P.L.1983, c.412 (C.10:5-14.1a) any receipts derived from the assessment of fines, fees, and penalties pursuant to P.L.1945, c.169 (C.10:5-1 et seq.) are appropriated to the Division on Civil Rights for operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the provision of copies of transcripts and other materials related to officially docketed cases are appropriated.

The unexpended balances at the end of the preceding fiscal year in the Office of Victim-Witness Assistance pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) are appropriated for the same purpose.

The amount hereinabove appropriated for "Claims - Victims of Crime" is available for payment of awards applicable to claims filed in prior fiscal years.

Receipts derived from assessments pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the unexpended balance at the end of the preceding fiscal year in the Criminal Disposition and Revenue Collection Fund program account, are appropriated for the purpose of offsetting the costs of the design, development, implementation and operation of the Criminal Disposition and Revenue Collection program and payment of claims of victims of crime, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from assessments under section 2 of P.L.1979, c.396 (C.2C:43-3.1) in excess of the amount anticipated and the unexpended balance at the end of the preceding fiscal year are appropriated for payment of claims of victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional Victims of Crime Compensation Office operational costs up to \$1,425,000, and \$98,000 for the Office's Strategic IT Automation Initiative, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove is appropriated from the Casino Revenue Fund for the costs associated with the operation of the Board of Nursing.

Department of Law and Public Safety,

Total State Appropriation .....\$555,367,000

Receipts derived from the provision of copies, the processing of credit cards and other materials related to compliance with section 6 of P.L.2001, c.404 (C.47:1A-5), are appropriated for the purpose of offsetting costs related to the public access of government records.

All registration fees, tuition fees, training fees, and all other fees received for reimbursement for attendance at courses conducted by any division in the Department of Law and Public Safety are appropriated for the purposes of offsetting the operating expenses of the courses, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Law and Public Safety Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services.....\$538,119,000  
Grants-in-Aid ..... 17,248,000

***Appropriations by Fund:***

General Fund .....\$508,521,000  
Casino Control Fund.....46,754,000  
Casino Revenue Fund..... 92,000

**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS**

***10 Public Safety and Criminal Justice***

***14 Military Services***

**DIRECT STATE SERVICES**

40-3620 New Jersey National Guard Support Services.....\$3,822,000  
60-3600 Joint Training Center Management and Operations .....228,000  
99-3600 Administration and Support Services .....3,392,000  
Total Direct State Services Appropriation, Military Services .....\$7,442,000

***Direct State Services:***

Personal Services:

Salaries and Wages.....(\$3,245,000)  
Materials and Supplies.....(569,000)  
Services Other Than Personal.....(682,000)  
Maintenance and Fixed Charges.....(1,040,000)

Special Purpose:

40 Weapons of Mass Destruction Program .....(378,000)  
40 National Guard - State Active Duty.....(50,000)  
40 New Jersey National Guard Challenge  
Youth Program .....(265,000)

40 Joint Federal - State Operations and  
Maintenance Contracts (State Share) .....(1,152,000)  
99 Nursing Initiative.....(52,000)  
Additions, Improvements and Equipment .....(9,000)  
The unexpended balance at the end of the preceding fiscal year in the National  
Guard-State Active Duty account is appropriated for the same purpose.  
The unexpended balance at the end of the preceding fiscal year in the Joint Fed-  
eral-State Operations and Maintenance Contracts (State Share) account is ap-  
propriated for the same purpose.  
Receipts derived from the rental and use of armories and the unexpended balance  
at the end of the preceding fiscal year in the receipt account are appropriated for  
the operation and maintenance thereof, subject to the approval of the Director  
of the Division of Budget and Accounting.  
In addition to the amount hereinabove appropriated for New Jersey National Guard  
Support Services, funds received for Distance Learning Program use are appro-  
priated for the same purposes, subject to the approval of the Director of the Di-  
vision of Budget and Accounting.  
Receipts derived from the sale of solar energy credits and the unexpended balance  
at the end of the preceding fiscal year in the receipt account are appropriated for  
the operation and maintenance of other energy program projects.

**80 Special Government Services**

**83 Services to Veterans**

**3610 Veterans' Program Support**

**DIRECT STATE SERVICES**

50-3610 Veterans' Outreach and Assistance .....\$3,656,000  
51-3610 Veterans Haven .....968,000  
70-3610 Burial Services .....2,304,000  
Total Grants-in-Aid Appropriation, Program Classification .....\$6,928,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages.....(\$4,841,000)  
Materials and Supplies.....(500,000)  
Services Other Than Personal.....(287,000)  
Maintenance and Fixed Charges.....(93,000)

**Special Purpose:**

50 Veterans' State Benefits Bureau.....(150,000)  
50 Maintenance for Memorials.....(390,000)  
50 Payment of Military Leave Benefits.....(150,000)  
51 Veterans' Haven.....(94,000)  
70 Honor Guard Support Services.....(423,000)

Funds collected by and on behalf of the Korean Veterans' Memorial Fund are  
hereby appropriated for the purposes of the fund.

Funds received for Veterans' Transitional Housing from the U.S. Department of Veterans Affairs and the individual residents, and the unexpended balance at the end of the preceding fiscal year, in the receipt account are appropriated for the same purpose.

Funds received for plot interment allowances from the U.S. Department of Veterans Affairs, burial fees collected, and the unexpended program balances at the end of the preceding fiscal year are appropriated for perpetual care and maintenance of burial plots and grounds at the Brigadier General William C. Doyle Veterans' Memorial Cemetery in North Hanover Township, Burlington County, New Jersey.

Notwithstanding the provisions of any law or regulation to the contrary, no State funds are appropriated to the Department of Military and Veterans' Affairs for the purpose of reforestation or "in lieu of" payments under the P.L.1993, c.106 (C.13:1L-14.1 et seq.) in conjunction with the current or future operation, maintenance and construction of the Brigadier General William C. Doyle Veterans' Memorial Cemetery in North Hanover Township, Burlington County, New Jersey.

Notwithstanding the provisions of section 4 of P.L.2001, c.351 (C.52:13H-2.1) or any other law or regulation to the contrary, the amount hereinabove appropriated for Payment of Military Leave Benefits is subject to the following conditions: it shall be the responsibility of the Department of Military and Veterans' Affairs to accept, review, and approve applications by a county, municipal governing body, or board of education for reimbursement of eligible costs incurred as a result of the provisions of P.L.2001, c.351, and to reimburse such costs from the Payment of Military Leave Benefits account.

#### **GRANTS-IN-AID**

|                                                 |             |
|-------------------------------------------------|-------------|
| 50-3610 Veterans' Outreach and Assistance ..... | \$2,909,000 |
| Total Grants-in-Aid Appropriation, Veterans'    |             |
| Program Support.....                            | \$2,909,000 |

***Grants-in-Aid:***

|                                                       |               |
|-------------------------------------------------------|---------------|
| 50 Support Services for Returning Veterans.....       | (\$1,000,000) |
| 50 Veterans' Tuition Credit Program .....             | (8,000)       |
| 50 POW/MIA Tuition Assistance.....                    | (1,000)       |
| 50 Vietnam Veterans' Tuition Aid .....                | (2,000)       |
| 50 Veterans' Transportation .....                     | (335,000)     |
| 50 Veterans' Orphan Fund – Education Grants .....     | (3,000)       |
| 50 Blind Veterans' Allowances .....                   | (40,000)      |
| 50 Paraplegic and Hemiplegic Veterans' Allowance..... | (220,000)     |
| 50 Post Traumatic Stress Disorder.....                | (1,300,000)   |

**3630 Menlo Park Veterans' Memorial Home****DIRECT STATE SERVICES**

|                                                                                     |                     |
|-------------------------------------------------------------------------------------|---------------------|
| 20-3630 Domiciliary and Treatment Services .....                                    | \$19,210,000        |
| 99-3630 Administration and Support Services .....                                   | <u>5,665,000</u>    |
| Total Direct State Services Appropriation, Menlo Park Veterans' Memorial Home ..... | <u>\$24,875,000</u> |

**Direct State Services:**

## Personal Services:

|                                             |                |
|---------------------------------------------|----------------|
| Salaries and Wages .....                    | (\$20,758,000) |
| Materials and Supplies .....                | (2,207,000)    |
| Services Other Than Personal .....          | (1,536,000)    |
| Maintenance and Fixed Charges .....         | (260,000)      |
| Additions, Improvements and Equipment ..... | (114,000)      |

**GRANTS-IN-AID**

|                                                                             |                 |
|-----------------------------------------------------------------------------|-----------------|
| 20-3630 Domiciliary and Treatment Services .....                            | <u>\$55,000</u> |
| Total Grants-in-Aid Appropriation, Menlo Park Veterans' Memorial Home ..... | <u>\$55,000</u> |

**Grants-in-Aid:**

|                                    |            |
|------------------------------------|------------|
| 20 Prescription Drug Program ..... | (\$55,000) |
|------------------------------------|------------|

**3640 Paramus Veterans' Memorial Home****DIRECT STATE SERVICES**

|                                                                                  |                     |
|----------------------------------------------------------------------------------|---------------------|
| 20-3640 Domiciliary and Treatment Services .....                                 | \$19,445,000        |
| 99-3640 Administration and Support Services .....                                | <u>4,746,000</u>    |
| Total Direct State Services Appropriation, Paramus Veterans' Memorial Home ..... | <u>\$24,191,000</u> |

**Direct State Services:**

## Personal Services:

|                                             |                |
|---------------------------------------------|----------------|
| Salaries and Wages .....                    | (\$21,043,000) |
| Materials and Supplies .....                | (1,588,000)    |
| Services Other Than Personal .....          | (1,335,000)    |
| Maintenance and Fixed Charges .....         | (184,000)      |
| Additions, Improvements and Equipment ..... | (41,000)       |

**GRANTS-IN-AID**

|                                                                          |                 |
|--------------------------------------------------------------------------|-----------------|
| 20-3640 Domiciliary and Treatment Services .....                         | <u>\$55,000</u> |
| Total Grants-in-Aid Appropriation, Paramus Veterans' Memorial Home ..... | <u>\$55,000</u> |

**Grants-in-Aid:**

|                                    |            |
|------------------------------------|------------|
| 20 Prescription Drug Program ..... | (\$55,000) |
|------------------------------------|------------|

**3650 Vineland Veterans' Memorial Home****DIRECT STATE SERVICES**

|                                                     |                     |
|-----------------------------------------------------|---------------------|
| 20-3650 Domiciliary and Treatment Services .....    | \$21,245,000        |
| 99-3650 Administration and Support Services .....   | <u>5,648,000</u>    |
| Total Direct State Services Appropriation, Vineland |                     |
| Veterans' Memorial Home .....                       | <u>\$26,893,000</u> |

**Direct State Services:**

## Personal Services:

|                                             |                |
|---------------------------------------------|----------------|
| Salaries and Wages .....                    | (\$22,188,000) |
| Materials and Supplies .....                | (1,800,000)    |
| Services Other Than Personal .....          | (2,467,000)    |
| Maintenance and Fixed Charges .....         | (314,000)      |
| Additions, Improvements and Equipment ..... | (124,000)      |

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for such purposes; provided however, that the allowance shall not exceed \$50 per month for any eligible resident of an institution and provided further, that the total amount herein for such allowances shall not exceed \$100,000, and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Funds received from the sale of articles made in occupational therapy departments of the several veterans' homes are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Forty percent of the receipts in excess of the amount anticipated derived from resident contributions and the U.S. Department of Veterans Affairs at the end of the preceding fiscal year are appropriated for veterans' program initiatives, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the expenditure of these amounts, as shall be submitted by the Adjutant General.

Fees charged to residents for personal laundry services provided by the veterans' homes are appropriated to supplement the operational and maintenance costs of these laundry services.

**GRANTS-IN-AID**

|                                                       |                 |
|-------------------------------------------------------|-----------------|
| 20-3650 Domiciliary and Treatment Services .....      | <u>\$55,000</u> |
| Total Grants-in-Aid Appropriation, Vineland Veterans' |                 |
| Memorial Home .....                                   | <u>\$55,000</u> |

**Grants-in-Aid:**

|                                               |                     |
|-----------------------------------------------|---------------------|
| 20 Prescription Drug Program .....            | (\$55,000)          |
| Department of Military and Veterans' Affairs, |                     |
| Total State Appropriation .....               | <u>\$93,403,000</u> |

Of the amount hereinabove appropriated for the Department of Military and Veterans' Affairs, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Message and Recommendations shall first be charged to the State Lottery Fund.

Balances on hand at the end of the preceding fiscal year for the benefit of residents in the several veterans' homes and such funds as may be received, are appropriated for the use of such residents.

***Summary of Department of Military and Veterans' Affairs Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services..... \$90,329,000  
Grants-in-Aid..... 3,074,000

***Appropriations by Fund:***

General Fund ..... \$93,403,000

**74 DEPARTMENT OF STATE**

***30 Educational, Cultural, and Intellectual Development***

***36 Higher Educational Services***

**DIRECT STATE SERVICES**

80-2400 Statewide Planning and Coordination for Higher  
Education.....\$825,000  
81-2400 Educational Opportunity Fund Programs .....380,000  
Total Direct State Services Appropriation,  
Higher Educational Services .....\$1,205,000

***Direct State Services:***

Personal Services:

Salaries and Wages.....(\$1,121,000)  
Materials and Supplies.....(9,000)  
Services Other Than Personal.....(63,000)  
Maintenance and Fixed Charges.....(12,000)

**GRANTS-IN-AID**

80-2400 Statewide Planning and Coordination for  
Higher Education .....\$1,800,000  
81-2401 Educational Opportunity Fund Programs .....38,694,000  
Total Grants-in-Aid Appropriation,  
Higher Educational Services .....\$40,494,000

***Grants-in-Aid:***

80 College Bound.....(\$1,700,000)  
80 Governor's School.....(100,000)  
81 Opportunity Program Grants .....(25,519,000)  
81 Supplementary Education  
Program Grants .....(12,803,000)  
81 Martin Luther King Physician-Dentist  
Scholarship Act of 1986.....(302,000)  
81 Ferguson Law Scholarships.....(70,000)

An amount not to exceed \$60,000 of the total hereinabove appropriated for College Bound is available for transfer to Direct State Services for the administrative expenses of this program, subject to the approval of the Director of the Division of Budget and Accounting.

Refunds from prior years to the Educational Opportunity Fund Programs accounts are appropriated to those accounts.

Refunds from prior years to the College Bound Program are appropriated to that account.

**2405 Higher Education Student Assistance Authority  
DIRECT STATE SERVICES**

At any time prior to the issuance and sale of bonds or other obligations by the Higher Education Student Assistance Authority, the State Treasurer is authorized to transfer from any available monies in any fund of the Treasury of the State to the credit of any fund of the authority such sums as the State Treasurer deems necessary. Any sums so transferred shall be returned to the same fund of the Treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of authority bonds or other authority obligations.

In furtherance of the "Higher Education Student Assistance Authority Law," N.J.S.18A:71A-1 et seq., in the event of a draw upon a debt service reserve surety bond or any other debt service reserve cash equivalent instrument or any insufficiency of such instruments to pay debt service on the bonds issued by the Higher Education Student Assistance Authority, there are appropriated to the Higher Education Student Assistance Authority such sums as are necessary to repay the issuer of such surety bond or such other cash equivalent instrument for such draw or to satisfy such insufficiency, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

|                                                     |               |
|-----------------------------------------------------|---------------|
| 45-2405 Student Assistance Program .....            | \$326,077,000 |
| Total Grants-in-Aid Appropriation, Higher Education |               |
| Student Assistance Authority .....                  | \$326,077,000 |

**Grants-in-Aid:**

|                                                               |               |
|---------------------------------------------------------------|---------------|
| 45 Veterinary Medicine Education Program .....                | (\$138,000)   |
| 45 Tuition Aid Grants .....                                   | (294,298,000) |
| 45 Part-Time Tuition Aid Grants for<br>County Colleges .....  | (9,611,000)   |
| 45 Survivor Tuition Benefits .....                            | (38,000)      |
| 45 Coordinated Garden State Scholarship<br>Programs .....     | (3,315,000)   |
| 45 Part-Time Tuition Aid Grants -<br>EOF Students .....       | (558,000)     |
| 45 New Jersey World Trade Center<br>Scholarship Program ..... | (202,000)     |

- 45 New Jersey Student Tuition Assistance  
Reward Scholarship (NJSTARS I & II) ... (16,417,000)
- 45 Primary Care Practitioner Loan  
Redemption Program..... (1,500,000)

The unexpended balances at the end of the preceding fiscal year in Student Assistance Programs are appropriated to such programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the sums provided hereinabove in Student Assistance Programs shall be available for payment of liabilities applicable to prior fiscal years.

Notwithstanding the provisions of any law or regulation to the contrary, funds hereinabove appropriated for Survivor Tuition Benefits, Coordinated Garden State Scholarship Program, Teaching Fellows Program, and Social Services Student Loan Redemption Program shall only be used to fund awards to students who have received awards in the same program prior to fiscal year 2011.

Notwithstanding the provisions of N.J.S.18A:71B-47 through N.J.S.18A:71B-49, or any other law or regulation to the contrary, the amounts hereinabove appropriated to the Higher Education Student Assistance Authority are subject to the following condition: commencing on or after July 1, 2007, any newly-admitted student attending a school of veterinary medicine in a reserved space for New Jersey residents through contractual agreements between the Higher Education Student Assistance Authority and participating out-of-State schools of veterinary medicine shall be required, through a contract with the Higher Education Student Assistance Authority, upon graduation to practice veterinary medicine in New Jersey for a period of one year for each year of contract funding provided on their behalf. Such service requirement must commence within one year of completion of the recipient's veterinary education, including American Veterinary Medical Association-approved internships or residencies. If such service requirement is not met, in part or in full, after documented best efforts to find a position, said recipient must refund to the Higher Education Student Assistance Authority that portion of the amounts expended for the recipient's contract seat that is not offset by practicing in New Jersey.

The amount hereinabove appropriated for the Veterinary Medicine Education Program shall not be expended for any student not attending a school of veterinary medicine prior to July 1, 2010 in a reserved space for New Jersey residents through contractual agreements between the Higher Education Student Assistance Authority and participating out-of-State schools of veterinary medicine.

Notwithstanding the provisions of any law or regulation to the contrary, the Higher Education Student Assistance Authority shall provide to students enrolled in public institutions of higher education who are eligible for maximum awards under the Tuition Aid Grant program an award amount which shall not exceed the in-State undergraduate 2009-2010 tuition rate for the institution with comparable awards provided to students eligible for maximum awards enrolled at nonpublic institutions. All other award amounts provided under the Tuition

Aid Grant program shall not exceed the in-State undergraduate tuitions in effect at institutions in academic year 2007-2008. The unexpended balances reappropriated to the Tuition Aid Grant account shall be held as a contingency for unanticipated increases in the number of applicants qualifying for full-time Tuition Aid Grant awards, to fund shifts in the distribution of awards that result in an increase in total program costs, or to offset any shortfalls in the federal Leveraging Educational Assistance Partnership (LEAP) program.

Notwithstanding the provisions of any law or regulation to the contrary, participation in the Tuition Aid Grant program hereinabove appropriated shall be limited to those institutions that had previously participated in the Tuition Aid Grant program, or had applied in writing to the Higher Education Student Assistance Authority to participate in the Tuition Aid Grant program prior to September 1, 2009 and met all eligibility requirements prior to September 1, 2009.

In addition to the amount hereinabove appropriated for Tuition Aid Grants, there are appropriated such sums as are required to cover the costs of increases in the number of applicants qualifying for full-time Tuition Aid Grant awards, to fund shifts in the distribution of awards that result in an increase in total program costs, or to offset any shortfalls in the federal Leveraging Educational Assistance Partnership (LEAP) program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for Part-Time Tuition Aid Grants for County Colleges shall be used to provide funds for tuition aid grants for eligible, qualified part-time students enrolled at the county colleges established pursuant to N.J.S.18A:64A-1 et seq. The tuition aid grants shall be used to pay the tuition at a county college established pursuant to N.J.S.18A:64A-1 et seq. Within the limits of available appropriations as determined by the Higher Education Student Assistance Authority, part-time grant awards shall be pro-rated against the full-time grant award for the applicable institutional sector established pursuant to N.J.S.18A:71B-21 as follows: an eligible student enrolled with six to eight credits shall receive one-half of the value of a full-time award and an eligible student enrolled with nine to eleven credits shall receive three-quarters of a full-time award. Students shall apply first for all other forms of federal student assistance grants and scholarships; student eligibility for the Tuition Aid Grant program for part-time enrollment at a community college shall in other respects be determined by the authority in accordance with the criteria established pursuant to N.J.S.18A:71B-20, other than the criterion for full-time enrollment.

The unexpended balances reappropriated to the Part-Time Tuition Aid Grants for County Colleges account shall be held as a contingency for unanticipated increases in the number of applicants qualifying for Part-Time Tuition Aid Grants for County Colleges awards or to fund shifts in the distribution of awards that result in an increase in total program costs.

Receipts derived from voluntary contributions by taxpayers on New Jersey State gross income tax returns for the New Jersey World Trade Center Scholarship Fund are appropriated for the purpose of providing scholarships for eligible re-

cipients as defined in N.J.S.18A:71B-23, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection b. of section 5 of P.L.2004, c.59 (C.18A:71B-85) none of the funds hereinabove appropriated for the New Jersey Student Tuition Assistance Reward Scholarships shall be used to fund summer semester NJ STARS scholarship awards.

Notwithstanding the provisions of section 5 of P.L.2004, c.59 (C.18A:71B-85), none of the funds hereinabove appropriated for the New Jersey Student Tuition Assistance Reward Scholarships shall be used to cover the cost of fees for eligible students who graduated from high school in 2010 or in years thereafter.

**2410 Rutgers, The State University**

**GRANTS-IN-AID**

|                                    |                 |
|------------------------------------|-----------------|
| 82-2410 Institutional Support..... | \$1,967,776,000 |
| Subtotal General Operations.....   | \$1,967,776,000 |

**Less:**

|                                                                           |                               |
|---------------------------------------------------------------------------|-------------------------------|
| <i>Receipts from Tuition Increase.....</i>                                | <i>\$642,000</i>              |
| <i>General Services Income.....</i>                                       | <i>687,910,000</i>            |
| <i>Auxiliary Funds Income .....</i>                                       | <i>291,495,000</i>            |
| <i>Special Funds Income.....</i>                                          | <i>565,513,000</i>            |
| <i>Employee Fringe Benefits.....</i>                                      | <i>181,598,000</i>            |
| <i>Total Income Deductions .....</i>                                      | <i><u>\$1,727,158,000</u></i> |
| Total Grants-in-Aid Appropriation, Rutgers,<br>The State University ..... | <u>\$240,618,000</u>          |

**Grants-in-Aid:**

Special Purpose:

82 General Institutional Operations..... (\$1,967,776,000)

**Less:**

*Income Deductions.....* *1,727,158,000*

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at Rutgers, The State University shall be 6,361.

**2415 Agricultural Experiment Station**

**GRANTS-IN-AID**

|                                    |              |
|------------------------------------|--------------|
| 82-2415 Institutional Support..... | \$88,091,000 |
| Subtotal General Operations.....   | \$88,091,000 |

**Less:**

|                                                             |                            |
|-------------------------------------------------------------|----------------------------|
| <i>Special Funds Income.....</i>                            | <i>\$49,288,000</i>        |
| <i>Federal Research and Extension<br/>Funds Income.....</i> | <i>7,100,000</i>           |
| <i>Employee Fringe Benefits.....</i>                        | <i>9,961,000</i>           |
| <i>Total Income Deductions .....</i>                        | <i><u>\$66,349,000</u></i> |

Total Grants-in-Aid Appropriation,  
Agricultural Experiment Station.....\$21,742,000

**Grants-in-Aid:**

## Special Purpose:

82 General Institutional Operations.....(\$88,091,000)

**Less:**

**Income Deductions**..... **66,349,000**

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at the Agricultural Experiment Station shall be 398.

For the purpose of implementing the appropriations act for the current fiscal year, the fringe benefits for 126 positions, funded by the federal Hatch and Smith/Lever programs, are funded by the State.

Rutgers, The State University of New Jersey is authorized to reallocate appropriations from the General University to the Agricultural Experiment Station, as needed, to assure that there are sufficient funds in the Agricultural Experiment Station to meet federal requirements for the Hatch and Smith/Lever programs.

**2420 University of Medicine and Dentistry of New Jersey****GRANTS-IN-AID**

82-2420 Institutional Support.....\$1,342,236,000

Subtotal General Operations.....\$1,342,236,000

**Less:**

**Hospital Services Income**..... **\$483,162,000**

**Core Affiliates Income**..... **3,100,000**

**General Services Income**..... **211,849,000**

**Auxiliary Funds Income**..... **17,226,000**

**Special Funds Income**..... **264,878,000**

**Employee Fringe Benefits**..... **192,028,000**

**Total Income Deductions**..... **\$1,172,243,000**

Total Grants-in-Aid Appropriation, University of  
Medicine and Dentistry of New Jersey.....\$169,993,000

**Grants-in-Aid:**

## Special Purpose:

82 General Institutional Operations.....(\$1,335,536,000)

82 Cancer Institute of New Jersey and  
Ancillary Facilities .....(5,000,000)

82 Child Health Institute.....(1,700,000)

**Less:**

**Income Deductions**..... **1,172,243,000**

In addition to the sums hereinabove appropriated to the University of Medicine and Dentistry of New Jersey, all revenues from lease agreements between the university and contracted organizations are appropriated.

From the amount hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts as deemed necessary to the Division of Medical Assistance and Health Services to maximize federal Medicaid funds.

The University of Medicine and Dentistry of New Jersey is authorized to operate its continuing medical-dental education program as a revolving fund and the revenue collected therefrom, and any unexpended balance therein, is retained for such fund.

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at the University of Medicine and Dentistry of New Jersey shall be 6,582.

For the purpose of implementing the appropriations act for the current fiscal year, the fringe benefits for not more than 1,238 positions, funded by medical services contracts with the Department of Health and Senior Services or the Department of Human Services, are funded by the State.

The unexpended balances of appropriations at the end of the preceding fiscal year to Robert Wood Johnson Medical School, Camden, for the purpose of faculty support of affiliate hospital (Cooper University Hospital) are appropriated for those purposes.

Of the amounts hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, \$5,690,000 is appropriated for Robert Wood Johnson Medical School, Camden for the purpose of faculty support of affiliate hospital (Cooper University Hospital).

**2430 New Jersey Institute of Technology**

**GRANTS-IN-AID**

|                                    |                      |
|------------------------------------|----------------------|
| 82-2430 Institutional Support..... | <u>\$298,878,000</u> |
| Subtotal General Operations.....   | <u>\$298,878,000</u> |

**Less:**

|                                               |                             |
|-----------------------------------------------|-----------------------------|
| <i>General Services Income</i> .....          | <i>\$123,024,000</i>        |
| <i>Auxiliary Funds Income</i> .....           | <i>15,171,000</i>           |
| <i>Special Funds Income</i> .....             | <i>93,659,000</i>           |
| <i>Employee Fringe Benefits</i> .....         | <i>29,328,000</i>           |
| <i>Total Income Deductions</i> .....          | <u><i>\$261,182,000</i></u> |
| Total Grants-in-Aid Appropriation, New Jersey |                             |
| Institute of Technology .....                 | <u>\$37,696,000</u>         |

**Grants-in-Aid:**

Special Purpose:

|                                          |                 |
|------------------------------------------|-----------------|
| 82 General Institutional Operations..... | (\$298,878,000) |
|------------------------------------------|-----------------|

**Less:**

|                                |                    |
|--------------------------------|--------------------|
| <i>Income Deductions</i> ..... | <i>261,182,000</i> |
|--------------------------------|--------------------|

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at the New Jersey Institute of Technology shall be 1,187.

**2440 Thomas Edison State College  
GRANTS-IN-AID**

|                                     |                     |
|-------------------------------------|---------------------|
| 82-2445 Institutional Support ..... | \$56,221,000        |
| Subtotal General Operations .....   | <u>\$56,221,000</u> |

**Less:**

|                                                                         |                            |
|-------------------------------------------------------------------------|----------------------------|
| <i>Self Sustaining Income</i> .....                                     | <i>\$16,545,000</i>        |
| <i>General Services Income</i> .....                                    | <i>28,006,000</i>          |
| <i>Employee Fringe Benefits</i> .....                                   | <i>6,449,000</i>           |
| <i>State-Supported Facilities Cost</i> .....                            | <i>3,400,000</i>           |
| <i>Total Income Deductions</i> .....                                    | <u><i>\$54,400,000</i></u> |
| Total Grants-in-Aid Appropriation, Thomas Edison<br>State College ..... | <u>\$1,821,000</u>         |

**Grants-in-Aid:**

## Special Purpose:

|                                           |                |
|-------------------------------------------|----------------|
| 82 General Institutional Operations ..... | (\$56,221,000) |
|-------------------------------------------|----------------|

**Less:**

|                                |                   |
|--------------------------------|-------------------|
| <i>Income Deductions</i> ..... | <i>54,400,000</i> |
|--------------------------------|-------------------|

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at Thomas A. Edison State College shall be 228.

**2445 Rowan University  
GRANTS-IN-AID**

|                                     |                      |
|-------------------------------------|----------------------|
| 82-2445 Institutional Support ..... | \$275,031,000        |
| Subtotal General Operations .....   | <u>\$275,031,000</u> |

**Less:**

|                                                           |                             |
|-----------------------------------------------------------|-----------------------------|
| <i>General Services Income</i> .....                      | <i>\$115,955,000</i>        |
| <i>Auxiliary Funds Income</i> .....                       | <i>35,424,000</i>           |
| <i>Special Funds Income</i> .....                         | <i>45,595,000</i>           |
| <i>Employee Fringe Benefits</i> .....                     | <i>28,934,000</i>           |
| <i>Total Income Deductions</i> .....                      | <u><i>\$225,908,000</i></u> |
| Total Grants-in-Aid Appropriation, Rowan University ..... | <u>\$49,123,000</u>         |

**Grants-in-Aid:**

## Special Purpose:

|                                           |                 |
|-------------------------------------------|-----------------|
| 82 General Institutional Operations ..... | (\$256,624,000) |
| 82 Rowan Medical School - Camden .....    | (18,407,000)    |

**Less:**

|                                |                    |
|--------------------------------|--------------------|
| <i>Income Deductions</i> ..... | <i>225,908,000</i> |
|--------------------------------|--------------------|

Of the sums hereinabove appropriated for Rowan Medical School - Camden, \$7,800,000 is appropriated for implementation of the new four year allopathic medical school, Camden, and \$10,607,000 is appropriated for affiliate hospital (Cooper University Hospital) support, including program and capital support that will benefit patients from Camden and the region, which funds shall be

administered by the Department of Health and Senior Services, through a grant agreement on behalf of Rowan University.

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at Rowan University shall be 1,087.

**2450 New Jersey City University**

**GRANTS-IN-AID**

82-2450 Institutional Support.....\$134,116,000  
 Subtotal General Operations.....\$134,116,000

**Less:**

*General Services Income*..... **\$49,212,000**  
*A.H. Moore Program Receipts*..... **7,279,000**  
*Auxiliary Funds Income* ..... **7,093,000**  
*Special Funds Income*..... **22,608,000**  
*Employee Fringe Benefits*..... **21,868,000**  
*Total Income Deductions* ..... **\$108,060,000**  
 Total Grants-in-Aid Appropriation, New Jersey  
 City University ..... \$26,056,000

**Grants-in-Aid:**

Special Purpose:

82 General Institutional Operations.....(\$134,116,000)

**Less:**

*Income Deductions*..... **108,060,000**

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at New Jersey City University shall be 1,129.

**2455 Kean University**

**GRANTS-IN-AID**

82-2455 Institutional Support.....\$221,012,000  
 Subtotal General Operations.....\$221,012,000

**Less:**

*General Services Income*..... **\$129,959,000**  
*Auxiliary Funds Income* ..... **20,422,000**  
*Special Funds Income*..... **11,719,000**  
*Employee Fringe Benefits*..... **26,075,000**  
*Total Income Deductions* ..... **\$188,175,000**  
 Total Grants-in-Aid Appropriation, Kean University.....\$32,837,000

**Grants-in-Aid:**

Special Purpose:

82 General Institutional Operations.....(\$221,012,000)

**Less:**

*Income Deductions*..... **188,175,000**

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at Kean University shall be 1,074.

**2460 William Paterson University of New Jersey**

**GRANTS-IN-AID**

|                                     |                      |
|-------------------------------------|----------------------|
| 82-2460 Institutional Support ..... | <u>\$195,629,000</u> |
| Subtotal General Operations .....   | <u>\$195,629,000</u> |

**Less:**

|                                                                                    |                             |
|------------------------------------------------------------------------------------|-----------------------------|
| <i>General Services Income</i> .....                                               | <i>\$81,354,000</i>         |
| <i>Auxiliary Funds Income</i> .....                                                | <i>28,504,000</i>           |
| <i>Special Funds Income</i> .....                                                  | <i>25,600,000</i>           |
| <i>Employee Fringe Benefits</i> .....                                              | <i>27,423,000</i>           |
| <i>Total Income Deductions</i> .....                                               | <u><i>\$162,881,000</i></u> |
| Total Grants-in-Aid Appropriation, William Paterson University of New Jersey ..... | <u>\$32,748,000</u>         |

**Grants-in-Aid:**

Special Purpose:

82 General Institutional Operations .....

**Less:**

*Income Deductions* .....

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at William Paterson University of New Jersey shall be 1,111.

**2465 Montclair State University**

**GRANTS-IN-AID**

|                                     |                      |
|-------------------------------------|----------------------|
| 82-2465 Institutional Support ..... | <u>\$334,234,000</u> |
| Subtotal General Operations .....   | <u>\$334,234,000</u> |

**Less:**

|                                                                     |                             |
|---------------------------------------------------------------------|-----------------------------|
| <i>General Services Income</i> .....                                | <i>\$132,391,000</i>        |
| <i>Conservation School Receipts</i> .....                           | <i>469,000</i>              |
| <i>Auxiliary Funds Income</i> .....                                 | <i>64,885,000</i>           |
| <i>Special Funds Income</i> .....                                   | <i>59,849,000</i>           |
| <i>Employee Fringe Benefits</i> .....                               | <i>38,027,000</i>           |
| <i>Total Income Deductions</i> .....                                | <u><i>\$295,621,000</i></u> |
| Total Grants-in-Aid Appropriation, Montclair State University ..... | <u>\$38,613,000</u>         |

**Grants-in-Aid:**

Special Purpose:

82 General Institutional Operations .....

**Less:**

*Income Deductions* .....

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at Montclair State University shall be 1,316.

**2470 The College of New Jersey**

**GRANTS-IN-AID**

82-2470 Institutional Support ..... \$208,482,000  
 Subtotal General Operations..... \$208,482,000

**Less:**

*General Services Income*..... *\$75,341,000*  
*Auxiliary Funds Income* ..... *45,265,000*  
*Special Funds Income*..... *33,883,000*  
*Employee Fringe Benefits*..... *24,676,000*  
*Total Income Deductions* ..... *\$179,165,000*  
 Total Grants-in-Aid Appropriation, The College  
 of New Jersey..... \$29,317,000

**Grants-in-Aid:**

Special Purpose:

82 General Institutional Operations..... (\$208,482,000)

**Less:**

*Income Deductions*..... *179,165,000*

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at The College of New Jersey shall be 859.

**2475 Ramapo College of New Jersey**

**GRANTS-IN-AID**

82-2475 Institutional Support ..... \$128,128,000  
 Subtotal General Operations..... \$128,128,000

**Less:**

*General Services Income*..... *\$46,604,000*  
*Auxiliary Funds Income* ..... *35,984,000*  
*Special Funds Income*..... *13,582,000*  
*Employee Fringe Benefits*..... *15,828,000*  
*Total Income Deductions* ..... *\$111,998,000*  
 Total Grants-in-Aid Appropriation, Ramapo College  
 of New Jersey..... \$16,130,000

**Grants-in-Aid:**

Special Purpose:

82 General Institutional Operations..... (\$128,128,000)

**Less:**

*Income Deductions*..... *111,998,000*

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at Ramapo College of New Jersey shall be 573.

**2480 The Richard Stockton College of New Jersey**

**GRANTS-IN-AID**

|                                     |                      |
|-------------------------------------|----------------------|
| 82-2480 Institutional Support ..... | <u>\$172,856,000</u> |
| Subtotal General Operations .....   | <u>\$172,856,000</u> |

**Less:**

|                                                                                        |                             |
|----------------------------------------------------------------------------------------|-----------------------------|
| <i>General Services Income</i> .....                                                   | <i>\$74,448,000</i>         |
| <i>Auxiliary Funds Income</i> .....                                                    | <i>32,107,000</i>           |
| <i>Special Funds Income</i> .....                                                      | <i>27,000,000</i>           |
| <i>Employee Fringe Benefits</i> .....                                                  | <i>19,462,000</i>           |
| <i>Total Income Deductions</i> .....                                                   | <u><i>\$153,017,000</i></u> |
| Total Grants-in-Aid Appropriation, The Richard Stockton<br>College of New Jersey ..... | <u>\$19,839,000</u>         |

**Grants-in-Aid:**

Special Purpose:

|                                           |                 |
|-------------------------------------------|-----------------|
| 82 General Institutional Operations ..... | (\$172,856,000) |
|-------------------------------------------|-----------------|

**Less:**

|                                |                    |
|--------------------------------|--------------------|
| <i>Income Deductions</i> ..... | <i>153,017,000</i> |
|--------------------------------|--------------------|

For the purpose of implementing the appropriations act for the current fiscal year, the number of State-funded positions at The Richard Stockton College of New Jersey shall be 764.

**Higher Educational Services**

Notwithstanding the provisions of any law or regulation to the contrary, from the sums hereinabove appropriated for Higher Educational Services-Institutional Support in each of the senior public institutions of higher education, there are allocated such sums as are required to provide the reimbursement to cover tuition costs of the National Guard members pursuant to subsection b. of section 21 of P.L.1999, c.46 (C.18A:62-24).

Public colleges and universities are authorized to provide a voluntary employee furlough program.

Notwithstanding the provisions of any law or regulation to the contrary, any funds appropriated as Grants-In-Aid and payable to any senior public college or university which requests approval from the Educational Facilities Authority and the Director of the Division of Budget and Accounting may be pledged as a guarantee for payment of principal and interest on any bonds issued by the Educational Facilities Authority or by the college or university. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of written notification by the Educational Facilities Authority or the Director of the Division of Budget and Accounting that the college or university does not have

sufficient funds available for prompt payment of principal and interest on such bonds, and shall be paid by the State Treasurer directly to the holders of such bonds at such time and in such amounts as specified by the bond indenture, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

Of the amount hereinabove appropriated for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document first shall be charged to the State Lottery Fund.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for the senior public institutions of higher education shall be paid to each institution in twelve equal installments on the last business day of each month.

Notwithstanding the provisions of any law or regulation to the contrary, no amount hereinabove appropriated for any senior public institution of higher education shall be paid until the institution remits its quarterly fringe benefit reimbursement for positions in excess of the number of State-funded positions provided in this act, by the deadline and in the manner required by the Director of the Division of Budget and Accounting.

#### ***2541 Division of State Library***

##### **DIRECT STATE SERVICES**

51-2541 Library Services .....\$5,087,000

Total Direct State Services Appropriation, Division of

State Library.....\$5,087,000

##### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages.....(\$3,949,000)

Materials and Supplies.....(418,000)

Services Other Than Personal.....(193,000)

Maintenance and Fixed Charges.....(27,000)

##### **Special Purpose:**

01 Supplies and Extended Services .....(500,000)

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for Direct State Services for the New Jersey State Library, excluding amounts appropriated to Special Purpose accounts, shall be paid in twelve equal installments, on the last business day of each month.

##### **STATE AID**

51-2541 Library Services .....\$7,975,000

Total State Aid Appropriation, Division of State Library .....\$7,975,000

##### ***State Aid:***

|                                |               |
|--------------------------------|---------------|
| 51 Per Capita Library Aid..... | (\$3,676,000) |
| 51 Library Network .....       | (4,299,000)   |

**30 Educational, Cultural, and Intellectual Development**

**37 Cultural and Intellectual Development Services**

**DIRECT STATE SERVICES**

|                                                                                                    |                     |
|----------------------------------------------------------------------------------------------------|---------------------|
| 05-2530 Support of the Arts .....                                                                  | \$397,000           |
| 06-2535 Museum Services.....                                                                       | 2,234,000           |
| 07-2540 Development of Historical Resources .....                                                  | 285,000             |
| 52-2539 Travel and Tourism .....                                                                   | <u>9,000,000</u>    |
| Total Direct State Services Appropriation, Cultural and<br>Intellectual Development Services ..... | <u>\$11,916,000</u> |

**Direct State Services:**

Personal Services:

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages .....           | (\$2,400,000) |
| Materials and Supplies.....        | (102,000)     |
| Services Other Than Personal.....  | (320,000)     |
| Maintenance and Fixed Charges..... | (94,000)      |

Special Purpose:

|                                                          |             |
|----------------------------------------------------------|-------------|
| 52 Travel and Tourism Advertising<br>and Promotion ..... | (9,000,000) |
|----------------------------------------------------------|-------------|

The Secretary of State shall report semi-annually on the expenditure during the preceding six months of State funds hereinabove appropriated for Travel and Tourism Advertising and Promotion and private contributions to this program. The first semi-annual report shall be completed not later than 30 days following the end of the second quarter of the fiscal year, the second semi-annual report shall be completed not later than 30 days following the end of the fiscal year, and both reports shall be submitted to the Treasurer, the Director of the Division of Budget and Accounting, and the Joint Budget Oversight Committee.

**GRANTS-IN-AID**

|                                                                                            |                     |
|--------------------------------------------------------------------------------------------|---------------------|
| 05-2530 Support of the Arts .....                                                          | \$16,000,000        |
| 07-2540 Development of Historical Resources .....                                          | <u>2,700,000</u>    |
| Total Grants-in-Aid Appropriation, Cultural and<br>Intellectual Development Services ..... | <u>\$18,700,000</u> |

**Grants-in-Aid:**

|                                                              |                |
|--------------------------------------------------------------|----------------|
| 05 Cultural Projects .....                                   | (\$16,000,000) |
| 07 New Jersey Historical Commission -<br>Agency Grants ..... | (2,700,000)    |

Of the amount hereinabove appropriated for Cultural Projects, an amount not to exceed \$75,000 may be used for administrative purposes, and an amount not to exceed \$125,000 may be used for the assessment and oversight of cultural projects, including administrative costs attendant to this function, in compliance with all pertinent State and federal laws and regulations including the "Single

Audit Act of 1984," Pub.L. 98-502 (31 U.S.C. s.7501 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Cultural Projects, the value of project grants awarded within each county shall total not less than \$50,000.

Of the amount hereinabove appropriated for Cultural Projects, funds may be used for the purpose of matching federal grants.

Notwithstanding the provisions of any law or regulation to the contrary, of the amount appropriated for Cultural Projects, 25% shall be awarded to cultural groups or artists based in the eight southernmost counties (Cape May, Salem, Cumberland, Gloucester, Camden, Ocean, Atlantic, and Burlington), provided however, that the calculation of such 25% allocation shall not include the first \$1,000,000 of any grants that may be awarded to the New Jersey Performing Arts Center or the Rutgers Camden Performing Arts Center.

Notwithstanding the provisions of section 4 of P.L.1999, c.131 (C.18A:73-22.4), from the amount appropriated for New Jersey Historical Commission - Agency Grants, an amount not to exceed \$200,000 is appropriated for administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

## **70 Government Direction, Management, and Control**

### **74 General Government Services**

#### **DIRECT STATE SERVICES**

|                                                    |                     |
|----------------------------------------------------|---------------------|
| 01-2505 Office of the Secretary of State .....     | \$3,198,000         |
| 02-2510 Business Action Center .....               | 4,546,000           |
| 08-2545 Records Management .....                   | 2,417,000           |
| 25-2525 Election Management and Coordination ..... | <u>635,000</u>      |
| Total Direct State Services Appropriation, General |                     |
| Government Services .....                          | <u>\$10,796,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$8,141,000) |
| Materials and Supplies.....        | (176,000)     |
| Services Other Than Personal.....  | (748,000)     |
| Maintenance and Fixed Charges..... | (39,000)      |

##### **Special Purpose:**

|                                           |             |
|-------------------------------------------|-------------|
| 01 Personal Responsibility Programs ..... | (75,000)    |
| 01 Office of Volunteerism.....            | (79,000)    |
| 01 Office of Programs .....               | (434,000)   |
| 02 Office of Economic Growth .....        | (1,104,000) |

Of the amount hereinabove appropriated to the Business Action Center, an amount up to \$250,000 is appropriated for New Jersey Small Business Development Centers, pursuant to a spending plan approved by the Secretary of State.

The amount hereinabove appropriated for the Records Management program is payable from receipts deposited in the New Jersey Public Records Preservation account.

Notwithstanding the provisions of any law or regulation to the contrary, no monies from the receipts deposited in the New Jersey Public Records Preservation account in the Department of the Treasury are appropriated for grants to counties and municipalities.

Receipts received from New Jersey Public Records Preservation fees, not to exceed \$1,300,000, are appropriated for the operations of the microfilm unit in the Division of Archives and Records Management within the Department of State, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the examination of voting machines by Election Management and Coordination and the unexpended balance at the end of the preceding fiscal year of those receipts are appropriated for the costs of making such examinations.

The unexpended balance at the end of the preceding fiscal year in the Help America Vote Act - State Match account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                                |                    |
|------------------------------------------------|--------------------|
| 01-2505 Office of the Secretary of State ..... | <u>\$3,025,000</u> |
| Total Grants-in-Aid Appropriation, General     |                    |
| Government Services.....                       | <u>\$3,025,000</u> |

#### ***Grants-in-Aid:***

|                                                                 |               |
|-----------------------------------------------------------------|---------------|
| 01 Office of Programs .....                                     | (\$1,350,000) |
| 01 Center for Hispanic Policy, Research<br>and Development..... | (1,175,000)   |
| 01 Cultural Trust .....                                         | (500,000)     |

Of the amount hereinabove appropriated for the Office of Programs, an amount not to exceed \$50,000 may be used for administrative purposes, including the oversight of cultural projects, to ensure their compliance with all applicable State and federal laws and regulations including the "Single Audit Act of 1984," Pub.L. 98-502 (31 U.S.C. s.7501 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

|                                                                  |                    |
|------------------------------------------------------------------|--------------------|
| 25-2525 Election Management and Coordination .....               | <u>\$7,030,000</u> |
| Total State Aid Appropriation, General Government Services ..... | <u>\$7,030,000</u> |

#### ***State Aid:***

Special Purpose:

|                                       |               |
|---------------------------------------|---------------|
| 25 Extended Polling Place Hours ..... | (\$7,030,000) |
|---------------------------------------|---------------|

In addition to the amount hereinabove appropriated for Extended Polling Place Hours, there are appropriated such sums as are required to provide required reimbursements to county Boards of Election, subject to the approval of the Director of the Division of Budget and Accounting.

In the event that there is a presidential primary held on a date other than the Tuesday next after the first Monday in June of 2012, there are appropriated such sums as may be required to reimburse county and municipal costs of the Presidential Primary, as certified by the Commissioner of Registration of each county, and certified by the Office of the Secretary of State, subject to the approval of the Director of the Division of Budget and Accounting.

Department of State, Total State Appropriation ..... \$1,148,838,000

Pursuant to the provisions of P.L.2003, c.114 (C.54:32D-1 et al.), the amounts hereinabove appropriated for the purpose of promoting cultural and tourism activities in this State shall first be charged to revenues derived from the hotel and motel occupancy fee.

***Summary of Department of State Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |               |
|----------------------------|---------------|
| Direct State Services..... | \$29,004,000  |
| Grants-in-Aid .....        | 1,104,829,000 |
| State Aid .....            | 15,005,000    |

***Appropriations by Fund:***

|                    |                 |
|--------------------|-----------------|
| General Fund ..... | \$1,148,838,000 |
|--------------------|-----------------|

**78 DEPARTMENT OF TRANSPORTATION**

***10 Public Safety and Criminal Justice***

***11 Vehicular Safety***

Notwithstanding the provisions of the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2, balances in the fund are available for Other - Clean Air purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, \$20,000,000 of monies received in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75) shall be deposited in the General Fund as State revenue, and existing Commercial Vehicle Enforcement Fund balances are appropriated to offset all reasonable and necessary expenses of the Division of State Police, the New Jersey Motor Vehicle Commission, the Department of Transportation, and the Department of Environmental Protection in the performance of commercial vehicle safety and emission inspections and Other - Clean Air purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, of the amount appropriated for New Jersey Transit, \$20,000,000 thereof shall be paid

from Commercial Vehicle Enforcement Fund receipts pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), as shall be determined by the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey emergency medical service helicopter response act under subsection a. of section 1 of P.L.1992, c.87 (C.39:3-8.2), are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance at the end of the preceding fiscal year is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 105 of P.L.2003, c.13 (C.39:2A-36) or any law to the contrary, pursuant to P.L.2006, c.39 (C.39:3-8.3 et seq.), receipts that are derived from the surcharge on luxury and fuel-inefficient vehicles shall be deposited in the General Fund as State revenue.

Notwithstanding the provisions of section 105 of P.L.2003, c.13 (C.39:2A-36) or any law to the contrary, an amount not to exceed \$10,000,000 from receipts derived from the increase in motor vehicle fees imposed in 2009 shall be deposited in the General Fund as State revenue.

The amount appropriated to the New Jersey Motor Vehicle Commission is based on proportional revenue collections for that fiscal year pursuant to the statutes listed in subsection a. of section 105 of P.L.2003, c.13 (C.39:2A-36). Of that amount, \$8,138,000 is appropriated for transfer to the Inter-Departmental property rental and household and security accounts, \$5,150,000 is appropriated for transfer to the Department of Transportation for the maintenance and operations program, \$4,800,000 is appropriated for transfer to the Division of Revenue within the Department of the Treasury, \$612,000 is appropriated for transfer to the Division of State Police, and \$800,000 is appropriated for transfer to the Bureau of Forestry within the Department of Environmental Protection for its Forest Fire Fighting Program. In addition, the Motor Vehicle Commission shall pay the non-State hourly rate charged by the Office of Administrative Law for hearing services, or an amount no less than \$500,000, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 105 of P.L.2003, c.13 (C.39:2A-36) or any law to the contrary, \$25,750,000 is appropriated from the revenues appropriated to the Motor Vehicle Commission for deposit in the General Fund to reflect savings from implementation of fiscal 2011 savings initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 105 of P.L.2003, c.13 (C.39:2A-36) or any law to the contrary, \$10,940,000 is appropriated from the revenues appropriated to the Motor Vehicle Commission for transfer to the Interdepartmental property rentals account to reflect savings from implementation of management

and procurement efficiencies, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 105 of P.L.2003, c.13 (C.39:2A-36) or any law to the contrary, \$50,000,000 is appropriated from the revenues appropriated to the Motor Vehicle Commission for deposit in the General Fund as State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

**60 Transportation Programs**

**61 State and Local Highway Facilities**

**DIRECT STATE SERVICES**

|                                                            |                     |
|------------------------------------------------------------|---------------------|
| 06-6100 Maintenance and Operations .....                   | \$37,873,000        |
| 08-6120 Physical Plant and Support Services .....          | <u>5,866,000</u>    |
| Total Direct State Services Appropriation, State and Local |                     |
| Highway Facilities.....                                    | <u>\$43,739,000</u> |

**Direct State Services:**

Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$22,319,000) |
| Materials and Supplies.....        | (12,235,000)   |
| Services Other Than Personal.....  | (1,891,000)    |
| Maintenance and Fixed Charges..... | (7,294,000)    |

The unexpended balances at the end of the preceding fiscal year in the accounts hereinabove are appropriated for Maintenance and Operations, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Maintenance and Operations, such additional sums as may be required are appropriated for winter operations, including snow removal costs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated for the Department of Transportation from the General Fund, \$36,500,000 thereof shall be paid from funds received from the various transportation-oriented authorities pursuant to contracts between the authorities and the State as are determined to be eligible for such funding pursuant to such contracts, as shall be determined by the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from the Logo Sign Program fees, which include the Trailblazer Sign Program, the Variable Message Advertising Program, the Excess Parcel Advertising Program, and the Land Service Road Advertising Program, are appropriated for the purpose of administering the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived from highway application and permit fees pursuant to subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) are appropriated for the purpose of administering the Access Permit Review

program, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Maintenance and Operations, \$9,000,000 for winter operations, including snow removal costs, is appropriated from the receipts of the New Tire Surcharge pursuant to P.L.2004, c.46 (C.54:32F-1 et seq.).

In addition to the amount hereinabove appropriated for Maintenance and Operations, there is appropriated \$5,150,000 from the Motor Vehicle Commission for Maintenance and Fixed Charges, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 12 of P.L.1962, c.73 (C.12:7-34.47), of the amount hereinabove appropriated for Maintenance and Operations, \$2,200,000 is payable from the revenue derived from the fee increase pursuant to the amendatory provisions of section 12 of P.L.2002, c.34 (C.12:7-34.47) deposited into the "Maritime Industry Fund."

#### **CAPITAL CONSTRUCTION**

60-6200 Trust Fund Authority -- Revenues and other funds

available for new projects.....\$1,035,300,000

Total Capital Construction Appropriation, State and

Local Highway Facilities.....\$1,035,300,000

#### ***Capital Projects:***

60 Transportation Trust Fund Account....(\$1,035,300,000)

The amount hereinabove appropriated for the Transportation Trust Fund account shall first be provided from revenues received from (i) motor fuel taxes, which are hereby appropriated for such purposes pursuant to Article VIII, Section II, paragraph 4 of the State Constitution; (ii) \$222,500,000 from the petroleum products gross receipts tax, which is hereby appropriated for such purposes pursuant to Article VIII, Section II, paragraph 4 of the State Constitution; (iii) \$265,800,000 from the sales and use tax which is hereby appropriated for such purposes pursuant to Article VIII, Section II, paragraph 4 of the State Constitution; (iv) \$12,000,000 of funds received from the various transportation-oriented authorities pursuant to contracts between such transportation-oriented authorities and the State; and (v) such additional sums pursuant to P.L.1984, c.73 (C.27:1B-1 et seq.); as may be necessary to satisfy all fiscal year 2012 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Notwithstanding the provisions of any law or regulation to the contrary, from amounts hereinabove appropriated the department may expend necessary sums for improvements to streets and roads providing access to State facilities within the capital city without local participation.

Receipts representing the State share from the rental or lease of property, and the unexpended balances at the end of the preceding fiscal year of such receipts are

appropriated for maintenance or improvement of transportation property, equipment, and facilities.

Notwithstanding any other provision of law or regulation to the contrary, the Department of Transportation may transfer Transportation Trust Fund monies to contracted federal projects until such time as federal funds become available for those projects, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance federally funded projects.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of \$625,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for capital purposes as follows:

| <b>Description</b>                                                                     | <b>County</b>   | <b>Amount</b> |
|----------------------------------------------------------------------------------------|-----------------|---------------|
| Acquisition of Right of Way                                                            | Various         | (\$500,000)   |
| Airport Improvement Program                                                            | Various         | (5,000,000)   |
| Asbestos Surveys and Abatements                                                        | Various         | (500,000)     |
| Barnegat Bay Watershed Storm Water Basin Study                                         | Ocean, Monmouth | (1,500,000)   |
| Betterments, Bridge Preservation                                                       | Various         | (22,000,000)  |
| Betterments, Dams                                                                      | Various         | (350,000)     |
| Betterments, Roadway Preservation                                                      | Various         | (10,195,000)  |
| Betterments, Safety                                                                    | Various         | (7,000,000)   |
| Bicycle & Pedestrian Facilities/Accommodations                                         | Various         | (1,000,000)   |
| Bridge, Emergency Repair                                                               | Various         | (30,000,000)  |
| Capital Contract Payment Audits                                                        | Various         | (1,500,000)   |
| Congestion Relief, Intelligent Transportation System Improvements (Smart Move Program) | Various         | (2,000,000)   |
| Congestion Relief, Operational Improvements (Fast Move Program)                        | Various         | (4,000,000)   |
| Construction Inspection                                                                | Various         | (7,250,000)   |
| Construction Program IT System (TRNS.PORT)                                             | Various         | (500,000)     |
| Culvert Inspection Program, Locally-owned Structures                                   | Various         | (4,500,000)   |
| Culvert Inspection Program, State-owned Structures                                     | Various         | (800,000)     |
| Culvert Replacement Program                                                            | Various         | (2,000,000)   |
| Design, Emerging Projects                                                              | Various         | (7,000,000)   |
| Drainage Rehabilitation and Maintenance, State                                         | Various         | (9,554,000)   |
| Duck Island Landfill, Site Remediation                                                 | Mercer          | (100,000)     |
| Electrical Facilities                                                                  | Various         | (5,446,000)   |
| Electrical Load Center Replacement, Statewide                                          | Various         | (2,000,000)   |
| Environmental Investigations                                                           | Various         | (2,000,000)   |

|                                                                         |         |               |
|-------------------------------------------------------------------------|---------|---------------|
| Environmental Project Support                                           | Various | (300,000)     |
| Equipment Purchase (Vehicles,<br>Construction, Safety)                  | Various | (10,000,000)  |
| Freight Program                                                         | Various | (10,000,000)  |
| Intelligent Transportation Systems                                      | Various | (500,000)     |
| Interstate Service Facilities                                           | Various | (100,000)     |
| Legal Costs for Right of Way Condemnation                               | Various | (1,600,000)   |
| Local Aid Grant Management System                                       | Various | (100,000)     |
| Local Aid, Infrastructure Fund                                          | Various | (7,500,000)   |
| Local Bridges, Future Needs                                             | Various | (25,000,000)  |
| Local County Aid, DVRPC                                                 | Various | (15,464,000)  |
| Local County Aid, NJTPA                                                 | Various | (53,762,000)  |
| Local County Aid, SJTPO                                                 | Various | (9,523,000)   |
| Local Municipal Aid, DVRPC                                              | Various | (13,705,000)  |
| Local Municipal Aid, NJTPA                                              | Various | (53,847,000)  |
| Local Municipal Aid, SJTPO                                              | Various | (6,199,000)   |
| Local Municipal Aid, Urban Aid                                          | Various | (5,000,000)   |
| Maintenance & Fleet Management System                                   | Various | (1,000,000)   |
| Maritime Transportation System                                          | Various | (1,000,000)   |
| Minority and Women Workforce<br>Training Set Aside                      | Various | (1,000,000)   |
| Orphan Bridge Reconstruction                                            | Various | (1,000,000)   |
| Park and Ride/Transportation Demand<br>Management Program               | Various | (1,000,000)   |
| Pedestrian Safety Improvement Design<br>and Construction                | Various | (4,000,000)   |
| Physical Plant                                                          | Various | (6,500,000)   |
| Planning and Research, State                                            | Various | (1,000,000)   |
| Program Implementation Costs, NJDOT                                     | Various | (102,000,000) |
| Project Development: Concept Development<br>and Preliminary Engineering | Various | (5,000,000)   |
| Project Enhancements                                                    | Various | (100,000)     |
| Rail-Highway Grade Crossing Program, State                              | Various | (2,200,000)   |
| Regional Action Program                                                 | Various | (500,000)     |
| Resurfacing Program                                                     | Various | (70,000,000)  |
| Right of Way Database/Document<br>Management System                     | Various | (100,000)     |
| Right of Way Full-Service Consultant                                    |         |               |
| Term Agreements                                                         | Various | (50,000)      |
| Safe Streets to Transit Program                                         | Various | (500,000)     |
| Sign Structure Inspection Program                                       | Various | (1,600,000)   |
| Signs Program, Statewide                                                | Various | (2,000,000)   |
| State Police Enforcement and Safety Services                            | Various | (5,000,000)   |

|                                                                                                                                                                                                                                                                           |                         |              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|--------------|
| Statewide Traffic Management/<br>Information Program                                                                                                                                                                                                                      | Various                 | (200,000)    |
| Traffic Monitoring Systems                                                                                                                                                                                                                                                | Various                 | (1,000,000)  |
| Traffic Signal Replacement                                                                                                                                                                                                                                                | Various                 | (9,111,000)  |
| Unanticipated Design, Right of Way and<br>Construction Expenses, State                                                                                                                                                                                                    | Various                 | (33,344,000) |
| Underground Exploration for Utility Facilities                                                                                                                                                                                                                            | Various                 | (200,000)    |
| University Transportation Research Technology                                                                                                                                                                                                                             | Various                 | (500,000)    |
| Utility Reconnaissance and Relocation                                                                                                                                                                                                                                     | Various                 | (2,000,000)  |
| Route 1, Northbound, South of CR 514 to<br>Route 287, Resurfacing                                                                                                                                                                                                         | Middlesex               | (3,240,000)  |
| Route 1, Southbound, Quaker Bridge<br>Mall Overpass                                                                                                                                                                                                                       | Mercer                  | (1,500,000)  |
| Route 10, Eastbound, West of Harrison Avenue<br>to East of West Northfield Avenue(CR 508)<br>Road, Resurfacing                                                                                                                                                            | Essex,<br>Morris        | (5,370,000)  |
| Route 17, South of Terrace Avenue to South<br>of West Saddle River Road (various locations),<br>Resurfacing                                                                                                                                                               | Bergen                  | (12,360,000) |
| Route 28, Middle Brook to Jefferson<br>Avenue, Resurfacing                                                                                                                                                                                                                | Somerset,<br>Middlesex  | (5,310,000)  |
| Route 29, Bank Stabilization, Ewing and<br>Delaware Twps.                                                                                                                                                                                                                 | Mercer,<br>Hunterdon    | (300,000)    |
| Route 206 Bypass, Mountain View Road to<br>Old Somerville Road (Sections 14A & 15A)                                                                                                                                                                                       | Somerset                | (2,000,000)  |
| Route 206, Rizzotte Drive to the Burlington<br>County Line, Resurfacing                                                                                                                                                                                                   | Atlantic,<br>Burlington | (3,720,000)  |
| Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is ap-<br>propriated the sum of \$622,000,000 from the revenues and other funds of the<br>New Jersey Transportation Trust Fund Authority for the specific projects iden-<br>tified as follows: |                         |              |

***New Jersey Transit Corporation***

| <b>Description</b>                                           | <b>County</b> | <b>Amount</b>   |
|--------------------------------------------------------------|---------------|-----------------|
| ADA-Platforms/Stations                                       | Various       | (\$26,133,000)  |
| Bridge and Tunnel Rehabilitation                             | Various       | (\$17,800,000)  |
| Building Capital Leases                                      | Various       | (\$5,700,000)   |
| Bus Acquisition Program                                      | Various       | (\$117,157,000) |
| Bus Passenger Facilities/Park and Ride                       | Various       | (\$800,000)     |
| Bus Support Facilities and Equipment                         | Various       | (\$4,430,000)   |
| Bus Vehicle and Facility Maintenance/<br>Capital Maintenance | Various       | (\$34,900,000)  |
| Capital Program Implementation                               | Various       | (\$23,470,000)  |
| Claims Support                                               | Various       | (\$2,000,000)   |

|                                          |                                  |                |
|------------------------------------------|----------------------------------|----------------|
| Environmental Compliance                 | Various                          | (\$3,000,000)  |
| Hudson-Bergen LRT System                 | Hudson                           | (\$5,390,000)  |
| Immediate Action Program                 | Various                          | (\$6,892,000)  |
| Light Rail Infrastructure Improvements   | Various                          | (\$4,050,000)  |
| Light Rail Vehicle Rolling Stock         | Various                          | (\$15,417,000) |
| Locomotive Overhaul                      | Various                          | (\$5,060,000)  |
| Miscellaneous                            | Various                          | (\$500,000)    |
| NEC Improvements                         | Various                          | (\$27,500,000) |
| Other Rail Station/Terminal Improvements | Various                          | (\$12,790,000) |
| Physical Plant                           | Various                          | (\$1,670,000)  |
| Private Carrier Equipment Program        | Various                          | (\$3,000,000)  |
| Rail Capital Maintenance                 | Various                          | (\$63,900,000) |
| Rail Rolling Stock Procurement           | Various                          | (\$94,920,000) |
| Rail Support Facilities and Equipment    | Various                          | (\$21,827,000) |
| River LINE LRT                           | Camden,<br>Burlington,<br>Mercer | (\$54,571,000) |
| Security Improvements                    | Various                          | (\$2,610,000)  |
| Signals and Communications/Electric      |                                  |                |
| Traction Systems                         | Various                          | (\$21,000,000) |
| Small/Special Services Program           | Various                          | (\$1,103,000)  |
| Study and Development                    | Various                          | (\$4,810,000)  |
| Technology Improvements                  | Various                          | (\$16,850,000) |
| Track Program                            | Various                          | (\$20,000,000) |
| Transit Rail Initiatives                 | Various                          | (\$2,750,000)  |

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated from the revenues and other monies of the New Jersey Transportation Trust Fund Authority for the Department of Transportation and the New Jersey Transit Corporation, respectively, for salary and overhead costs of employees of the Department of Transportation and the New Jersey Transit Corporation, respectively, associated with the construction of capital projects by the Department of Transportation and the New Jersey Transit Corporation, respectively, shall not be subject to any percentage limitation.

The unexpended balances at the end of the preceding fiscal year of appropriations from the New Jersey Transportation Trust Fund Authority are appropriated.

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), approval by the Joint Budget Oversight Committee of transfers among appropriations by project shall not be required. Notice of a transfer approved by the Director of the Division of Budget and Accounting pursuant to that section shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Federal funds received in conjunction with the Route 52 Causeway Replacement Contract A Construction Fund are hereby appropriated to the Transportation

Trust Fund Authority to pay debt service and other costs related to the Grant Anticipation Revenue Vehicles (GARVEE).

Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated to the Department of Transportation, such sums as shall be approved by the Director of the Division of Budget and Accounting, from the revenues and other funds of the New Jersey Transportation Trust Fund Authority received in connection with the issuance of the Authority's Grant Anticipation Revenue Vehicles (GARVEE) Bonds for the capital projects listed above. Federal funds received in conjunction with the capital projects funded through the issuance of these GARVEE Bonds are appropriated to the Authority to pay debt service and other costs related to the GARVEE Bonds.

Notwithstanding the provisions of any law or regulation to the contrary, funds derived from the sale or conveyance of any lands held by the Department of Transportation are appropriated for the acquisition of land for highway projects or to refund the Federal Highway Administration (FHWA) where required by federal law. Funds derived from the sale of all fill material held by the Department of Transportation are appropriated for demolition, acquisition of land, rehabilitation or improvement of existing facilities and construction of new facilities, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, funds received from the Port Authority of New York and New Jersey pursuant to a contract with the State for transportation system improvements are appropriated to the Department of Transportation for such improvements.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amount hereinabove appropriated for the Transportation Trust Fund Authority, there are appropriated such sums as are received from the New Jersey Turnpike Authority, not to exceed \$66,000,000, pursuant to a contract between the Authority and the State for transportation systems improvements.

## **62 Public Transportation**

### **GRANTS-IN-AID**

|                                                    |                        |
|----------------------------------------------------|------------------------|
| 04-6050 Railroad and Bus Operations.....           | <u>\$1,848,100,000</u> |
| Subtotal Grants-in-Aid, Public Transportation..... | <u>\$1,848,100,000</u> |

**Less:**

|                                                                |                               |
|----------------------------------------------------------------|-------------------------------|
| <i>Farebox Revenue</i> .....                                   | <i>\$878,000,000</i>          |
| <i>Other Commercial Revenue</i> .....                          | <i>75,000,000</i>             |
| <i>Other Reimbursements</i> .....                              | <i>585,700,000</i>            |
| <i>Total Income Deductions</i> .....                           | <u><i>\$1,538,700,000</i></u> |
| Total Grants-in-Aid Appropriation, Public Transportation ..... | <u>\$309,400,000</u>          |

**Grants-in-Aid:**

Personal Services:

|                         |                   |
|-------------------------|-------------------|
| Salaries and Wages..... | (\$1,089,800,000) |
|-------------------------|-------------------|

|                             |               |
|-----------------------------|---------------|
| Materials and Supplies..... | (336,500,000) |
|-----------------------------|---------------|

Services Other Than Personal.....(115,200,000)

Special Purpose:

04 Purchased Transportation .....(200,700,000)

04 Insurance and Claims.....(26,000,000)

04 Tolls, Taxes, and Other Operating  
Expenses .....(79,900,000)

**Less:**

***Income Deductions..... 1,538,700,000***

Notwithstanding the provision of any law or regulation to the contrary, in addition to the amount hereinabove appropriated for New Jersey Transit, there are appropriated such sums as are received from the New Jersey Turnpike Authority, pursuant to a contract between the Authority and the State for such transportation purposes.

Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated for New Jersey Transit from the General Fund, an amount not to exceed \$29,000,000 thereof shall be paid from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities and the State for transportation purposes.

**STATE AID**

04-6050 Railroad and Bus Operations.....\$25,121,000

***(From Casino Revenue Fund..... \$25,121,000)***

Total State Aid Appropriation, Public Transportation.....\$25,121,000

***(From Casino Revenue Fund..... \$25,121,000)***

**State Aid:**

04 Transportation Assistance for Senior  
Citizens and Disabled

Residents (CRF) .....(\$25,121,000)

Counties which provide para-transit services for sheltered workshop clients may seek reimbursement for such services pursuant to P.L.1987, c.455 (C.34:16-51 et seq.).

**CAPITAL CONSTRUCTION**

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Transportation, upon approval of the Director of the Division of Budget and Accounting, may transfer funds made available from the New Jersey Transportation Trust Fund Authority for public transportation projects under the program headings "New Jersey Transit Corporation" to the line-item under that same program heading entitled "Federal Transit Administration Projects" for any federally funded public transportation project shown in this act or any previous appropriation acts until such time as federal funds become available for the projects. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance Federal Transit Ad-

ministration projects. Any transfer of funds which returns funds from the line-item "Federal Transit Administration Projects" to the account of origin shall be deemed approved.

From the amounts appropriated from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the current fiscal year transportation capital program, the Commissioner of Transportation may allocate \$4,000,000 of the amount listed for the Private Carrier Equipment Program to New Jersey Transit's Private Carrier Capital Improvement Program (PCCIP). The amount provided herein shall be allocated to the private motorbus carriers consistent with the formula used to administer the PCCIP and shall be restricted to those carriers that currently qualify for participation in the PCCIP. These funds may be used for the procurement of any goods or services currently approved under New Jersey Transit's PCCIP, as well as: facility improvements, vehicle procurement, and capital maintenance that comports with subsection r. of section 3 of P.L.1984, c.73 (C.27:1B-3). Such maintenance and equipment procurements shall apply to vehicles owned by the private motorbus carriers and used in public transportation service, as well as to New Jersey Transit owned vehicles. Private motorbus carriers receiving an allocation of such funds shall be required to submit to New Jersey Transit a full accounting for all expenditures, demonstrating that the funds were used to increase or maintain the current level of public transportation service provided by the carrier or to improve revenue vehicle maintenance. Under no circumstances shall these funds be used to provide compensation of any officer or owner of a private motorbus carrier.

#### **64 Regulation and General Management**

##### **DIRECT STATE SERVICES**

|                                                                                       |                    |
|---------------------------------------------------------------------------------------|--------------------|
| 05-6070 Multimodal Services.....                                                      | \$902,000          |
| 99-6000 Administration and Support Services .....                                     | <u>744,000</u>     |
| Total Direct State Services Appropriation, Regulation and<br>General Management ..... | <u>\$1,646,000</u> |

##### **Direct State Services:**

|                                    |             |
|------------------------------------|-------------|
| Materials and Supplies.....        | (\$147,000) |
| Services Other Than Personal.....  | (616,000)   |
| Maintenance and Fixed Charges..... | (70,000)    |

##### **Special Purpose:**

|                                            |           |
|--------------------------------------------|-----------|
| 05 Office of Maritime Resources .....      | (248,000) |
| 05 Airport Safety Fund Administration..... | (565,000) |

Receipts in excess of the amount anticipated derived from outdoor advertising application and permit fees are appropriated for the purpose of administering the Outdoor Advertising Permit and Regulation Program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated for the same purpose.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for the Airport Safety Fund is payable out of the "Airport Safety Fund" established pursuant to section 4 of P.L.1983, c.264 (C.6:1-92). If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from fees on placarded rail freight cars transporting hazardous materials in this State are appropriated to defray the expenses of the Placarded Rail Freight Car Transporting Hazardous Materials Program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

The unexpended balance at the end of the preceding fiscal year in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated for the same purpose.

Department of Transportation, Total State Appropriation.....\$1,415,206,000

#### ***Summary of Department of Transportation Appropriations (For Display Purposes Only)***

##### ***Appropriations by Category:***

|                            |               |
|----------------------------|---------------|
| Direct State Services..... | \$45,385,000  |
| Grants-in-Aid.....         | 309,400,000   |
| State Aid.....             | 25,121,000    |
| Capital Construction.....  | 1,035,300,000 |

##### ***Appropriations by Fund:***

|                          |                 |
|--------------------------|-----------------|
| General Fund.....        | \$1,390,085,000 |
| Casino Revenue Fund..... | 25,121,000      |

### **82 DEPARTMENT OF THE TREASURY**

#### ***30 Educational, Cultural, and Intellectual Development***

#### ***36 Higher Educational Services***

#### **GRANTS-IN-AID**

|                                                                         |                     |
|-------------------------------------------------------------------------|---------------------|
| 47-2155 Support to Independent Institutions.....                        | \$1,037,000         |
| 49-2155 Miscellaneous Higher Education Programs.....                    | <u>43,336,000</u>   |
| Total Grants-in-Aid Appropriation, Higher<br>Educational Services ..... | <u>\$44,373,000</u> |

##### ***Grants-in-Aid:***

|                                                                                   |              |
|-----------------------------------------------------------------------------------|--------------|
| 47 Research Under Contract with the Institute<br>of Medical Research, Camden..... | (1,037,000)  |
| 49 Higher Education Capital Improvement<br>Program -- Debt Service.....           | (35,886,000) |

49 Equipment Leasing Fund -- Debt Service.....(458,000)

49 Dormitory Safety Trust Fund –

Debt Service .....(6,992,000)

The sums hereinabove appropriated for Research Under Contract with the Institute of Medical Research, Camden (Coriell Institute) shall be expended on support for research activities, and the Institute shall submit an annual audited financial statement to the Department of the Treasury which shall include a schedule showing the use of these funds.

#### STATE AID

48-2155 Aid to County Colleges .....\$204,032,000

*(From General Fund..... \$171,852,000)*

*(From Property Tax Relief Fund..... 32,180,000)*

Total State Aid Appropriation, Higher Educational Services....\$204,032,000

*(From General Fund..... \$171,852,000)*

*(From Property Tax Relief Fund..... 32,180,000)*

#### Less:

*Supplemental Workforce Fund –*

*Basic Skills ..... \$16,300,000*

*Total Income Deductions .....\$16,300,000*

Total State Appropriation, Higher Educational Services....\$187,732,000

*(From General Fund..... \$155,552,000)*

*(From Property Tax Relief Fund..... 32,180,000)*

#### State Aid:

48 Operational Costs .....(\$134,786,000)

48 Debt Service for Chapter 12, P.L.1971,

c.12 (N.J.S.18A:64A-22.1) (PTRF).....(32,180,000)

48 Alternate Benefit Program –

Employer Contributions .....(17,580,000)

48 Alternate Benefit Program -- Non-

contributory Insurance.....(2,573,000)

48 Teachers' Pension and Annuity Fund --

Non-contributory Insurance .....(9,000)

48 Teachers' Pension and Annuity Fund --

Post Retirement Medical .....(1,109,000)

48 Employer Contribution - Teachers'

Pension and Annuity Fund .....(75,000)

48 Post Retirement Medical Other

Than TPAF .....(15,365,000)

48 Employer Contributions -- FICA for

County College Members of TPAF.....(215,000)

48 Debt Service on Pension Obligation Bonds....(140,000)

#### Less:

*Income Deductions..... 16,300,000*

In addition to the amount hereinabove appropriated for Operational Costs, there is appropriated \$16,300,000 from the Supplemental Workforce Fund for Basic Skills for remedial courses provided at county colleges and all other monies in the Supplemental Workforce Fund are appropriated in the proportions set forth in section 1 of P.L.2001, c.152 (C.34:15D-21).

Notwithstanding the provisions of any law or regulation to the contrary, from the sums hereinabove appropriated for county college Operational Costs, there are allocated such sums as are required to provide the reimbursement to cover tuition costs of the National Guard members pursuant to subsection b. of section 21 of P.L.1999, c.46 (C.18A:62-24).

Such additional sums as may be required for Alternate Benefit Program - Employer Contributions, Alternate Benefit Program - Non-contributory Insurance, Teachers' Pension and Annuity Fund - Non-contributory Insurance, Teachers' Pension and Annuity Fund - Post Retirement Medical, Post Retirement Medical Other Than TPAF, and Employer Contributions - FICA for County College Members of Teachers' Pension and Annuity Fund are appropriated, as the Director of the Division of Budget and Accounting shall determine.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Such sums as may be necessary for the payment of interest or principal or both, due from the issuance of any bonds authorized under the provisions of section 1 of P.L.1971, c.12 (C.18A:64A-22.1) are appropriated.

#### ***Higher Educational Services***

Of the amount hereinabove appropriated for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Message and Recommendations first shall be charged to the State Lottery Fund.

### ***50 Economic Planning, Development, and Security***

#### ***51 Economic Planning and Development***

|                                                      |                      |
|------------------------------------------------------|----------------------|
| 38-2043 Economic Development .....                   | <u>\$185,263,000</u> |
| Total Grants-in-Aid Appropriation, Economic Planning |                      |
| and Development.....                                 | <u>\$185,263,000</u> |

#### ***Grants-in-Aid:***

|                                             |               |
|---------------------------------------------|---------------|
| 38 Fort Monmouth Economic                   |               |
| Revitalization Authority .....              | (\$263,000)   |
| 38 Brownfield Site Reimbursement Fund ..... | (10,000,000)  |
| 38 Business Employment Incentive            |               |
| Program, EDA .....                          | (175,000,000) |

Funds made available for the remediation of the discharges of hazardous substances pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution, shall be appropriated to the Brownfield Site Reimbursement Fund, established pursuant to section 38 of P.L.1997, c.278 (C.58:10B-30), in an amount to be determined by the Director of the Division of Taxation, and subject to the approval of the Director of the Division of Budget and Accounting. If such sums for the remediation of discharges of hazardous substances are insufficient, there are appropriated such sums as necessary to the Brownfield Site Reimbursement Fund, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance at the end of the preceding fiscal year in the Brownfield Site Reimbursement Fund account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Business Employment Incentive Program, EDA, there is appropriated from the General Fund to the Department of the Treasury for transfer to the New Jersey Economic Development Authority such sums as may be necessary to fund the Business Employment Incentive Program, the amount of which, when combined with the amount hereinabove appropriated and with prior year disbursements, shall not exceed the total amount of revenues received as withholdings, as defined in section 2 of P.L.1996, c.26 (C.34:1B-125), during the prior calendar years from all businesses receiving grants pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et seq.), as certified by the Director of the Division of Taxation, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Fort Monmouth Economic Revitalization Authority, there is appropriated such additional sums as are necessary to secure federal matching funds for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

## ***52 Economic Regulation***

### **DIRECT STATE SERVICES**

|                                                                         |                     |
|-------------------------------------------------------------------------|---------------------|
| 54-2008 Utility Regulation .....                                        | \$7,907,000         |
| 55-2004 Regulation of Cable Television .....                            | 2,216,000           |
| 88-2058 Energy Assistance Programs .....                                | 1,850,000           |
| 97-2016 Regulatory Support Services .....                               | 4,513,000           |
| 99-2003 Administration and Support Services .....                       | <u>9,935,000</u>    |
| Total Direct State Services Appropriation,<br>Economic Regulation ..... | <u>\$26,421,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages .....           | (\$24,577,000) |
| Materials and Supplies .....       | (469,000)      |
| Services Other Than Personal ..... | (844,000)      |

Maintenance and Fixed Charges.....(398,000)

Additions, Improvements and Equipment .....(133,000)

Receipts derived from fees are appropriated for the administrative costs of the Board of Public Utilities.

The unexpended balances at the end of the preceding fiscal year in the programs administered by the Board of Public Utilities are appropriated for use by those respective programs, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from interest earned by the Petroleum Overcharge Reimbursement Fund such sums as may be required for costs attributable to the administration of the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the balances from the Petroleum Overcharge Reimbursement Fund and the Secondary Stage Refunds and the monies required to be deposited in that fund from projects which have been completed or are no longer viable are reappropriated for new projects consistent with the court rulings which served as the basis for the original awards, subject to the approval of the Director of the Division of Budget and Accounting and the Director of the Office of Energy Savings.

The amounts hereinabove appropriated, not to exceed \$1,850,000, for the Energy Assistance Programs account may be transferred to the Department of Health and Senior Services, Lifeline account to fund the costs associated with administering the Lifeline Credits and Tenants' Assistance Rebate Program and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the investment earnings derived from the funds deposited in the Clean Energy Fund and Universal Services Trust Fund shall accrue to the funds and are available to pay the costs of the various programs of the New Jersey Board of Public Utilities Clean Energy Program and Universal Services Trust Fund.

Notwithstanding the provisions of paragraph (3) of subsection a. of section 12 of the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-60) and any other laws to the contrary, receipts from the New Jersey Clean Energy Trust Fund are appropriated for the actual administrative salary and operating costs for the Office of Clean Energy as requested by the President of the Board of Public Utilities and approved by the Director of the Division of Budget and Accounting.

All revenue received in the CATV Universal Access Fund is appropriated for transfer to the General Fund as State revenue.

#### **GRANTS-IN-AID**

88-2058 Energy Assistance Programs .....\$68,940,000

Total Grants-in-Aid Appropriation, Economic Regulation .....\$68,940,000

***Grants-in-Aid:***

88 Payments for Lifeline Credits.....(\$32,769,000)

88 Tenants' Assistance Rebate Program .....(36,171,000)

Notwithstanding the provisions of P.L.1979, c.197 (C.48:2-29.15 et seq.), the provisions of P.L.1981, c.210 (C.48:2-29.30 et seq.), or any law or regulation to the contrary, the benefits of the Lifeline Credits Program and the Tenants' Assistance Rebate Program may be distributed throughout the entire year from July through June, and are not limited to an October to March heating season; therefore, applications for Lifeline benefits and benefits from the Pharmaceutical Assistance to the Aged and Disabled program may be combined.

Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated for Payments for the Lifeline Credits Program and Tenants' Assistance Rebate Program are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of Lifeline claims, amounts may be transferred from the various items of appropriation within the Energy Assistance Programs classification, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated, such sums as may be required for the payment of claims, credits, and rebates, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Any supplemental appropriation for the Payments for Lifeline Credits and the Tenants' Assistance Rebate Program may be recovered from the Universal Service Fund through transfer to the General Fund as State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated, an amount not to exceed \$63,840,000 for Payments for the Lifeline Credits and the Tenants' Assistance Rebate Program are available to the Department of Health and Senior Services to fund the payments associated with the Lifeline Credits and Tenants' Assistance programs and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Payments for Lifeline Credits and Tenants' Assistance Rebate Program, \$5,100,000 shall be transferred to the Department of Human Services to fund energy assistance payments under the Temporary Assistance for Needy Families (TANF) and General Assistance programs.

***70 Government Direction, Management, and Control***

***72 Governmental Review and Oversight***

**DIRECT STATE SERVICES**

03-2015 Employee Relations and Collective Negotiations .....\$841,000

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 07-2040 Office of Management and Budget.....            | <u>14,791,000</u>   |
| Total Direct State Services Appropriation, Governmental |                     |
| Review and Oversight .....                              | <u>\$15,632,000</u> |

***Direct State Services:***

## Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$12,546,000) |
| Materials and Supplies.....        | (127,000)      |
| Services Other Than Personal.....  | (1,680,000)    |
| Maintenance and Fixed Charges..... | (10,000)       |

## Special Purpose:

|                            |             |
|----------------------------|-------------|
| 07 Independent Audits..... | (1,269,000) |
|----------------------------|-------------|

Such sums as may be necessary for administrative expenses incurred in processing federal benefit payments are appropriated from such sums as may be received or receivable for this purpose.

In addition to the amounts hereinabove appropriated for the Office of Management and Budget, there are appropriated such additional sums as may be necessary for an independent audit of the State's general fixed asset account group, management, performance, and operational audits, and the single audit.

There are appropriated, out of receipts derived from the investment of State funds, such sums as may be necessary for interest costs, bank service charges, custodial costs, mortgage servicing fees, and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

***2066 Office of the State Comptroller*****DIRECT STATE SERVICES**

|                                                      |                    |
|------------------------------------------------------|--------------------|
| 08-2066 Office of the State Comptroller .....        | <u>\$9,851,000</u> |
| Total Direct State Services Appropriation, Office of |                    |
| the State Comptroller.....                           | <u>\$9,851,000</u> |

***Direct State Services:***

## Personal Services:

|                                             |               |
|---------------------------------------------|---------------|
| Salaries and Wages.....                     | (\$8,901,000) |
| Materials and Supplies.....                 | (55,000)      |
| Services Other Than Personal.....           | (750,000)     |
| Maintenance and Fixed Charges.....          | (45,000)      |
| Additions, Improvements and Equipment ..... | (100,000)     |

Notwithstanding the provisions of any law or regulation to the contrary, all financial recoveries obtained through the efforts of any entity authorized to undertake the prevention and detection of Medicaid fraud, waste and abuse, are appropriated to General Medical Services in the Division of Medical Assistance and Health Services in the Department of Human Services.

***73 Financial Administration*****DIRECT STATE SERVICES**

|                                                   |               |
|---------------------------------------------------|---------------|
| 15-2080 Taxation Services and Administration..... | \$113,338,000 |
|---------------------------------------------------|---------------|

|                                                 |                       |
|-------------------------------------------------|-----------------------|
| 16-2090 Administration of State Lottery .....   | 22,212,000            |
| 17-2105 Administration of State Revenues .....  | 17,359,000            |
| 19-2120 Management of State Investments .....   | 1,787,000             |
| 25-2095 Administration of Casino Gambling ..... | 9,108,000             |
| <i>(From Casino Control Fund .....</i>          | <i>\$9,108,000)</i>   |
| 50-2105 Business Services Bureau .....          | <u>4,685,000</u>      |
| Total Direct State Services Appropriation,      |                       |
| Financial Administration .....                  | <u>\$168,489,000</u>  |
| <i>(From General Fund .....</i>                 | <i>\$159,381,000)</i> |
| <i>(From Casino Control Fund .....</i>          | <i>9,108,000)</i>     |

**Direct State Services:****Personal Services:**

|                                           |                       |
|-------------------------------------------|-----------------------|
| Chairman and Commissioners (CCF) .....    | (\$641,000)           |
| Salaries and Wages .....                  | (112,444,000)         |
| Salaries and Wages (CCF) .....            | (4,257,000)           |
| Employee Benefits (CCF) .....             | (1,722,000)           |
| <i>(From General Fund .....</i>           | <i>\$112,444,000)</i> |
| <i>(From Casino Control Fund .....</i>    | <i>6,620,000)</i>     |
| Materials and Supplies .....              | (3,044,000)           |
| Materials and Supplies (CCF) .....        | (102,000)             |
| Services Other Than Personal .....        | (40,817,000)          |
| Services Other Than Personal (CCF) .....  | (703,000)             |
| Maintenance and Fixed Charges .....       | (1,876,000)           |
| Maintenance and Fixed Charges (CCF) ..... | (1,460,000)           |

**Special Purpose:**

|                                                   |             |
|---------------------------------------------------|-------------|
| 17 Wage Reporting/Temporary                       |             |
| Disability Insurance .....                        | (1,200,000) |
| 25 Administration of Casino Gambling (CCF) .....  | (45,000)    |
| Additions, Improvements and Equipment (CCF) ..... | (178,000)   |

Receipts derived from the sale of confiscated equipment, materials, and supplies under the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) are appropriated as may be necessary for confiscation, storage, disposal, and other related expenses thereof.

Upon certification of the Director of the Division of Taxation, the State Treasurer shall pay, upon warrants of the Director of the Division of Budget and Accounting, such claims for refund as may be necessary under the provisions of Title 54 of the Revised Statutes, as amended and supplemented.

Such sums as are required for the acquisition of equipment essential to the modernization of processing tax returns, are appropriated from tax collections, subject to the approval of the Joint Budget Oversight Committee and the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Division of Taxation and the Division of Revenue to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et

seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Pursuant to the provisions of section 12 of P.L.1992, c.165 (C.40:54D-12) there are appropriated such sums as may be required to compensate the Department of the Treasury for costs incurred in administering the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.).

Notwithstanding the provisions of any law or regulation to the contrary, there are available out of fees derived from the cost of collection imposed pursuant to section 8 of P.L.1987, c.76 (C.54:49-12.1) such sums as may be required for compliance and enforcement activities associated with the collection process as promulgated by the Taxpayers' Bill of Rights under P.L.1992, c.175.

In addition to the amounts hereinabove appropriated for Taxation Services and Administration, such additional sums as may be necessary are appropriated to fund costs of the collecting and processing of debts, taxes, and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Joint Budget Oversight Committee with written reports on the detailed appropriation and expenditure of sums appropriated pursuant to this provision.

Notwithstanding the provisions of section 4 of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.4), such sums as are necessary are appropriated from the Lead Hazard Control Assistance Fund for the Department of the Treasury's administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated, out of revenues derived from escheated property under the various escheat acts, such sums as may be necessary to administer such acts and such sums as may be required for refunds.

There are hereby appropriated from the Dedicated Cigarette Tax Revenue Fund established pursuant to P.L.2004, c.68 (C.34:1B-21.16 et seq.) such sums as are required under the contract between the State Treasurer and the New Jersey Economic Development Authority entered into pursuant to section 6 of P.L.2004, c.68 (C.34:1B-21.21).

Pursuant to the provisions of section 54 of P.L.2002, c.34 (C.App.A:9-78) deposits made to the "New Jersey Domestic Security Account" are appropriated for transfer to the Department of Health and Senior Services to support medical emergency disaster preparedness for bioterrorism, to the Department of Law and Public Safety for State Police salaries related to statewide security services and counter-terrorism programs, and to the Department of Agriculture or any entity succeeding to the duties and functions of the Department of Agriculture, pursuant to separate legislation for the Agro-Terrorism program, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the State Lottery Fund such sums as may be necessary for costs required to implement the "State Lottery Law," P.L.1970, c.13

(C.5:9-1 et seq.) and for payment for commissions, prizes, and expenses of developing and implementing games pursuant to section 7 of P.L.1970, c.13 (C.5:9-7).

State Lottery Fund receipts in excess of anticipated contributions to education and State institutions, and reimbursement of administrative expenditures, are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

Notwithstanding the provisions of any law or regulation to the contrary, there are appropriated out of receipts derived from communications fees such sums as may be necessary for telecommunications costs required in the administration of the State Lottery.

Notwithstanding the provisions of any law or regulation to the contrary, there are appropriated out of receipts derived from the sale of advertising and/or promotional products by the State Lottery, such sums as may be necessary for advertising costs required in the administration of the State Lottery pursuant to P.L.1970, c.13 (C.5:9-1 et seq.).

There are appropriated such sums as are necessary to fund the hospitals' share of monies collected pursuant to the hospital care payment act, P.L.2003, c.112 (C.17B:30-41 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Division of Revenue, there is appropriated to the Division of Revenue \$4,800,000 from the Motor Vehicle Commission for document processing charges.

The Director of the Division of Budget and Accounting is hereby authorized to transfer or credit such sums as are necessary between the Department of Labor and Workforce Development and the Department of the Treasury for the administration of revenue collection and processing functions related to Unemployment Insurance, Temporary Disability Insurance, Workers' Compensation, Special Compensation Programs, the Health Care Subsidy Fund, and the Workforce Development Partnership program.

The amount hereinabove appropriated for the Wage Reporting/Temporary Disability Insurance program are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer revenue collection associated with the Temporary Disability Insurance program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated from the over-the-counter surcharges are appropriated to meet the costs of the Division of Revenue's commercial recording function, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law, regulation or Executive Order to the contrary, any receipts received from Nextel Corporation in accordance with a Plan Funding Agreement approved by Nextel and the 800 MHz Transition Ad-

ministrator for costs of rebanding incurred by State agencies, and any local units of government that have entered into a Memorandum of Understanding with the Attorney General authorizing the State to receive Nextel funds on behalf of such local unit, pursuant to Federal Communications Commission-ordered reconfiguration of the 800 MHz band, are appropriated to the Department of the Treasury for costs related to that program. Such sums shall be expended or transferred to the various departments and agencies to reimburse administrative and procurement costs in accordance with the Plan Funding Agreement and in consultation with the Attorney General, subject to the approval of the Director of the Division of Budget and Accounting.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.), as well as the cost of billing and collection of surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982 - Merit Rating System Surcharge Program, P.L.1983, c.65 (C.17:29A-33 et seq.) as amended, are appropriated from fees in lieu of actual cost of collection receipts and from surcharges derived, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of investment transactions, such sums as may be necessary to administer the Management of State Investments program.

There are appropriated, out of receipts derived from the investments of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees, and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

Notwithstanding the provisions of any law or regulation to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting shall determine.

#### ***74 General Government Services***

##### **DIRECT STATE SERVICES**

|         |                                                                            |            |
|---------|----------------------------------------------------------------------------|------------|
| 02-2069 | Garden State Preservation Trust .....                                      | \$476,000  |
| 09-2050 | Purchasing and Inventory Management .....                                  | 9,700,000  |
| 26-2067 | Property Management and Construction -- Property Management Services ..... | 14,899,000 |
| 37-2051 | Risk Management .....                                                      | 2,352,000  |

|                                                    |                     |
|----------------------------------------------------|---------------------|
| 77-2079 Workforce Initiatives and Development..... | <u>2,609,000</u>    |
| Total Direct State Services Appropriation, General |                     |
| Government Services .....                          | <u>\$30,036,000</u> |

***Direct State Services:***

## Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$23,428,000) |
| Materials and Supplies.....        | (315,000)      |
| Services Other Than Personal.....  | (3,474,000)    |
| Maintenance and Fixed Charges..... | (2,263,000)    |

## Special Purpose:

|                                             |           |
|---------------------------------------------|-----------|
| 02 Garden State Preservation Trust.....     | (476,000) |
| Additions, Improvements and Equipment ..... | (80,000)  |

In addition to the amount appropriated hereinabove to the Division of Purchase and Property, there is appropriated to the Division of Purchase and Property, an amount equal to 50% of the amount of the total rebates on procurement card purchases for costs of the Division, subject to the approval of the Director of the Division of Budget and Accounting. In addition, an amount equal to the remaining 50% of total rebates on procurement card purchases is appropriated to the various using departments and agencies for their costs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, there are appropriated, out of the receipts derived from third party subrogation and service fees billed to authorities for the handling of insurance procurement and risk management services, such sums as may be necessary for the administrative expenses of the Risk Management program.

In addition to the amount hereinabove appropriated for Property Management and Construction, there are appropriated such additional sums as may be required for the costs incurred in order to preserve and maintain the value and condition of State real property that has been declared surplus and for costs incurred in the selling of the real property, including appraisal, survey, advertising, maintenance, security and other costs related to the preservation and disposal, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, there are appropriated out of receipts derived from the pre-qualification service fees billed to contractors, architects, engineers, and professionals sufficient sums for expenses related to the administration of pre-qualification activities undertaken by the Division of Property Management and Construction.

Receipts derived from the leasing of State surplus real property are appropriated for the maintenance of leased property subject to the approval of the Director of the Division of Budget and Accounting, provided that a sum not to exceed \$100,000 shall be available for the administrative expenses of the program.

Receipts derived from the leasing of Department of Environmental Protection real properties are appropriated for the costs incurred for maintenance, repairs and utilities on the properties.

There are appropriated such additional sums as may be necessary for the purchase of expert witness services related to the State's defense against inverse condemnation claims related to the Department of Environmental Protection's Land Use Regulation program.

Receipts from employee maintenance charges in excess of \$300,000 are appropriated for maintenance of employee housing and associated relocation costs; provided, however, that a sum not to exceed \$25,000 shall be available for management of the program, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of receipts derived from lease proceeds billed to the occupants of the James J. Howard Marine Science Laboratory, such sums as may be required to operate and maintain the facility and for the payment of interest or principal due from the issuance of bonds for this facility.

Notwithstanding the provisions of any law or regulation to the contrary, an amount not to exceed \$476,000 is transferred from the Garden State Farmland Preservation Trust Fund, the Garden State Green Acres Preservation Trust Fund and the Garden State Historic Preservation Trust Fund to the General Fund in an allocation to be determined by the Garden State Preservation Trust and approved by the Director of the Division of Budget and Accounting and such amount is appropriated to the Garden State Preservation Trust.

Receipts derived from Workforce Initiatives and Development and any unexpended balance at the end of the preceding fiscal year are appropriated for costs related to that program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, administrative expenses for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits are appropriated from the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be, subject to the approval of the Director of the Division of Budget and Accounting. Administrative costs shall include bank service charges, investment services, and any other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting shall determine.

**2026 Office of Administrative Law**

**DIRECT STATE SERVICES**

|                                                      |                     |
|------------------------------------------------------|---------------------|
| 45-2026 Adjudication of Administrative Appeals ..... | <u>\$8,536,000</u>  |
| <i>(From General Fund .....</i>                      | <i>\$3,745,000)</i> |
| <i>(From All Other Fund .....</i>                    | <i>4,791,000)</i>   |
| Total Direct State Services Appropriation, Office of |                     |
| Administrative Law .....                             | <u>\$8,536,000</u>  |
| <i>(From General Fund .....</i>                      | <i>\$3,745,000)</i> |
| <i>(From All Other Funds .....</i>                   | <i>4,791,000)</i>   |

**Less:****All Other Funds ..... \$4,791,000****Total Deductions..... \$4,791,000**Total State Appropriation, Office of Administrative Law ..... \$3,745,000**Direct State Services:**

## Personal Services:

Salaries and Wages.....(\$8,008,000)

Materials and Supplies.....(71,000)

Services Other Than Personal.....(382,000)

Maintenance and Fixed Charges.....(75,000)

**Less:****All Other Funds ..... 4,791,000**

In addition to the amount hereinabove appropriated for the Office of Administrative Law, such sums as may be received or receivable from any department or non-State fund source for administrative hearing costs or rule-making costs by the Office of Administrative Law and the unexpended balance at the end of the preceding fiscal year of such sums are appropriated for the Office's administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Office of Administrative Law any appropriation made to any department for administrative hearing costs which had been appropriated or allocated to such department for its share of such costs.

Receipts derived from annual license fees, payable to the Office of Administrative Law, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated for the Office's administrative costs.

Receipts derived from royalties, payable to the Office of Administrative Law, and the unexpended balance at the end of the preceding fiscal year of such receipts, are appropriated for the Office's administrative costs.

Of the amounts appropriated to the New Jersey Motor Vehicle Commission, such appropriation is conditioned upon paying the non-State hourly rate charged by the Office of Administrative Law for hearing services, or an amount not less than \$500,000.

Notwithstanding the provisions of section 4 of P.L.1978, c.67 (C.52:14F-4) to the contrary, including the reference therein to salaries of administrative law judges determined as a percentage of the annual salary of judges of Superior Court, there shall be no increase paid from appropriations made herein for annual salary increases for administrative law judges.

**2034 Office of Information Technology****DIRECT STATE SERVICES**

40-2034 Office of Information Technology .....\$97,086,000

65-2034 Emergency Telecommunication Services.....13,272,000

|                                                                                   |                            |
|-----------------------------------------------------------------------------------|----------------------------|
| Total Direct State Services Appropriation, Office of Information Technology ..... | <u>\$110,358,000</u>       |
| <b>Less:</b>                                                                      |                            |
| <b>OIT -- Other Resources .....</b>                                               | <b>\$59,099,000</b>        |
| <b>Total Income Deductions .....</b>                                              | <b><u>\$59,099,000</u></b> |
| Total State Appropriation, Office of Information Technology ....                  | <u>\$51,259,000</u>        |
| <b>Direct State Services:</b>                                                     |                            |
| Personal Services:                                                                |                            |
| Salaries and Wages .....                                                          | (\$27,521,000)             |
| Materials and Supplies .....                                                      | (207,000)                  |
| Services Other Than Personal .....                                                | (10,165,000)               |
| Maintenance and Fixed Charges .....                                               | (94,000)                   |
| Special Purpose:                                                                  |                            |
| 40 Office of Information Technology .....                                         | (59,099,000)               |
| 65 Statewide 911 Emergency                                                        |                            |
| Telecommunication System .....                                                    | (12,372,000)               |
| 65 Office of Emergency                                                            |                            |
| Telecommunication Services .....                                                  | (900,000)                  |

**Less:**  
**Income Deductions .....** **\$9,099,000**

In addition to the \$59,099,000 attributable to OIT Other Resources, there are appropriated such sums as may be received or receivable from any State agency, instrumentality or public authority for increases or changes in Office of Information Technology services, subject to the approval of the Director of the Division of Budget and Accounting.

As a condition to the appropriations made in this act, specifically with regard to the allocation of employees performing information technology infrastructure functions and the establishment of deputy chief technology officers and related staff as authorized in P.L.2007, c.56 (C.52:18A-219 et al.), the Office of Information Technology shall identify the specific Direct State Services appropriations and positions that should be transferred between various departments and the Office of Information Technology, subject to the approval of the Director of the Division of Budget and Accounting.

From amounts appropriated to various departments, such sums as are necessary may be transferred to the Office of Information Technology for enterprise initiatives, subject to the establishment of a formal agreement between the Office of Information Technology and those departments to support enterprise projects, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance at the end of the preceding fiscal year in the Enterprise Initiatives account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Statewide 911 Emergency Telecommunication System, there are appropriated such additional sums

as may be necessary for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated such sums for Geographic Information System (GIS) Integration as may be received from federal, county, municipal governments or agencies and nonprofit organizations for orthoimagery and parcel data mapping.

### **75 State Subsidies and Financial Aid**

#### **GRANTS-IN-AID**

33-2078 Homestead Exemptions ..... \$659,400,000

*(From Property Tax Relief Fund..... \$659,400,000)*

Total Grants-in-Aid Appropriation, State Subsidies

and Financial Aid ..... \$659,400,000

*(From Property Tax Relief Fund..... \$659,400,000)*

#### **Grants-in-Aid:**

33 Homestead Benefit Program (PTRF)..... (\$458,000,000)

33 Senior and Disabled Citizens' Property

Tax Freeze (PTRF)..... (201,400,000)

The amount hereinabove appropriated for the Homestead Benefit Program shall be available to provide homestead benefits only to eligible homeowners pursuant to the provisions of section 3 of P.L.1990, c.61 (C.54:4-8.59) as amended by P.L.2004, c.40 and by P.L.2007, c.62, as may be amended from time to time except that, notwithstanding the provisions of such laws to the contrary: (i) residents who are 65 years of age or older at the close of the tax year, or residents who are allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, with (a) gross income in excess of \$150,000 for tax year 2010 are excluded from the program; (b) gross income in excess of \$100,000 but not in excess of \$150,000 for tax year 2010 are eligible for a benefit in the amount of 5% of the first \$10,000 of property taxes paid, and (c) gross income not in excess of \$100,000 for tax year 2010 are eligible for a benefit in the amount of 10% of the first \$10,000 of property taxes paid; (ii) residents who are not 65 years of age or older at the close of the tax year, or residents who are not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, with (a) gross income in excess of \$75,000 for tax year 2010 are excluded from the program; (b) gross income in excess of \$50,000 but not in excess of \$75,000 for tax year 2010 are eligible for a benefit in the amount of 6.67% of the first \$10,000 of property taxes paid; and (c) gross income not in excess of \$50,000 for tax year 2010 are eligible for a benefit in the amount of 10% of the first \$10,000 of property taxes paid. These benefits listed pursuant to this paragraph will be calculated based on the 2006 property tax amounts assessed or as would have been assessed on the October 1, 2010 principal residence of eligible applicants. The total homestead benefit provided to an eligible applicant in a given State fiscal year shall not exceed the homestead rebate amount paid to such eligible

applicant for tax year 2006, absent a change in an applicant's filing characteristics. The homestead benefit shall be made in one or more installments after the application for the benefit has been approved, at the dates and in the form as the Director of the Division of Taxation shall determine. If the amount hereinabove appropriated for the Homestead Benefit Program is not sufficient, there is appropriated from the Property Tax Relief Fund such additional sums as may be required to provide such homestead benefits, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount hereinabove appropriated for the Homestead Benefit Program, there are appropriated such sums as may be necessary for the administration of the program, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount hereinabove appropriated for the Homestead Benefit Program, there are appropriated such sums as may be required for payments of homestead benefits that have been approved but not paid pursuant to the annual appropriations act for the fiscal year the claimant applied for such homestead benefit, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount hereinabove appropriated for the Homestead Benefit Program, there are appropriated from the Property Tax Relief Fund such sums as may be required for payments of property tax credits to homeowners and tenants pursuant to the "Property Tax Deduction Act," P.L.1996, c.60 (C.54A:3A-15 et seq.).

Notwithstanding the provisions of P.L.1997, c.348 (C.54:4-8.67 et seq.), the amount hereinabove appropriated for Senior and Disabled Citizens' Property Tax Freeze (PTRF), and any additional sum which may be required for this purpose, is appropriated from the Property Tax Relief Fund.

Notwithstanding the provisions of any law or regulation to the contrary, the amount hereinabove appropriated for Senior and Disabled Citizens' Property Tax Freeze is subject to the following condition: eligibility for property tax reimbursements in fiscal year 2012 shall be determined pursuant to section 1 of P.L.1997, c.348 (C.54:4-8.67), except that citizens with annual income of more than \$70,000 shall not be eligible for property tax reimbursements in fiscal year 2012.

#### STATE AID

|         |                                                                                  |                      |
|---------|----------------------------------------------------------------------------------|----------------------|
| 28-2078 | County Boards of Taxation.....                                                   | \$1,903,000          |
| 29-2078 | Locally Provided Assistance .....                                                | 33,209,000           |
| 34-2078 | Reimbursement of Senior/Disabled Citizens' and Veterans'<br>Tax Deductions ..... | 80,900,000           |
|         | <b>(From Property Tax Relief Fund .....</b>                                      | <b>\$80,900,000)</b> |
| 35-2078 | Consolidated Police and Firemen's Pension Fund .....                             | 75,445,000           |
|         | <b>(From Property Tax Relief Fund .....</b>                                      | <b>52,748,000)</b>   |
|         | <b>(From the General Fund .....</b>                                              | <b>22,697,000)</b>   |

Total State Aid Appropriation, State Subsidies and  
 Financial Aid .....\$191,457,000  
**(From General Fund..... \$57,809,000)**  
**(From Property Tax Relief Fund..... 133,648,000)**

**State Aid:**

28 County Boards of Taxation.....(\$1,903,000)  
 29 South Jersey Port Corporation  
   Debt Service Reserve Fund .....(20,400,000)  
 29 South Jersey Port Corporation Property  
   Tax Reserve Fund.....(4,650,000)  
 29 Highlands Protection Fund -- Incentive  
   Planning Aid .....(432,000)  
 29 Highlands Protection Fund -- Regional  
   Master Plan Compliance Aid .....(1,750,000)  
 29 Highlands Protection Fund -- Watershed  
   Moratorium Offset Aid.....(2,218,000)  
 29 Public Library Project Fund .....(3,759,000)  
 34 Reimbursement to Municipalities --  
   Senior and Disabled Citizens' Tax  
   Deductions (PTRF) .....(17,300,000)  
 34 State Reimbursement for Veterans'  
   Property Tax Deductions (PTRF).....(63,600,000)  
 35 Debt Service on Pension Obligation  
   Bonds (PTRF) .....(14,145,000)  
 35 State Contribution to Consolidated  
   Police and Firemen's Pension Fund .....(174,000)  
 35 Police and Firemen's Retirement  
   System .....(14,569,000)  
 35 Police and Firemen's Retirement  
   System (P.L.1979, c.109) .....(7,954,000)  
 35 Police and Firemen's Retirement System  
   -- Post Retirement Medical (PTRF) .....(38,603,000)

There are appropriated such additional sums as may be certified to the Governor by the South Jersey Port Corporation as necessary to meet the requirements of the South Jersey Port Corporation Debt Service Reserve Fund under section 14 of P.L.1968, c.60 (C.12:11A-14), and the South Jersey Port Corporation Property Tax Reserve Fund under section 20 of P.L.1968, c.60 (C.12:11A-20), the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for the Highlands Protection Fund are payable from the receipts of the portion of the realty transfer fee directed to be credited to the Highlands Protection Fund and the unexpended balances at the end of the preceding fiscal year in the Highlands Protection Fund accounts are appropriated, subject to the approval of the Director of the Division of Budget

and Accounting. Further, the Department of the Treasury may transfer funds as necessary between the Highlands Protection Fund - Incentive Planning Aid account and the Highlands Protection Fund - Regional Master Plan Compliance Aid account, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for Solid Waste Management - County Environmental Investment Aid is appropriated to subsidize county and county authority debt service payments for environmental investments incurred and other repayment obligations owed pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) as determined by the State Treasurer based upon the need for such financial assistance after taking into account all financial resources available or attainable to pay such debt service and such other repayment obligations. Such additional sums as may be necessary shall be appropriated subject to the approval of the Director of the Division of Budget and Accounting and shall be provided upon such terms and conditions as the State Treasurer may determine. The unexpended balance at the end of the preceding fiscal year is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the sum apportioned to the several counties of the State shall not be distributed and shall be anticipated as revenue for general State purposes.

Notwithstanding the provisions of the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the amounts collected from banking corporations pursuant to the "Corporation Business Tax Act (1945)" shall not be distributed to the counties and municipalities and shall be anticipated as revenue for general State purposes.

There is appropriated from the Energy Tax Receipts Property Tax Relief Fund the sum of \$788,492,000 and an amount not to exceed \$261,158,000 from Consolidated Municipal Property Tax Relief Aid (PTRF) is appropriated and shall be allocated to municipalities in accordance with the provisions of subsection b. of section 2 of P.L.1997, c.167 (C.52:27D-439), provided further, however, that from the amounts hereinabove appropriated, each municipality shall also receive such additional sums from the Energy Tax Receipts Property Tax Relief Fund as provided in the previous fiscal year. Each municipality that receives an allocation from the amount so transferred from the Consolidated Municipal Property Tax Relief Aid program shall have its allocation from the Consolidated Municipal Property Tax Relief Aid program reduced by the same amount.

Notwithstanding the provisions of paragraph (1) of subsection c. of section 2 of P.L.1997, c.167 (C.52:27D-439) or any other law or regulation to the contrary, the amount hereinabove appropriated for Energy Tax Receipts Property Tax Relief Fund payments shall be distributed on the following schedule: on or be-

fore August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; December 1 for municipalities operating under a calendar fiscal year, 5% of the total amount due; and June 1 for municipalities operating under the State fiscal year, 5% of the total amount due.

Notwithstanding the provisions of any law or regulation to the contrary, the release of the final 5% or \$500, whichever is greater, of the total annual amount due for the current fiscal year from the Energy Tax Receipts Property Tax Relief Fund to municipalities is subject to the following condition: the municipality shall submit to the Director of the Division of Local Government Services a report describing the municipality's compliance with the "Best Practices Inventory" established by the Director of the Division of Local Government Services and shall receive at least a minimum score on such inventory as determined by the Director of the Division of Local Government Services; provided, however, that the Director may take into account the particular circumstances of a municipality in computing such score. In preparing the Best Practices Inventory, the Director shall identify best municipal practices in the areas of general administration, fiscal management, and operational activities, as well as the particular circumstances of a municipality, in determining the minimum score acceptable for the release of the final 5% or \$500, whichever is greater, of the total annual amount due for the current fiscal year, but in no event shall amounts be withheld with respect to municipal practices occurring prior to the issuance of the Best Practices Inventory unless related to a municipal practice identified in the Best Practices Inventory established in 2010.

There is appropriated from taxes collected from certain insurance companies, pursuant to the insurance tax act, so much as may be required for payments to counties pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.).

The unexpended balance at the end of the preceding fiscal year from the taxes collected pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) shall lapse.

The Director of the Division of Budget and Accounting shall reduce amounts provided to any municipality from the amount hereinabove appropriated by the difference, if any, between pension contribution savings, and the amount of Consolidated Municipal Property Tax Relief Aid payable to such municipality.

In addition to the amount hereinabove appropriated for Reimbursement to Municipalities - Senior and Disabled Citizens' Tax Deductions (PTRF) and State Reimbursement for Veterans' Property Tax Deductions (PTRF), there are appropriated from the Property Tax Relief Fund such additional sums as may be required for State reimbursement to municipalities for senior and disabled citizens' and veterans' property tax deductions.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Account-

ing shall determine are required to pay all amounts due from the State pursuant to such contracts.

Such additional sums as may be required for Police and Firemen's Retirement System - Post Retirement Medical are appropriated, as the Director of the Division of Budget and Accounting shall determine.

#### **76 Management and Administration**

##### **DIRECT STATE SERVICES**

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| 98-2006 Contract Compliance and Equal Employment      |                     |
| Opportunity in Public Contracts .....                 | \$757,000           |
| 99-2000 Administration and Support Services .....     | <u>10,968,000</u>   |
| Total Direct State Services Appropriation, Management |                     |
| and Administration .....                              | <u>\$11,725,000</u> |

##### **Direct State Services:**

###### **Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$11,111,000) |
| Materials and Supplies .....        | (60,000)       |
| Services Other Than Personal .....  | (498,000)      |
| Maintenance and Fixed Charges ..... | (40,000)       |

###### **Special Purpose:**

|                                                  |          |
|--------------------------------------------------|----------|
| 99 Federal Liaison Office, Washington, D.C. .... | (16,000) |
|--------------------------------------------------|----------|

There are appropriated such additional sums as may be required to pay for the operating expenses of the Casino Revenue Fund Advisory Commission, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the investment earnings of general obligation bond proceeds such sums as may be necessary for the payment of debt service administrative costs.

There is appropriated from revenue estimated to be received as a fee in connection with the issuance of debt an amount not to exceed \$700,000 to provide funds for public finance activities.

There are appropriated from revenue to be received from investment earnings of State funds, from fees in connection with the cost of debt issuance and from service fees billed to State authorities, such sums as may be required for public finance activities. The unexpended balance at the end of the preceding fiscal year from such investment earnings and service fees is appropriated to the Office of Public Finance.

Pursuant to the provisions of P.L.1999, c.12 (C.54A:9-25.12 et seq.) deposits made to the "Drug Abuse Education Fund" and the unexpended balance at the end of the preceding fiscal year of such deposits are appropriated for collection or administration costs of the Department of the Treasury and for transfer to the Department of Education such sums as are necessary for Project DARE (Drug Abuse Resistance Education) and the Steroid Use and Prevention Program, and to the Department of Human Services for substance abuse treatment and pre-

vention programs, subject to the approval of the Director of the Division of Budget and Accounting.

An amount equivalent to the amount due to be paid in this fiscal year to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990 among the States of New York and New Jersey and the Port Authority of New York and New Jersey is appropriated to the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) for the purposes of P.L.1992, c.16 (C.34:1B-7.10 et seq.).

Notwithstanding the provisions of any law or regulation to the contrary, there are appropriated from the "Drug Enforcement and Demand Reduction Fund" such sums as may be required to provide for the administrative expenses of the Governor's Council on Alcoholism and Drug Abuse and for programs and grants to other agencies, subject to the approval of the Director of the Division of Budget and Accounting.

Fees collected on behalf of the Contract Compliance and Equal Employment Opportunity in Public Contracts program and the unexpended balance at the end of the preceding fiscal year of such fees are appropriated for program costs, subject to allotment by the Director of the Division of Budget and Accounting.

### ***80 Special Government Services***

### ***82 Protection of Citizens' Rights***

#### **DIRECT STATE SERVICES**

|                                                          |                                           |                      |
|----------------------------------------------------------|-------------------------------------------|----------------------|
| 06-2024                                                  | Appellate Services to Indigents .....     | \$9,861,000          |
| 57-2021                                                  | Trial Services to Indigents .....         | 66,100,000           |
| 58-2022                                                  | Mental Health Advocacy .....              | 4,382,000            |
| 61-2023                                                  | Dispute Settlement .....                  | 525,000              |
| 66-2021                                                  | Office of Law Guardian .....              | 19,559,000           |
| 67-2021                                                  | Office of Parental Representation .....   | 15,265,000           |
| 99-2025                                                  | Administration and Support Services ..... | <u>2,731,000</u>     |
| Total Direct State Services Appropriation, Protection of |                                           |                      |
| Citizens' Rights .....                                   |                                           | <u>\$118,423,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                             |                |
|---------------------------------------------|----------------|
| Salaries and Wages .....                    | (\$85,849,000) |
| Materials and Supplies .....                | (1,085,000)    |
| Services Other Than Personal .....          | (29,271,000)   |
| Maintenance and Fixed Charges .....         | (2,068,000)    |
| Additions, Improvements and Equipment ..... | (150,000)      |

Sums provided for legal and investigative services are available for payment of obligations applicable to prior fiscal years.

In addition to the amount hereinabove appropriated for the operation of the Office of the Public Defender there are appropriated additional sums as may be required for Trial and Appellate services to indigents, the expenditure of which

shall be subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, no State funds are appropriated to fund the expenses associated with the legal representation of persons before the State Parole Board or the Parole Bureau.

Lawsuit settlements and legal costs awarded by any court to the Office of the Public Defender are appropriated for the expenses associated with the representation of indigent clients.

The amount hereinabove appropriated to the Office of the Public Defender is available for expenses associated with pool attorneys hired by the Office of the Public Defender for the representation of indigent clients.

Receipts in excess of the amount anticipated for the Dispute Settlement Office of the Office of the Public Defender are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### ***2048 State Legal Services Office***

##### **GRANTS-IN-AID**

89-2048 Civil Legal Services for the Poor.....\$14,900,000

Total Grants-in-Aid Appropriation, State Legal

Services Office .....\$14,900,000

##### ***Grants-in-Aid:***

89 Legal Services of New Jersey -

Legal Assistance in Civil Matters.....(\$14,900,000)

#### ***2096 Corrections Ombudsperson***

##### **DIRECT STATE SERVICES**

51-2096 Corrections Ombudsperson .....\$534,000

Total Direct State Services Appropriation,

Corrections Ombudsperson .....\$534,000

##### ***Direct State Services:***

Personal Services:

Salaries and Wages.....(\$471,000)

Services Other Than Personal.....(63,000)

#### ***2097 Division of Elder Advocacy***

##### **DIRECT STATE SERVICES**

81-2097 Elder Advocacy .....\$1,859,000

Total Direct State Services Appropriation, Division of

Elderly Advocacy .....\$1,859,000

##### ***Direct State Services:***

Personal Services:

Salaries and Wages.....(\$1,574,000)

Materials and Supplies.....(15,000)

Services Other Than Personal.....(175,000)

Maintenance and Fixed Charges.....(53,000)  
 Additions, Improvements and Equipment .....(42,000)

***2098 Division of Rate Counsel***

**DIRECT STATE SERVICES**

53-2098 Rate Counsel .....\$5,884,000  
 Total Direct State Services Appropriation, Division of  
 Rate Counsel .....\$5,884,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages.....(\$2,849,000)  
 Materials and Supplies.....(58,000)  
 Services Other Than Personal.....(2,468,000)  
 Maintenance and Fixed Charges.....(490,000)  
 Additions, Improvements and Equipment .....(19,000)

Receipts of the Division of Rate Counsel in excess of those anticipated are appropriated for the Division of Rate Counsel to defray the costs of the Division of Rate Counsel function.

The unexpended balances at the end of the preceding fiscal year in the Division of Rate Counsel accounts are appropriated for the same purpose.

Department of Treasury, Total State Appropriation.....\$1,795,923,000

***Summary of Department of the Treasury Appropriations  
 (For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services..... \$443,858,000  
 Grants-in-Aid..... 972,876,000  
 State Aid..... 379,189,000

***Appropriations by Fund:***

General Fund ..... \$961,587,000  
 Property Tax Relief Fund ..... 825,228,000  
 Casino Control Fund..... 9,108,000

**90 MISCELLANEOUS COMMISSIONS**

***40 Community Development and Environmental Management***

***43 Science and Technical Programs***

***9130 Interstate Environmental Commission***

**DIRECT STATE SERVICES**

03-9130 Interstate Environmental Commission .....\$15,000  
 Total Direct State Services Appropriation, Interstate  
 Environmental Commission .....\$15,000

***Direct State Services:***

**Special Purpose:**

03 Expenses of the Commission.....(\$15,000)

**9140 Delaware River Basin Commission****DIRECT STATE SERVICES**

|                                                                                 |                  |
|---------------------------------------------------------------------------------|------------------|
| 02-9140 Delaware River Basin Commission.....                                    | <u>\$893,000</u> |
| Total Direct State Services Appropriation, Delaware River Basin Commission..... | <u>\$893,000</u> |

**Direct State Services:**

Special Purpose:

|                                    |             |
|------------------------------------|-------------|
| 02 Expenses of the Commission..... | (\$893,000) |
|------------------------------------|-------------|

**70 Government Direction, Management, and Control****72 Governmental Review and Oversight****9148 Council on Local Mandates****DIRECT STATE SERVICES**

|                                                                            |                 |
|----------------------------------------------------------------------------|-----------------|
| 92-9148 Council on Local Mandates.....                                     | <u>\$68,000</u> |
| Total Direct State Services Appropriation, Council on Local Mandates ..... | <u>\$68,000</u> |

**Direct State Services:**

Special Purpose:

|                                    |            |
|------------------------------------|------------|
| 92 Council on Local Mandates ..... | (\$68,000) |
|------------------------------------|------------|

The unexpended balance at the end of the preceding fiscal year in this account is appropriated.

|                                                           |                  |
|-----------------------------------------------------------|------------------|
| Miscellaneous Commissions, Total State Appropriation..... | <u>\$976,000</u> |
|-----------------------------------------------------------|------------------|

**Summary of Miscellaneous Commissions Appropriations****(For Display Purposes Only)****Appropriations by Category:**

|                            |           |
|----------------------------|-----------|
| Direct State Services..... | \$976,000 |
|----------------------------|-----------|

**Appropriations by Fund:**

|                    |           |
|--------------------|-----------|
| General Fund ..... | \$976,000 |
|--------------------|-----------|

**94 INTER-DEPARTMENTAL ACCOUNTS****70 Government Direction, Management, and Control****74 General Government Services****DIRECT STATE SERVICES**

|                                                                  |                      |
|------------------------------------------------------------------|----------------------|
| 01-9400 Property Rentals .....                                   | \$245,546,000        |
| 02-9400 Insurance and Other Services .....                       | 135,232,000          |
| 06-9400 Utilities and Other Services .....                       | <u>12,407,000</u>    |
| Subtotal Direct State Services, General Government Services..... | <u>\$393,185,000</u> |

**Less:****Direct Rent Charges and Charges for****Operational Efficiencies..... \$98,869,000****Total Deductions..... \$98,869,000**

Total Direct State Services Appropriation, General  
 Government Services ..... \$294,316,000

***Direct State Services:***

Property Rentals:

01 Existing and Anticipated Leases.....(\$192,854,000)  
 01 Economic Development Authority .....(16,914,000)  
 01 Other Debt Service Leases and  
 Tax Payments .....(34,995,000)

***Less:***

***Total Deductions ..... \$98,869,000***

Additions, Improvements and Equipment .....(783,000)

Insurance and Other Services:

02 Tort Claims Liability Fund (C.59:12-1) ....(15,000,000)  
 02 Workers' Compensation Self-  
 Insurance Fund .....(101,190,000)  
 02 Property Insurance Premium Payments.....(3,085,000)  
 02 Casualty Insurance Premium Payments.....(643,000)  
 02 Special Insurance Policy  
 Premium Payment .....(189,000)  
 02 UMDNJ Self-Insurance Reserve Fund .....(10,000,000)  
 02 Vehicle Claims Liability Fund .....(3,500,000)  
 02 Self-Insurance Deductible Fund .....(1,500,000)  
 02 Self-Insurance Fund - Foster Parents.....(125,000)

Utilities and Other Services:

06 Public Health, Environmental and  
 Agricultural Laboratory.....(5,986,000)  
 06 Fuel and Utilities .....(1,210,000)  
 06 Household and Security.....(5,211,000)

The Director of the Division of Budget and Accounting is empowered to allocate to any State agency occupying space in any State-owned building equitable charges for the rental of such space to include, but not be limited to, the costs of operation and maintenance thereof, and the amounts so charged shall be credited to the General Fund; and, to the extent that such charges exceed the amounts appropriated for such purposes to any agency financed from any fund other than the General Fund, the required additional appropriation shall be made out of such other fund.

Receipts derived from direct charges and charges to non-State fund sources are appropriated for the rental of property, including the costs of operation and maintenance of such properties.

Notwithstanding the provisions of any law or regulation to the contrary, and except for leases negotiated by the Division of Property Management and Construction and subject to the approval or disapproval by the State Leasing and Space Utilization Committee pursuant to P.L.1992, c.130 (C.52:18A-191.1 et al.), and except as hereinafter provided, no lease for the rental of any office or building,

except for legislative district offices, shall be executed without the prior written consent of the State Treasurer and the Director of the Division of Budget and Accounting. Legislative district office leases may be executed by personnel in the Office of Legislative Services so directed by the Executive Director, provided the lease complies with the Joint Rules Governing Legislative District Offices adopted by the presiding officers. Leases which do not comply with the Joint Rules Governing Legislative District Offices may be executed by personnel in the Office of Legislative Services, District Office Services so directed by the Executive Director with the prior written consent of the President of the Senate and the Speaker of the General Assembly.

To the extent that sums appropriated for property rental payments are insufficient, there are appropriated such additional sums, not to exceed \$3,000,000 as may be required to pay property rental obligations, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$2,500,000 shall be appropriated for the costs of security, maintenance, utilities and other operating expenses related to the closure of State-owned buildings, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the Division of Property Management and Construction is empowered to renegotiate lease terms, provided that such renegotiations result in cost savings to the State for the current fiscal year and for the term of the lease. Any lease amendments made as a result of these renegotiations are subject to the review and approval of the State Leasing and Space Utilization Committee. Receipts from such renegotiations are appropriated to the Property Rentals account to offset the cost of leases, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay for office renovations associated with the consolidation of office space, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay debt service costs for the Greystone Park Psychiatric Hospital Project, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for Property Rentals, there is appropriated to the Property Rentals program \$5,638,000 from the Motor Vehicle Commission for property rental charges.

Notwithstanding the provisions of section 105 of P.L.2003, c.13 (C.39:2A-36) or any law to the contrary, \$10,940,000 is appropriated from the revenues appropriated to the Motor Vehicle Commission for transfer to the Inter-departmental Property Rentals account to reflect savings from implementation of management and procurement efficiencies, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the Director of the Division of Budget and Accounting shall transfer from

departmental accounts and credit to the Property Rentals account such sums as necessary to reflect savings from post warranty product maintenance initiatives. This additional sum is appropriated for Property Rentals.

The unexpended balance at the end of the preceding fiscal year in the Master Lease Program Fund is appropriated for the same purpose.

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Insurance and Other Services program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

There are appropriated such additional sums as may be required to pay tort claims under N.J.S.59:12-1, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of claims of a tortious nature, for the indemnification of pool attorneys engaged by the Public Defender for the defense of indigents, for the indemnification of designated pathologists engaged by the State Medical Examiner, and for direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of tort claims under N.J.S.59:12-1, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any law or regulation to the contrary, claims paid from the Tort Claims Liability Fund on behalf of entities funded, in whole or in part, from non-State funds, may be reimbursed from such non-State fund sources as determined by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay claims not payable from the Tort Claims Liability Fund or payable under the "New Jersey Contractual Liability Act," (N.J.S.59:13-1 et seq.), as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. The funds appropriated are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of claims not payable from the Tort Claims Liability Fund or payable under the "New Jersey Contractual Liability Act," as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. Notwithstanding the provisions of any law or regulation to the contrary, claims or costs paid from the monies appropriated under this paragraph on behalf of entities funded, in whole or in part from non-State funds, may be reimbursed from such non-State funds sources as determined by the Director of the Division of Budget and Accounting. Appropriations under this paragraph shall not be available to pay punitive damages and shall not be deemed a waiver of any immunity by the State.

To the extent that sums appropriated to pay Workers' Compensation claims under R.S.34:15-1 et seq., are insufficient, there are appropriated such additional sums as may be required to pay Workers' Compensation claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Workers' Compensation Self-Insurance Fund under R.S.34:15-1 et seq. is available for the payment of direct costs of legal, investigative, administrative and medical services related to the investigation, mitigation, litigation and administration of claims against the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, benefits provided to community work experience participants shall be borne by the Work First New Jersey program funded through the Department of Human Services and any costs related to administration, mitigation, litigation and investigation of claims will be reimbursed to the Division of Risk Management within the Department of the Treasury by the Work First New Jersey program funded through the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

Providing that expenditures during the current fiscal year on Workers' Compensation claims attributable to the Departments of Human Services, Transportation, Corrections, and Law and Public Safety are less than the respective amounts expended by those departments for claims attributable to the preceding fiscal year, all or a portion of that savings is appropriated to those departments or the Division of Risk Management within the Department of the Treasury for the purpose of improving worker safety and reducing workers' compensation costs, subject to the approval of the Director of the Division of Budget and Accounting.

To the extent that sums appropriated to pay auto insurance claims are insufficient, there are appropriated such additional sums as may be required to pay auto insurance claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Vehicle Claims Liability Fund is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

The unexpended balance at the end of the preceding fiscal year in the Self-Insurance Deductible Fund is appropriated for the same purposes.

The amount hereinabove appropriated for the Self-Insurance Fund - Foster Parents is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

Notwithstanding the provisions of any law or regulation to the contrary, the sums hereinabove appropriated are available for payment of obligations applicable to prior fiscal years.

There are appropriated out of revenues received from utility companies such sums as may be required for implementation and administration of the Energy Conservation Initiatives Program, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for fuel and utility costs, amounts may be transferred to or from State departments to meet fuel and utility needs, subject to the approval of the Director of the Division of Budget and Accounting; and, in addition to the sums hereinabove appropriated for fuel and utility costs and for the Public Health, Environmental and Agricultural Laboratory fuel and utility costs, there are appropriated such additional sums as may be required to pay fuel and utility costs, subject to the approval of the Director of the Division of Budget and Accounting.

Revenue generated from the sale of Solar Renewable Energy Certificates is appropriated to fund energy-related savings initiatives as determined by the Director of Energy Savings within the Department of the Treasury, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the amount hereinabove appropriated for Fuel and Utilities, there is appropriated \$42,500,000 from the Clean Energy Fund for utility costs in State facilities.

Receipts derived from fees charged for public parking at the Bangs Avenue Parking Garage in Asbury Park, and the unexpended balance from the preceding fiscal year, are appropriated for the costs incurred for maintenance and operation of the garage, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Household and Security account, there is appropriated to the Household and Security account \$2,500,000 from the Motor Vehicle Commission for utility, security, and building maintenance costs.

In addition to the amount hereinabove appropriated for Utilities and Other Services, of the unexpended balances in the Petroleum Overcharge Reimbursement Fund, there is appropriated such sums as are required to fund the energy tracking and invoice payment system, as determined by the Director of Energy Savings within the Department of the Treasury, subject to the approval of the Director of the Division of Budget and Accounting.

In accordance with the "Recycling Enhancement Act," P.L.2007, c.311 (C.13:1E-96.2 et al.), an amount not to exceed \$358,000 is appropriated from the State Recycling Fund - Recycling Administration account to the Department of the Treasury for administrative costs attributable to the State recycling program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

09-9460 Aid to Independent Authorities ..... \$80,853,000

Total Grants-in-Aid Appropriation, General  
 Government Services.....\$80,853,000

***Grants-in-Aid:***

09 New Jersey Sports and Exposition  
 Authority - Debt Service .....(\$14,791,000)  
 09 New Jersey Performing Arts  
 Center, EDA .....(7,442,000)  
 09 Business Employment Incentive Program,  
 EDA - Debt Service.....(33,420,000)  
 09 Liberty Science Center .....(11,073,000)  
 09 Municipal Rehabilitation and Economic  
 Recovery - EDA .....(14,127,000)

In addition to the amounts hereinabove appropriated for the Sports and Exposition Authority, there are appropriated such additional sums as are necessary to satisfy debt service obligations and to maintain the core operating functions of the authority, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the New Jersey Performing Arts Center, EDA account shall be used to pay the State's obligations pursuant to a lease with the New Jersey Economic Development Authority, for the lease of real property and infrastructure improvements and the Performing Arts Center structure constructed thereon purchased by the authority for the State in the city of Newark, for the purpose of constructing buildings to comprise a Performing Arts Center. Notwithstanding the provisions of any law or regulation to the contrary, the State Treasurer may enter into a lease with the New Jersey Economic Development Authority to lease the real property and improvements thereon purchased or caused to be constructed by the authority for the State in the city of Newark for the Performing Arts Center, subject to the prior written consent of the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly. Upon the final payment of the State's obligations pursuant to the lease for the real property and infrastructure improvements purchased by the authority, the title to the real property and improvements shall revert to the State. The State may sublease the land and facilities for the purpose of operating, maintaining or financing a Performing Arts Center in Newark. Any sublease for use of land and improvements acquired for the State by the New Jersey Economic Development Authority for the Performing Arts Center shall be subject to the prior written approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, or its successor. There are appropriated such additional sums as may be necessary to pay debt service for the New Jersey Performing Arts Center.

The amounts hereinabove appropriated for debt service payments attributable to the New Jersey Performing Arts Center, EDA program and to the Municipal Rehabilitation and Economic Recovery, EDA program may be paid by the New

Jersey Economic Development Authority from resources available from unexpended balances, and in such instances the amounts appropriated for the New Jersey Performing Arts Center, EDA program and for the Municipal Rehabilitation and Economic Recovery, EDA program shall be reduced by the same amount. There are appropriated such additional sums as may be necessary to pay debt service and other costs for the Municipal Rehabilitation and Economic Recovery, EDA program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the Liberty Science Center is allocated for debt service obligations and for the operations of the Liberty Science Center, the amount of such operational support to be determined by the State Treasurer on such terms and conditions as the State Treasurer requires pursuant to an agreement between the State Treasurer and the Liberty Science Center, subject to the approval of the Director of the Division of Budget and Accounting. In addition, there are appropriated such additional sums as may be necessary to satisfy debt service obligations subject to the approval of the Director of the Division of Budget and Accounting. Furthermore, there are also appropriated such additional sums for support of the operations of the center, as determined by the State Treasurer on such terms and conditions as the State Treasurer requires pursuant to an agreement between the State Treasurer and the Liberty Science Center, subject to the approval of the Director of the Division of Budget and Accounting.

#### **CAPITAL CONSTRUCTION**

|                                                   |                      |
|---------------------------------------------------|----------------------|
| 08-9450 Capital Projects - Statewide.....         | <u>\$176,294,000</u> |
| Total Capital Construction Appropriation, General |                      |
| Government Services .....                         | <u>\$176,294,000</u> |

#### ***Capital Projects:***

##### **Statewide Capital Projects:**

|                                                 |                |
|-------------------------------------------------|----------------|
| 08 New Jersey Building Authority -              |                |
| General State Projects .....                    | (\$68,294,000) |
| 08 Energy Efficiency - Statewide Projects ..... | (10,000,000)   |

##### **Open Space Preservation Program:**

|                                    |              |
|------------------------------------|--------------|
| 08 Garden State Preservation Trust |              |
| Fund Account .....                 | (98,000,000) |

There are appropriated such additional sums as may be required to pay future debt service costs for projects undertaken by the New Jersey Building Authority, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated under P.L.2004, c.71, donations for the 9/11 Memorial Design Costs from public and private sources, including those collected from the Port Authority of New York and New Jersey, for the purposes of planning, designing, maintaining and constructing a memorial to the victims of the terrorist attacks of September 11, 2001, on the World Trade

Center in New York City, the Pentagon in Washington, D.C., and United Airlines Flight 93 in Somerset County, Pennsylvania, shall be deposited by the State Treasurer in a dedicated account established for this purpose and are appropriated for the purposes set forth under P.L.2004, c.71 and there are appropriated or transferred such sums as are necessary for the 9/11 Memorial project, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, in order to provide flexibility in administering the amounts provided for Statewide Fire, Life Safety and Renovations Projects; Roof Repairs-Statewide; Americans with Disabilities Act Compliance Projects-Statewide; Hazardous Materials Removal Projects-Statewide; Statewide Security Projects; and Energy Efficiency-Statewide Projects; such sums as may be necessary may be transferred to individual project line items within various departments, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for Hazardous Materials Removal Projects - Statewide and Statewide Security Projects, funds may be transferred to the Fuel Distribution Systems/Underground Storage Tank Replacements-Statewide account for the removal of underground storage tanks at State facilities, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, an amount not to exceed \$5,000,000, from monies received from the sale of real property that are deposited in the State-owned Real Property Fund pursuant to section 1 of P.L.2007, c.108 (C.52:31-1.3b) are appropriated for Statewide Roofing Repairs and Replacements.

The amount hereinabove appropriated for Energy Efficiency-Statewide Projects is payable from the Clean Energy Fund to provide the full cost of energy efficiency projects in State facilities including, but not limited to, up to \$6,000,000 for heating, ventilation and air conditioning systems at various Human Services institutions. The project allocations may be adjusted based on consultation with the Department of the Treasury, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, any monies received from the sale of real property that are deposited in the State-owned Real Property Fund pursuant to section 1 of P.L.2007, c.108 (C.52:31-1.3b) are appropriated for Capital projects that increase energy efficiency, improve work place safety or for information technology systems or other capital investments that will generate an operating budget savings, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for the Garden State Preservation Trust Fund Account, interest earned and accumulated commencing with the start of this fiscal year is appropriated.

The amount hereinabove appropriated for the Garden State Preservation Trust Fund Account is subject to the provisions of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.) and the constitutional amendment on open space (Article VIII, Section II, paragraph 7).

**9410 Employee Benefits**

**DIRECT STATE SERVICES**

|                                            |                        |
|--------------------------------------------|------------------------|
| 03-9410 Employee Benefits .....            | <u>\$1,748,094,000</u> |
| Total Direct State Services Appropriation, |                        |
| Employee Benefits .....                    | <u>\$1,748,094,000</u> |

**Direct State Services:**

Special Purpose:

|                                                 |                 |
|-------------------------------------------------|-----------------|
| 03 Public Employees' Retirement System -        |                 |
| Post Retirement Medical .....                   | (\$188,813,000) |
| 03 Public Employees' Retirement System ...      | (108,122,000)   |
| 03 Public Employees' Retirement System -        |                 |
| Non-contributory Insurance .....                | (27,625,000)    |
| 03 Police and Firemen's Retirement              |                 |
| System - Non-contributory Insurance .....       | (8,477,000)     |
| 03 Police and Firemen's Retirement              |                 |
| System (P.L.1979, c.109) .....                  | (968,000)       |
| 03 Police and Firemen's Retirement              |                 |
| System .....                                    | (27,727,000)    |
| 03 Alternate Benefit Program -                  |                 |
| Employer Contributions .....                    | (1,326,000)     |
| 03 Alternate Benefit Program - Non-             |                 |
| contributory Insurance.....                     | (198,000)       |
| 03 Defined Contribution Retirement Program .... | (773,000)       |
| 03 Defined Contribution Retirement              |                 |
| Program - Non-contributory Insurance .....      | (197,000)       |
| 03 State Police Retirement System - Non-        |                 |
| contributory Insurance.....                     | (1,833,000)     |
| 03 State Police Retirement System.....          | (16,215,000)    |
| 03 Judicial Retirement System - Non-            |                 |
| contributory Insurance.....                     | (938,000)       |
| 03 Judicial Retirement System .....             | (5,438,000)     |
| 03 Teachers' Pension and Annuity Fund -         |                 |
| Post Retirement Medical - State .....           | (2,894,000)     |
| 03 Teachers' Pension and Annuity Fund -         |                 |
| Non-contributory Insurance .....                | (72,000)        |
| 03 Teachers' Pension and Annuity Fund.....      | (729,000)       |
| 03 Pension Adjustment Program .....             | (1,166,000)     |
| 03 Veterans Act Pensions.....                   | (63,000)        |

- 03 Debt Service on Pension
    - Obligation Bonds.....(106,648,000)
  - 03 Volunteer Emergency Survivor Benefit.....(105,000)
  - 03 State Employees' Health Benefits .....(565,766,000)
  - 03 Other Pension Systems - Post
    - Retirement Medical .....(84,561,000)
  - 03 State Employees' Prescription
    - Drug Program .....(173,130,000)
  - 03 State Employees' Dental Program -
    - Shared Cost .....(26,433,000)
  - 03 State Employees' Vision Care Program .....(1,000,000)
  - 03 Social Security Tax - State .....(379,367,000)
  - 03 Temporary Disability Insurance
    - Liability .....(11,750,000)
  - 03 Unemployment Insurance Liability .....(5,760,000)
- Such additional sums as may be required for Public Employees' Retirement System-Post Retirement Medical, Public Employees' Retirement System - Non-contributory Insurance, Police and Firemen's Retirement System - Non-contributory Insurance, Alternate Benefit Program - Employer Contributions, Alternate Benefit Program - Non-contributory Insurance, Defined Contribution Retirement Program, Defined Contribution Retirement Program - Non-contributory Insurance, Teachers' Pension and Annuity Fund - Post Retirement Medical - State, Teachers' Pension and Annuity Fund - Non-contributory Insurance, State Police Retirement System - Non-contributory Insurance, Judicial Retirement System - Non-contributory Insurance, State Employees' Health Benefits, Other Pension Systems - Post Retirement Medical, State Employees' Prescription Drug Program, State Employees' Dental Program - Shared Cost, State Employees' Vision Care Program, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.
- No monies hereinabove appropriated shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.
- Notwithstanding the provisions of the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.), pension adjustment benefits for State members and beneficiaries of the Consolidated Police and Firemen's Pension Fund, Prison Officers' Pension Fund, and Central Pension Fund shall be paid by the respective pension funds. The amounts hereinabove appropriated for the Pension Adjustment Program for these benefits as required under the act shall be paid to the Pension Adjustment Fund.
- In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts

authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance at the end of the preceding fiscal year in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

Such additional sums as may be required for State Employees' Health Benefits may be transferred from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Such additional sums as may be required for Social Security Tax - State may be transferred from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any law or regulation to the contrary, fees due to the third party administrator for the Section 125 Tax Savings Program established in 1996 pursuant to section 7 of P.L.1996, c.8 (C.52:14-15.1a) and the Section 132(f) Commuter Transportation Benefit Program established in 2003 pursuant to section 1 of P.L.2001, c.162 (C.52:14-15.1b) shall be paid from amounts hereinabove appropriated for the Social Security Tax - State Account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, fees due to the third party administrator for the Unemployment Compensation Management and Cost Control Program, which was established pursuant to N.J.A.C.17:1-9.6, shall be paid from amounts hereinabove appropriated for the Unemployment Insurance Liability account, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                                            |               |
|------------------------------------------------------------|---------------|
| 03-9410 Employee Benefits .....                            | \$776,603,000 |
| Total Grants-in-Aid Appropriation, Employee Benefits ..... | \$776,603,000 |

#### ***Grants-in-Aid:***

##### **Special Purpose:**

|                                                                                 |                |
|---------------------------------------------------------------------------------|----------------|
| 03 Public Employees' Retirement System -<br>Post Retirement Medical .....       | (\$37,293,000) |
| 03 Public Employees' Retirement System .....                                    | (10,110,000)   |
| 03 Public Employees' Retirement System -<br>Non-contributory Insurance .....    | (2,773,000)    |
| 03 Police and Firemen's Retirement System...                                    | (2,136,000)    |
| 03 Police and Firemen's Retirement<br>System - Non-contributory Insurance ..... | (359,000)      |
| 03 Alternate Benefit Program - Employer<br>Contributions .....                  | (133,384,000)  |

|                                                                              |               |
|------------------------------------------------------------------------------|---------------|
| 03 Alternate Benefit Program - Non-contributory Insurance.....               | (20,859,000)  |
| 03 Teachers' Pension and Annuity Fund.....                                   | (170,000)     |
| 03 Teachers' Pension and Annuity Fund - Post Retirement Medical - State..... | (4,292,000)   |
| 03 Teachers' Pension and Annuity Fund - Non-contributory Insurance.....      | (13,000)      |
| 03 Debt Service on Pension Obligation Bonds.....                             | (6,153,000)   |
| 03 State Employees' Health Benefits .....                                    | (282,544,000) |
| 03 Other Pension Systems - Post Retirement Medical .....                     | (25,993,000)  |
| 03 State Employees' Prescription Drug Program.....                           | (83,630,000)  |
| 03 State Employees' Dental Program - Shared Cost .....                       | (12,022,000)  |
| 03 Social Security Tax - State .....                                         | (143,750,000) |
| 03 Temporary Disability Insurance Liability.....                             | (6,542,000)   |
| 03 Unemployment Insurance Liability .....                                    | (4,580,000)   |

Such additional sums as may be required for Public Employees' Retirement System - Post Retirement Medical, Public Employees' Retirement System - Non-contributory Insurance, Police and Firemen's Retirement System - Non-contributory Insurance, Alternate Benefit Program - Employer Contributions, Alternate Benefit Program - Non-contributory Insurance, Teachers' Pension and Annuity Fund - Post Retirement Medical - State, Teachers' Pension and Annuity Fund - Non-contributory Insurance, State Employees' Health Benefits, Other Pension Systems - Post Retirement Medical, State Employees' Prescription Drug Program, State Employees' Dental Program - Shared Cost, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

No monies hereinabove appropriated shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.

The unexpended balance at the end of the preceding fiscal year in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Notwithstanding the provisions of any law or regulation to the contrary, fees due to the third party administrator for the Unemployment Compensation Management and Cost Control Program, which was established pursuant to N.J.A.C.17:1-9.6, shall be paid from amounts hereinabove appropriated for the Unemployment Insurance Liability account, subject to the approval of the Director of the Division of Budget and Accounting.

**9420 Other Inter-Departmental Accounts**

**DIRECT STATE SERVICES**

|                                                  |                     |
|--------------------------------------------------|---------------------|
| 04-9420 Other Inter-Departmental Accounts .....  | <u>\$17,325,000</u> |
| Total Direct State Services Appropriation, Other |                     |
| Inter-Departmental Accounts .....                | <u>\$17,325,000</u> |

***Direct State Services:***

**Special Purpose:**

- 04 To the Governor, for allotment to the various departments or agencies, to meet any condition of emergency or necessity; provided however, that a sum not in excess of \$5,000 shall be available for expenses of officially receiving dignitaries and for incidental expenses, including lunches for non-salaried board members and others for whom official reception shall be beneficial to the State ..... (\$375,000)
- 04 Contingency Funds ..... (625,000)
- 04 Interest On Short Term Notes ..... (6,000,000)
- 04 Banking Services ..... (8,000,000)
- 04 Debt Issuance - Special Purpose ..... (1,100,000)
- 04 Catastrophic Illness in Children Relief Fund - Employer Contributions ..... (225,000)
- 04 Interest on Interfund Borrowing ..... (1,000,000)

Unless otherwise indicated, funds hereinabove appropriated may be allotted by the Director of the Division of Budget and Accounting to the various departments and agencies.

Notwithstanding the provisions of N.J.S.2A:153-1 et seq., there is allocated at the discretion of the Governor, an amount up to \$50,000, from the Special Purpose amount hereinabove appropriated to meet any condition of emergency or necessity, as a reward for the capture and return of Joanne Chesimard.

There are appropriated to the Emergency Services Fund such sums as are required to meet the costs of any emergency occasioned by aggression, civil disturbance, sabotage, or disaster as recommended by the Governor's Advisory Council for Emergency Services and approved by the Governor, and subject to the approval of the Director of the Division of Budget and Accounting. In the event that the

Governor's Advisory Council for Emergency Services is unable to convene due to any such emergency described above, there shall be appropriated to the Emergency Services Fund such sums as are required to meet the costs of any such emergency described above, and payments from the Fund shall be made by the State Treasurer upon approval of the Governor and the Director of the Division of Budget and Accounting.

The unexpended balance at the end of the preceding fiscal year in the Governor's Contingency Fund is appropriated for the same purpose.

Such sums as may be necessary for payment of expenses incurred by issuing officials appointed under the several bond acts of the State are appropriated for the purposes and from the sources defined in those acts.

The unexpended balance at the end of the preceding fiscal year in Payment of Military Leave Benefits is appropriated for the same purpose.

### ***9430 Salary Increases and Other Benefits***

#### **DIRECT STATE SERVICES**

05-9430 Salary Increases and Other Benefits .....\$108,462,000

Total Direct State Services Appropriation, Salary

Increases and Other Benefits .....\$108,462,000

#### ***Direct State Services:***

Special Purpose:

05 Salary Increases and Other Benefits .....(\$95,962,000)

05 Unused Accumulated Sick

Leave Payments.....(12,500,000)

The sums hereinabove appropriated to the various State departments, agencies or commissions for the cost of salaries, wages, or other benefits shall be allotted as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any law or regulation to the contrary, including R.S.34:15-49 and section 1 of P.L.1981, c.353 (C.34:15-49.1), the State Treasurer, the Chairperson of the Civil Service Commission, and the Director of the Division of Budget and Accounting shall establish directives governing salary ranges and rates of pay, including salary increases. The implementation of such directives shall be made effective at the first full pay period of the fiscal year as determined by such directives, with timely notification of such directives to the Joint Budget Oversight Committee or its successor. Such directives shall not be considered an "administrative rule" or "rule" within the meaning of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), but shall be considered exempt under paragraphs (1) and (2) of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), and shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Nothing herein shall be construed as applicable to the Presidents of the State Colleges, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology.

No salary range or rate of pay shall be increased or paid in any State department, agency, or commission without the approval of the Director of the Division of Budget and Accounting. Nothing herein shall be construed as applicable to unclassified personnel of the Legislative Branch or unclassified personnel of the Judicial Branch.

Any sums appropriated for Salary Increases and Other Benefits shall be made available for any person holding State office, position or employment whose compensation is paid directly or indirectly, in whole or in part, from State funds, including any person holding office, position or employment under the Palisades Interstate Park Commission.

The unexpended balance at the end of the preceding fiscal year in the Salary Increases and Other Benefits account is appropriated for the same purposes.

In addition to the amount hereinabove appropriated for Unused Accumulated Sick Leave Payments, there are appropriated such sums as may be necessary for payments of unused accumulated sick leave.

Inter-Departmental Accounts, Total State Appropriation.....\$3,201,947,000

***Summary of Inter-Departmental Accounts Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |                 |
|----------------------------|-----------------|
| Direct State Services..... | \$2,168,197,000 |
| Grants-in-Aid.....         | 857,456,000     |
| Capital Construction.....  | 176,294,000     |

***Appropriations by Fund:***

|                    |                 |
|--------------------|-----------------|
| General Fund ..... | \$3,201,947,000 |
|--------------------|-----------------|

**98 DEPARTMENT OF JUDICIARY**

***10 Public Safety and Criminal Justice***

***15 Judicial Services***

**DIRECT STATE SERVICES**

|                                                  |                      |
|--------------------------------------------------|----------------------|
| 01-9710 Supreme Court.....                       | \$6,891,000          |
| 02-9715 Superior Court - Appellate Division..... | 21,351,000           |
| 03-9720 Civil Courts .....                       | 106,982,000          |
| 04-9725 Criminal Courts .....                    | 129,219,000          |
| 05-9730 Family Courts .....                      | 118,123,000          |
| 06-9735 Municipal Courts.....                    | 1,598,000            |
| 07-9740 Probation Services .....                 | 137,763,000          |
| 08-9745 Court Reporting.....                     | 8,898,000            |
| 09-9750 Public Affairs and Education.....        | 2,953,000            |
| 10-9755 Information Services .....               | 18,169,000           |
| 11-9760 Trial Court Services.....                | 100,249,000          |
| 12-9765 Management and Administration .....      | <u>11,339,000</u>    |
| Total Direct State Services Appropriation,       |                      |
| Judicial Services.....                           | <u>\$663,535,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |               |
|-------------------------------------|---------------|
| Chief Justice .....                 | (\$193,000)   |
| Associate Justices .....            | (1,113,000)   |
| Judges .....                        | (71,244,000)  |
| Salaries and Wages .....            | (430,709,000) |
| Materials and Supplies .....        | (7,755,000)   |
| Services Other Than Personal .....  | (32,423,000)  |
| Maintenance and Fixed Charges ..... | (1,852,000)   |

**Special Purpose:**

|                                                  |              |
|--------------------------------------------------|--------------|
| 01 Rules Development .....                       | (200,000)    |
| 04 Drug Court Treatment/Aftercare .....          | (25,508,000) |
| 04 Drug Court Operations .....                   | (15,277,000) |
| 04 Drug Court Judgeships .....                   | (2,569,000)  |
| 05 Family Crisis Intervention .....              | (1,076,000)  |
| 05 Child Placement Review Advisory Council ..... | (82,000)     |
| 05 Kinship Legal Guardianship .....              | (3,711,000)  |
| 05 Child Support and Paternity Program           |              |
| Title IV-D (Family Court) .....                  | (15,112,000) |
| 07 Intensive Supervision Program .....           | (15,757,000) |
| 07 Juvenile Intensive Supervision Program .....  | (2,269,000)  |
| 07 Child Support and Paternity Program           |              |
| Title IV-D (Probation) .....                     | (29,393,000) |
| 11 Child Support and Paternity Program           |              |
| Title IV-D (Trial) .....                         | (2,561,000)  |
| 12 Affirmative Action and Equal                  |              |
| Employment Opportunity .....                     | (770,000)    |
| Additions, Improvements and Equipment .....      | (3,961,000)  |

The unexpended balances at the end of the preceding fiscal year in the Civil Arbitration Program and Drug Court Programs are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from fees under the Special Civil Part service of process via certified mailers are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated in the Drug Court Treatment/Aftercare account shall be transferred to the Department of Human Services to fund treatment, aftercare and administrative services associated with the Drug Court Program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the increase in fees collected by the Judiciary pursuant to P.L.2002, c.34 and related increases provided by operation of N.J.S.22A:2-5 and section 2 of P.L.1993, c.74 (C.22A:5-1) are appropriated from the Court Technology Improvement Fund for the purpose of offsetting the costs of

development, establishment, operation and maintenance of the Judiciary computerized court information systems, subject to the approval of the Director of the Division of Budget and Accounting.

The Judiciary, Total State Appropriation .....\$663,535,000

Receipts from charges to certain Special Purpose accounts listed hereinabove are appropriated for services provided from these funds.

Receipts from charges to the Superior Court Trust Fund, NJ Lawyers Fund for Client Protection, Disciplinary Oversight Committee, Board on Attorney Certification, Bar Admission Financial Committee, Parents' Education Fund, Automated Traffic System Fund, Municipal Court Administrator Certification Program, Comprehensive Enforcement Program, and Courts Computerized Information Systems Fund are appropriated for services provided from these funds.

The unexpended balances at the end of the preceding fiscal year not to exceed \$10,000,000 in these respective accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Judiciary Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services..... \$663,535,000

***Appropriations by Fund:***

General Fund ..... \$663,535,000

**DEBT SERVICE**

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

***40 Community Development and Environmental Protection***

***46 Environmental Planning and Administration***

99-4800 Interest on Bonds.....\$6,819,000

Total Debt Service Appropriation, Department of

Environmental Protection.....\$6,819,000

***Debt Service:***

Special Purpose:

Interest:

Clean Waters Bonds (P.L.1976, c.92) .....(\$31,000)

State Land Acquisition and Development Bonds

(P.L.1978, c.118).....(47,000)

Natural Resources Bonds (P.L.1980, c.70).....(232,000)

Green Acres, Cultural Centers and Historic

Preservation Bonds (P.L.1987, c.265).....(197,000)

New Jersey Open Space Preservation Bonds

(P.L.1989, c.183).....(20,000)

Stormwater Management and Combined

Sewer Overflow Abatement Bonds

(P.L.1989, c.181).....(164,000)

|                                                                                                   |                    |
|---------------------------------------------------------------------------------------------------|--------------------|
| Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88).....          | (298,000)          |
| Green Acres, Farmland and Historic Preservation and Blue Acres Bonds (P.L.1995, c.204).....       | (523,000)          |
| Port of New Jersey Revitalization, Dredging Bonds (P.L.1996, c.70).....                           | (2,221,000)        |
| Dam, Lake, Stream, Water Resources, and Wastewater Treatment Project Bonds (P.L.2003, c.162)..... | (3,086,000)        |
| Total Debt Service Appropriation, Department of Environmental Protection.....                     | <u>\$6,819,000</u> |

## 82 DEPARTMENT OF THE TREASURY

### 70 Government Direction, Management, and Control

#### 76 Management and Administration

|                                                                    |                      |
|--------------------------------------------------------------------|----------------------|
| 99-2000 Interest on Bonds.....                                     | \$87,885,000         |
| 99-2000 Bond Redemption.....                                       | <u>182,230,000</u>   |
| Total Debt Service Appropriation, Department of the Treasury ..... | <u>\$270,115,000</u> |

#### **Debt Service:**

##### Special Purpose:

##### Interest:

|                                                                                                                            |                |
|----------------------------------------------------------------------------------------------------------------------------|----------------|
| Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182).....                                                       | (\$85,680,000) |
| Energy Conservation Bonds (P.L.1980, c.68) .....                                                                           | (3,000)        |
| Jobs, Education and Competitiveness Bonds (P.L.1988, c.78).....                                                            | (42,000)       |
| Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184).....                          | (48,000)       |
| Developmental Disabilities Waiting List Reduction and Human Services Facilities Construction Bonds (P.L.1994, c.108) ..... | (290,000)      |
| Statewide Transportation and Local Bridge Bond Act of 1999 (P.L.1999, c.181) .....                                         | (1,822,000)    |

##### Redemption:

|                                                                      |                      |
|----------------------------------------------------------------------|----------------------|
| Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182)..... | (182,230,000)        |
| Total Debt Service Appropriation, Department of the Treasury.....    | <u>\$270,115,000</u> |
| Total Appropriation, Debt Service.....                               | <u>\$276,934,000</u> |

Notwithstanding the provisions of any law or regulation to the contrary, such sums as may be needed for the payment of interest and/or principal due from the

issuance of any bonds authorized under the several bond acts of the State are appropriated and shall first be charged to the earnings from the investments of such bond proceeds and/or repayments of loans and/or any other monies in the applicable bond funds established under such bond acts, and monies are appropriated from such bond funds for the purpose of paying interest and/or principal on the bonds issued pursuant to such bond acts. Where required by law, such sums shall be used to fund a reserve for the payment of interest and/or principal on the bonds authorized under the bond act. Furthermore, where required by law, the amounts hereinabove appropriated are allocated to the projects heretofore approved by the Legislature pursuant to those bond acts. The Director of the Division of Budget and Accounting is authorized to reallocate amounts hereinabove appropriated among the various debt service accounts to permit the proper debt service payments.

There are appropriated such sums as may be needed for the payment of debt service administrative costs.

Subsequent to the refunding of bonds in the current fiscal year, the Director of the Division of Budget and Accounting is authorized to allocate amounts hereinabove appropriated among the various debt service accounts to reflect the debt service savings of the refunding and to permit the proper debt service payments.

***Summary of Appropriations - All Departments  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |                 |
|----------------------------|-----------------|
| Direct State Services..... | \$6,493,594,000 |
| Grants-in-Aid.....         | 9,562,362,000   |
| State Aid.....             | 12,060,426,000  |
| Capital Construction.....  | 1,303,247,000   |
| Debt Service .....         | 276,934,000     |

***Appropriation by Fund:***

|                               |                  |
|-------------------------------|------------------|
| General Fund.....             | \$17,998,532,000 |
| Property Tax Relief Fund..... | 11,394,020,000   |
| Casino Revenue Fund.....      | 248,149,000      |
| Casino Control Fund.....      | 55,862,000       |

|                                            |                         |
|--------------------------------------------|-------------------------|
| Total Appropriation, All State Funds ..... | <u>\$29,696,563,000</u> |
|--------------------------------------------|-------------------------|

**FEDERAL FUNDS**

**10 DEPARTMENT OF AGRICULTURE**

***40 Community Development and Environmental Management***

***49 Agricultural Resources, Planning, and Regulation***

|                                                |             |
|------------------------------------------------|-------------|
| 01-3310 Animal Disease Control .....           | \$642,000   |
| 02-3320 Plant Pest and Disease Control.....    | 2,656,000   |
| 03-3330 Agriculture and Natural Resources..... | 150,000     |
| 05-3350 Food and Nutrition Services.....       | 407,420,000 |

|                                                                               |                      |
|-------------------------------------------------------------------------------|----------------------|
| 06-3360 Marketing and Development Services.....                               | 2,211,000            |
| 08-3380 Farmland Preservation.....                                            | <u>4,525,000</u>     |
| Total Appropriation, Agricultural Resources, Planning,<br>and Regulation..... | <u>\$417,604,000</u> |
| Personal Services:                                                            |                      |
| Salaries and Wages.....                                                       | (\$4,854,000)        |
| Employee Benefits.....                                                        | (1,543,000)          |
| Materials and Supplies.....                                                   | (572,000)            |
| Services Other Than Personal.....                                             | (4,298,000)          |
| Maintenance and Fixed Charges.....                                            | (1,729,000)          |
| Special Purpose:                                                              |                      |
| Other Special Purpose .....                                                   | (120,000)            |
| State Aid and Grants:                                                         |                      |
| Food Stamp - TEFAP .....                                                      | (500,000)            |
| Farmland Preservation.....                                                    | (4,500,000)          |
| Fresh Fruit and Vegetable Program.....                                        | (3,182,000)          |
| Child Nutrition - School Lunch .....                                          | (257,000,000)        |
| Child Nutrition - Special Milk.....                                           | (1,300,000)          |
| Child Nutrition - School Breakfast .....                                      | (52,000,000)         |
| Child Care Food .....                                                         | (70,000,000)         |
| Child Care Sponsor.....                                                       | (1,100,000)          |
| Cash in Lieu of Commodities .....                                             | (3,990,000)          |
| Child Nutrition - Summer Programs.....                                        | (8,400,000)          |
| Summer Sponsor Administration .....                                           | (840,000)            |
| National School Lunch Program -<br>Equipment Assistance for School Food.....  | (100,000)            |
| State Aid and Grants .....                                                    | (1,450,000)          |
| Additions, Improvements and Equipment .....                                   | (126,000)            |
| Total Appropriation, Department of Agriculture.....                           | <u>\$417,604,000</u> |

#### **14 DEPARTMENT OF BANKING AND INSURANCE**

##### ***50 Economic Planning, Development, and Security***

##### ***52 Economic Regulation***

|                                                                   |                    |
|-------------------------------------------------------------------|--------------------|
| 01-3110 Consumer Protection Services and Solvency Regulation..... | \$1,736,000        |
| 02-3120 Actuarial Services.....                                   | <u>7,500,000</u>   |
| Total Appropriation, Economic Regulation.....                     | <u>\$9,236,000</u> |
| Special Purpose:                                                  |                    |
| Affordable Care Act – Consumer .....                              | (\$1,736,000)      |
| Patient Protection and Affordable Care Act .....                  | (1,750,000)        |
| Affordable Care Act Exchange.....                                 | (5,750,000)        |
| Total Appropriation, Department of Banking and Insurance .....    | <u>\$9,236,000</u> |

**16 DEPARTMENT OF CHILDREN AND FAMILIES*****50 Economic Planning, Development, and Security******55 Social Services Programs***

|         |                                                                |                      |
|---------|----------------------------------------------------------------|----------------------|
| 01-1610 | Child Protective and Permanency Services .....                 | \$263,799,000        |
| 02-1620 | Child Behavioral Health Services.....                          | 138,493,000          |
| 03-1630 | Prevention and Community Partnership Services .....            | 15,053,000           |
| 04-1600 | Education Services .....                                       | 3,744,000            |
| 05-1600 | Child Welfare Training Academy Services<br>and Operations..... | 2,059,000            |
| 99-1600 | Administration and Support Services .....                      | 1,369,000            |
| 99-1610 | Administration and Support Services .....                      | 15,458,000           |
| 99-1620 | Administration and Support Services .....                      | 801,000              |
|         | Total Appropriation, Social Services Programs .....            | <u>\$440,776,000</u> |
|         | Personal Services:                                             |                      |
|         | Salaries and Wages.....                                        | (\$185,083,000)      |
|         | Materials and Supplies.....                                    | (2,637,000)          |
|         | Services Other Than Personal.....                              | (11,720,000)         |
|         | Maintenance and Fixed Charges.....                             | (16,956,000)         |
|         | Special Purpose:                                               |                      |
|         | Safety and Permanency in the Courts.....                       | (500,000)            |
|         | State Aid and Grants.....                                      | (217,804,000)        |
|         | Additions, Improvements and Equipment .....                    | (6,076,000)          |
|         | Total Appropriation, Department of Children and Families.....  | <u>\$440,776,000</u> |

**22 DEPARTMENT OF COMMUNITY AFFAIRS*****40 Community Development and Environmental Management******41 Community Development Management***

|         |                                                                    |                      |
|---------|--------------------------------------------------------------------|----------------------|
| 02-8020 | Housing Services.....                                              | \$268,720,000        |
| 06-8015 | Uniform Construction Code .....                                    | 30,000               |
|         | Total Appropriation, Community Development Management..            | <u>\$268,750,000</u> |
|         | Personal Services:                                                 |                      |
|         | Salaries and Wages.....                                            | (\$17,165,000)       |
|         | Employee Benefits .....                                            | (5,951,000)          |
|         | Materials and Supplies.....                                        | (260,000)            |
|         | Services Other Than Personal.....                                  | (3,567,000)          |
|         | Maintenance and Fixed Charges.....                                 | (2,842,000)          |
|         | Special Purpose:                                                   |                      |
|         | Shelter Plus Care Program.....                                     | (35,000)             |
|         | Moderate Rehabilitation Housing Assistance.....                    | (93,000)             |
|         | Section 8 Housing Voucher Program .....                            | (2,072,000)          |
|         | Housing Opportunities for Persons with AIDS .....                  | (16,000)             |
|         | Small Cities Block Grant Program .....                             | (32,000)             |
|         | National Affordable Housing - HOME<br>Investment Partnerships..... | (40,000)             |

|                                                                       |               |
|-----------------------------------------------------------------------|---------------|
| Lead Abatement Certification.....                                     | (2,000)       |
| Other Special Purpose .....                                           | (100,000)     |
| State Aid and Grants:                                                 |               |
| Transitional Housing - Homeless .....                                 | (70,000)      |
| Housing Opportunities for Persons with<br>AIDS Post-Incarcerated..... | (1,121,000)   |
| State Aid and Grants .....                                            | (235,184,000) |
| Additions, Improvements and Equipment .....                           | (200,000)     |

**50 Economic Planning, Development, and Security**

**55 Social Services Programs**

|                                                           |                      |
|-----------------------------------------------------------|----------------------|
| 05-8050 Community Resources.....                          | \$180,150,000        |
| 15-8051 Women's Programs .....                            | <u>1,715,000</u>     |
| Total Appropriation, Social Services Programs.....        | <u>\$181,865,000</u> |
| Personal Services:                                        |                      |
| Salaries and Wages.....                                   | (\$2,160,000)        |
| Employee Benefits.....                                    | (644,000)            |
| Materials and Supplies.....                               | (52,000)             |
| Services Other Than Personal.....                         | (1,011,000)          |
| Maintenance and Fixed Charges.....                        | (19,000)             |
| Special Purpose:                                          |                      |
| Lead-Based Paint Hazard Control Grant .....               | (31,000)             |
| Other Special Purpose .....                               | (195,000)            |
| <b>State Aid and Grants:</b>                              |                      |
| Rape Prevention and Education.....                        | (980,000)            |
| Empower II .....                                          | (63,000)             |
| State Aid and Grants .....                                | (176,710,000)        |
| Total Appropriation, Department of Community Affairs..... | <u>\$450,615,000</u> |

**26 DEPARTMENT OF CORRECTIONS**

**10 Public Safety and Criminal Justice**

**16 Detention and Rehabilitation**

|                                                         |                    |
|---------------------------------------------------------|--------------------|
| 08-7080 Institutional Care and Treatment .....          | \$98,000           |
| 08-7110 Institutional Care and Treatment .....          | 174,000            |
| 08-7130 Institutional Care and Treatment .....          | 67,000             |
| 13-7025 Institutional Program Support .....             | <u>9,351,000</u>   |
| Total Appropriation, Detention and Rehabilitation ..... | <u>\$9,690,000</u> |
| Personal Services:                                      |                    |
| Salaries and Wages.....                                 | (\$928,000)        |
| Employee Benefits.....                                  | (280,000)          |
| Special Purpose:                                        |                    |
| Edna Mahan Visitation Program .....                     | (80,000)           |
| Individuals With Disabilities Act - Part B .....        | (15,000)           |

|                                               |             |
|-----------------------------------------------|-------------|
| Justice and Mental Health Collaboration       |             |
| Program - Department of Justice.....          | (200,000)   |
| State Criminal Alien Assistance Program ..... | (4,706,000) |
| Project In-Side .....                         | (286,000)   |
| Prisoner Re-Entry Initiative Grant –          |             |
| Camden County.....                            | (222,000)   |
| Inmate Vocational Certifications.....         | (173,000)   |
| Central Communications Upgrade - US           |             |
| Department of Homeland Security .....         | (1,000,000) |
| Central Communications Upgrade - US           |             |
| Department of Commerce .....                  | (1,000,000) |
| Technology Enhancements.....                  | (500,000)   |
| National Institute of Justice Grant for       |             |
| Corrections Research - Escape Study.....      | (300,000)   |

**17 Parole**

|                                  |                  |
|----------------------------------|------------------|
| 03-7010 Parole.....              | <u>\$750,000</u> |
| Total Appropriation, Parole..... | <u>\$750,000</u> |
| State Aid and Grants.....        | (\$750,000)      |

**19 Central Planning, Direction and Management**

|                                                      |                     |
|------------------------------------------------------|---------------------|
| 99-7000 Administration and Support Services .....    | <u>\$1,058,000</u>  |
| Total Appropriation, Central Planning, Direction     |                     |
| and Management .....                                 | <u>\$1,058,000</u>  |
| Personal Services:                                   |                     |
| Salaries and Wages.....                              | (\$659,000)         |
| Employee Benefits .....                              | (230,000)           |
| Services Other Than Personal.....                    | (10,000)            |
| Special Purpose:                                     |                     |
| Perkins - Vocational Education .....                 | (159,000)           |
| Total Appropriation, Department of Corrections ..... | <u>\$11,498,000</u> |

**34 DEPARTMENT OF EDUCATION****30 Educational, Cultural, and Intellectual Development****31 Direct Educational Services and Assistance**

|                                                  |                      |
|--------------------------------------------------|----------------------|
| 05-5064 Bilingual Education.....                 | \$19,996,000         |
| 06-5064 Programs for Disadvantaged Youth .....   | 311,338,000          |
| 07-5065 Special Education .....                  | <u>368,509,000</u>   |
| Total Appropriation, Direct Educational Services |                      |
| and Assistance.....                              | <u>\$699,843,000</u> |
| Personal Services:                               |                      |
| Salaries and Wages.....                          | (\$10,277,000)       |
| Employee Benefits .....                          | (3,615,000)          |
| Materials and Supplies.....                      | (51,000)             |

|                                                        |               |
|--------------------------------------------------------|---------------|
| Services Other Than Personal.....                      | (12,456,000)  |
| Special Purpose:                                       |               |
| Language Acquisition Discretionary                     |               |
| Administration.....                                    | (126,000)     |
| Migrant Education - Administration/Discretionary ..... | (82,000)      |
| Migrant Coordination Program.....                      | (77,000)      |
| MSix State Data Quality Grants .....                   | (28,000)      |
| Bilingual and Compensatory Education -                 |               |
| Homeless Children and Youth.....                       | (10,000)      |
| Title I - Administration Program Improvement.....      | (39,000)      |
| Individuals with Disabilities Education Act            |               |
| Basic State Grant .....                                | (737,000)     |
| Individuals with Disabilities Education Act            |               |
| Preschool Grants.....                                  | (277,000)     |
| IDEA Part B - Discretionary Administration.....        | (252,000)     |
| State Aid and Grants.....                              | (671,814,000) |
| Additions, Improvements and Equipment .....            | (2,000)       |

### ***32 Operation and Support of Educational Institutions***

|                                                      |                    |
|------------------------------------------------------|--------------------|
| 12-5011 Marie H. Katzenbach School for the Deaf..... | <u>\$1,138,000</u> |
| Total Appropriation, Operation and Support of        |                    |
| Educational Institutions .....                       | <u>\$1,138,000</u> |

#### **Personal Services:**

|                                                |             |
|------------------------------------------------|-------------|
| Salaries and Wages.....                        | (\$563,000) |
| Employee Benefits.....                         | (197,000)   |
| Materials and Supplies.....                    | (13,000)    |
| Services Other Than Personal.....              | (177,000)   |
| Special Purpose:                               |             |
| Vocational Education Program.....              | (20,000)    |
| IDEA (State Institutions), Handicapped .....   | (149,000)   |
| IDEA, Handicapped: Katzenbach/Deaf/Blind       |             |
| & CSPD.....                                    | (9,000)     |
| Preschool Entitlement - Katzenbach School..... | (8,000)     |
| Additions, Improvements and Equipment .....    | (2,000)     |

### ***33 Supplemental Education and Training Programs***

|                                                 |                     |
|-------------------------------------------------|---------------------|
| 20-5062 General Vocational Education.....       | <u>\$25,909,000</u> |
| Total Appropriation, Supplemental Education and |                     |
| Training Programs.....                          | <u>\$25,909,000</u> |

#### **Personal Services:**

|                                   |               |
|-----------------------------------|---------------|
| Salaries and Wages.....           | (\$1,694,000) |
| Employee Benefits.....            | (585,000)     |
| Materials and Supplies.....       | (48,000)      |
| Services Other Than Personal..... | (505,000)     |

## Special Purpose:

|                                              |              |
|----------------------------------------------|--------------|
| Vocational Education - Basic Grants -        |              |
| Administration.....                          | (382,000)    |
| Vocational Education - Title II B Leadership |              |
| Activities .....                             | 513,000)     |
| Vocational Education Title III E Leadership  |              |
| (Tech Prep).....                             | (188,000)    |
| State Aid and Grants.....                    | (21,994,000) |

**34 Educational Support Services**

|                                                         |                      |
|---------------------------------------------------------|----------------------|
| 30-5063 Educational Programs and Assessment .....       | \$84,404,000         |
| 32-5061 Professional Development and Licensure .....    | 156,000              |
| 35-5069 Early Childhood Education .....                 | 305,000              |
| 40-5064 Student Services .....                          | <u>23,629,000</u>    |
| Total Appropriation, Educational Support Services ..... | <u>\$108,494,000</u> |

## Personal Services:

|                                   |               |
|-----------------------------------|---------------|
| Salaries and Wages.....           | (\$2,319,000) |
| Employee Benefits .....           | (817,000)     |
| Materials and Supplies.....       | (3,000)       |
| Services Other Than Personal..... | (8,662,000)   |

## Special Purpose:

|                                                  |              |
|--------------------------------------------------|--------------|
| State Assessments.....                           | (197,000)    |
| State Grants for Improving Teacher Quality ..... | (856,000)    |
| Advanced Placement Incentive Program.....        | (17,000)     |
| National Assessment of Educational Progress      |              |
| State Coordinator.....                           | (6,000)      |
| Foreign Language Assistance.....                 | (175,000)    |
| Enhancing Education Through Technology .....     | (37,000)     |
| Public Charter Schools .....                     | (77,000)     |
| Troops-to-Teachers Program.....                  | (11,000)     |
| Head Start Collaboration .....                   | (159,000)    |
| 21st Century Schools.....                        | (400,000)    |
| AIDS Prevention Education .....                  | (246,000)    |
| National Community Service - Learn and           |              |
| Serve America .....                              | (3,000)      |
| State Aid and Grants.....                        | (94,509,000) |

**35 Education Administration and Management**

|                                                   |                    |
|---------------------------------------------------|--------------------|
| 99-5093 Administration and Support Services ..... | \$13,000           |
| 99-5095 Administration and Support Services ..... | <u>5,244,000</u>   |
| Total Appropriation, Education Administration     |                    |
| and Management .....                              | <u>\$5,257,000</u> |

## Personal Services:

|                         |               |
|-------------------------|---------------|
| Salaries and Wages..... | (\$3,272,000) |
|-------------------------|---------------|

|                                                    |                      |
|----------------------------------------------------|----------------------|
| Employee Benefits.....                             | (1,145,000)          |
| Special Purpose:                                   |                      |
| NCES Performance Based Data Management             |                      |
| Initiative .....                                   | (13,000)             |
| Improving America's Schools Act -                  |                      |
| Consolidated Administration.....                   | (827,000)            |
| Total Appropriation, Department of Education ..... | <u>\$840,641,000</u> |

## **42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

### **40 Community Development and Environmental Management**

#### **42 Natural Resource Management**

|                                                        |                     |
|--------------------------------------------------------|---------------------|
| 11-4870 Forest Resource Management .....               | \$6,880,000         |
| 12-4875 Parks Management .....                         | 27,390,000          |
| 13-4880 Hunters' and Anglers' License Fund .....       | 12,330,000          |
| 14-4885 Shellfish and Marine Fisheries Management..... | 4,320,000           |
| 20-4880 Wildlife Management.....                       | 1,000,000           |
| 21-4895 Natural Resources Engineering .....            | <u>5,460,000</u>    |
| Total Appropriation, Natural Resource Management.....  | <u>\$57,380,000</u> |

#### Personal Services:

|                         |               |
|-------------------------|---------------|
| Salaries and Wages..... | (\$4,657,000) |
| Employee Benefits.....  | (1,481,000)   |

Services Other Than Personal.....(46,000)

#### Special Purpose:

|                                                 |             |
|-------------------------------------------------|-------------|
| Rural Community Fire Protection Program.....    | (183,000)   |
| Forest Resource Management - Cooperative        |             |
| Forest Fire Control .....                       | (1,330,000) |
| Asian Longhorned Beetle Project.....            | (2,300,000) |
| Southern Pine Beetle .....                      | (100,000)   |
| Gypsy Moth Suppression.....                     | (420,000)   |
| Countywide Wildfire Defense .....               | (50,000)    |
| Consolidated Forest Management .....            | (771,000)   |
| Assistance to Firefighters - Wildfire and       |             |
| Arson Prevention.....                           | (200,000)   |
| Firewise in the Pines.....                      | (200,000)   |
| Wildland and Urban Interface II.....            | (100,000)   |
| Defensible Space .....                          | (400,000)   |
| Stewardship Land Type Association .....         | (30,000)    |
| Conservation Education.....                     | (50,000)    |
| Incentives Program .....                        | (200,000)   |
| Forest Health Monitoring .....                  | (80,000)    |
| Land and Water Conservation Fund .....          | (6,000,000) |
| Pinelands Grant – Acquisition .....             | (1,000,000) |
| Historic Preservation Survey and Planning ..... | (212,000)   |
| Endangered Plant Species Supplemental Funding.. | (14,000)    |

|                                                                                  |             |
|----------------------------------------------------------------------------------|-------------|
| Sussex Branch Trail Improvements.....                                            | (500,000)   |
| Seashore Line .....                                                              | (500,000)   |
| Delaware and Raritan Canal East Side Path<br>(ISTEA) .....                       | (565,000)   |
| Forest Legacy Administration .....                                               | (4,000)     |
| Forest Legacy .....                                                              | (3,000,000) |
| Highlands Conservation .....                                                     | (3,000,000) |
| National Recreational Trails.....                                                | (1,800,000) |
| Scenic Byways .....                                                              | (3,500,000) |
| National Coastal Wetlands Conservation .....                                     | (3,000,000) |
| Cape May Point State Park Bikeway (ISTEA).....                                   | (200,000)   |
| Liberty State Park Ferry Slip Restoration<br>(ISTEA) .....                       | (1,600,000) |
| Delaware and Raritan Canal State Park<br>Old Rose to Mulberry St. (ISTEA).....   | (900,000)   |
| Liberty State Park Archival Facility (ISTEA) .....                               | (660,000)   |
| Appalachian Trail Improvement (ISTEA).....                                       | (50,000)    |
| Hunters' and Anglers' License Fund.....                                          | (925,000)   |
| Hunter Safety Training .....                                                     | (449,000)   |
| Endangered Species.....                                                          | (54,000)    |
| Hunters' and Anglers' License Fund/N.J.<br>Statewide Fisheries Development ..... | (1,748,000) |
| Northeast Wildlife Teamwork Strategy .....                                       | (60,000)    |
| Boat Access (Fish and Wildlife).....                                             | (1,000,000) |
| Wildlife Management Area Planning .....                                          | (150,000)   |
| Fish and Wildlife Input to Activities -<br>Projects of Others .....              | (330,000)   |
| State Wildlife Grant Projects.....                                               | (1,000,000) |
| Avian Influenza .....                                                            | (113,000)   |
| Fish and Wildlife Technical Guidance .....                                       | (87,000)    |
| Fish and Wildlife Action Plan .....                                              | (41,000)    |
| New Jersey's Landscape Project .....                                             | (315,000)   |
| Chronic Wasting Disease .....                                                    | (114,000)   |
| White Nose Syndrome.....                                                         | (25,000)    |
| NJ Fish, Wildlife and Anadromous Fishery<br>Coordination.....                    | (158,000)   |
| Research In Freshwater Fisheries Management ...                                  | (298,000)   |
| Fish Culture and Stocking Project.....                                           | (1,056,000) |
| Aquatic Recreational Resource Awareness &<br>Education Project .....             | (155,000)   |
| Wildlife Research and Management.....                                            | (653,000)   |
| Fish and Wildlife Health .....                                                   | (67,000)    |
| Marine Fisheries Investigation and Management.                                   | (688,000)   |
| Electronic Vessel Trip Reporting .....                                           | (152,000)   |

|                                                  |             |
|--------------------------------------------------|-------------|
| Fisheries Management Council .....               | (50,000)    |
| Atlantic Coastal Fisheries .....                 | (71,000)    |
| Inventory of New Jersey Surf Clam Resources .... | (115,000)   |
| Artificial Reef Program - PSE&G/NJPDES           |             |
| Permit Fees .....                                | (279,000)   |
| Clean Vessels.....                               | (856,000)   |
| Marine Fisheries Law Enforcement.....            | (563,000)   |
| Endangered and Nongame Species                   |             |
| Program State Wildlife Grants .....              | (741,000)   |
| Community Assistance Program .....               | (35,000)    |
| Cooperative Technical Partnership.....           | (4,496,000) |
| National Dam Safety Program (FEMA) .....         | (84,000)    |
| Map Modernization Management Support .....       | (100,000)   |
| Other Special Purpose .....                      | (1,249,000) |

#### ***43 Science and Technical Programs***

|                                                           |                     |
|-----------------------------------------------------------|---------------------|
| 05-4840 Water Supply .....                                | \$33,200,000        |
| 07-4850 Water Monitoring and Standards.....               | 4,350,000           |
| 15-4801 Land Use Regulation .....                         | 9,800,000           |
| 15-4890 Land Use Regulation .....                         | 1,550,000           |
| 18-4810 Office of Science Support.....                    | 1,550,000           |
| 22-4861 New Jersey Geological Survey .....                | 420,000             |
| 90-4801 Environmental Policy and Planning .....           | 6,985,000           |
| Total Appropriation, Science and Technical Programs ..... | <u>\$57,855,000</u> |

#### **Personal Services:**

|                          |               |
|--------------------------|---------------|
| Salaries and Wages ..... | (\$5,205,000) |
| Employee Benefits.....   | (1,397,000)   |

Services Other Than Personal.....(1,000)

#### **Special Purpose:**

|                                                 |              |
|-------------------------------------------------|--------------|
| Drinking Water State Revolving Fund .....       | (561,000)    |
| Drinking Water State Revolving Fund .....       | (31,000,000) |
| Water Pollution Control Program .....           | (1,359,000)  |
| Water Pollution S106 Enhancements .....         | (300,000)    |
| Risk Communication Shellfish Consumption.....   | (50,000)     |
| Coastal Zone Management Implementation .....    | (645,000)    |
| Coastal Estuarine Land Program .....            | (4,000,000)  |
| State Wetlands Conservation Plan.....           | (550,000)    |
| Hudson River Walkway.....                       | (4,000,000)  |
| Coastal Zone Management Grant - Section 309 ... | (201,000)    |
| Coastal Zone Management - 310 .....             | (200,000)    |
| Urban Community Air Toxics Program .....        | (800,000)    |
| Multimedia .....                                | (478,000)    |
| Offshore Beach Replenishment .....              | (100,000)    |
| National Geologic Mapping Program.....          | (109,000)    |

|                                             |             |
|---------------------------------------------|-------------|
| Earthquake Hazard Reduction .....           | (20,000)    |
| Geological and Geophysical Data             |             |
| Preservation USGS.....                      | (19,000)    |
| Water Pollution Control .....               | (4,000)     |
| Coastal Wetlands Conservation               |             |
| (Land Acquisition) .....                    | (1,000,000) |
| Water Monitoring and Planning .....         | (493,000)   |
| Nonpoint Source Implementation (319H) ..... | (4,010,000) |
| Beach Monitoring and Notification .....     | (551,000)   |
| Other Special Purpose .....                 | (802,000)   |

#### ***44 Site Remediation and Waste Management***

|                                                    |                     |
|----------------------------------------------------|---------------------|
| 19-4815 Publicly-Funded Site Remediation .....     | \$25,450,000        |
| 23-4815 Solid and Hazardous Waste Management ..... | 360,000             |
| 23-4910 Solid and Hazardous Waste Management ..... | 2,035,000           |
| 27-4815 Remediation Management and Response.....   | <u>7,400,000</u>    |
| Total Appropriation, Site Remediation and          |                     |
| Waste Management .....                             | <u>\$35,245,000</u> |
| Personal Services:                                 |                     |
| Salaries and Wages.....                            | (\$2,661,000)       |
| Employee Benefits .....                            | (936,000)           |
| Special Purpose:                                   |                     |
| Superfund Core Grant - CPCA .....                  | (450,000)           |
| Superfund Grants .....                             | (25,000,000)        |
| Hazardous Waste - Resource Conservation            |                     |
| Recovery Act.....                                  | (1,189,000)         |
| Preliminary Assessments/Site Inspections .....     | (1,241,000)         |
| Brownfields .....                                  | (1,265,000)         |
| Remedial Planning Support Agency Assistance...     | (626,000)           |
| Underground Storage Tanks.....                     | (1,224,000)         |
| Other Special Purpose .....                        | (653,000)           |

#### ***45 Environmental Regulation***

|                                                     |                     |
|-----------------------------------------------------|---------------------|
| 01-4820 Radiation Protection .....                  | \$500,000           |
| 02-4892 Air Pollution Control.....                  | 10,150,000          |
| 09-4860 Public Wastewater Facilities .....          | 86,000,000          |
| 16-4891 Water Monitoring and Planning .....         | <u>125,000</u>      |
| Total Appropriation, Environmental Regulation ..... | <u>\$96,775,000</u> |
| Personal Services:                                  |                     |
| Salaries and Wages.....                             | (\$2,940,000)       |
| Employee Benefits .....                             | (1,029,000)         |
| Special Purpose:                                    |                     |
| Radon Purpose.....                                  | (255,000)           |
| Air Pollution Maintenance Program.....              | (4,224,000)         |

|                                        |              |
|----------------------------------------|--------------|
| BioWatch Monitoring.....               | (379,000)    |
| Particulate Monitoring Grant.....      | (623,000)    |
| Clean Diesel Retrofit .....            | (400,000)    |
| Clean Water State Revolving Fund ..... | (86,000,000) |
| Underground Injection Control.....     | (125,000)    |
| Other Special Purpose .....            | (800,000)    |

#### ***46 Environmental Planning and Administration***

|                                                                         |                    |
|-------------------------------------------------------------------------|--------------------|
| 26-4805 Regulatory and Governmental Affairs.....                        | \$150,000          |
| 99-4800 Administration and Support Services .....                       | <u>2,450,000</u>   |
| Total Appropriation, Environmental Planning<br>and Administration ..... | <u>\$2,600,000</u> |

##### **Special Purpose:**

|                                            |             |
|--------------------------------------------|-------------|
| New Jersey Classroom Reform Grant .....    | (\$150,000) |
| National Information Exchange Network..... | (2,300,000) |
| National Spatial Data Infrastructure ..... | (150,000)   |

#### ***47 Compliance and Enforcement***

|                                                      |                    |
|------------------------------------------------------|--------------------|
| 02-4855 Air Pollution Control.....                   | \$2,500,000        |
| 04-4835 Pesticide Control .....                      | 550,000            |
| 08-4855 Water Pollution Control.....                 | 1,250,000          |
| 15-4855 Land Use Regulation .....                    | 600,000            |
| 23-4855 Solid and Hazardous Waste Management .....   | <u>2,500,000</u>   |
| Total Appropriation, Compliance and Enforcement..... | <u>\$7,400,000</u> |

##### **Personal Services:**

|                         |               |
|-------------------------|---------------|
| Salaries and Wages..... | (\$3,429,000) |
| Employee Benefits.....  | (1,225,000)   |

##### **Special Purpose:**

|                                              |             |
|----------------------------------------------|-------------|
| Air Pollution Maintenance Program .....      | (1,030,000) |
| Pesticide Control Consolidated.....          | (129,000)   |
| Underground Storage Tank Program             |             |
| Standard Compliance Inspections .....        | (437,000)   |
| Coastal Zone Management Implementation ..... | (84,000)    |
| Hazardous Waste - Resource Conservation      |             |
| Recovery Act.....                            | (105,000)   |

|                             |           |
|-----------------------------|-----------|
| Other Special Purpose ..... | (961,000) |
|-----------------------------|-----------|

|                                                                      |                      |
|----------------------------------------------------------------------|----------------------|
| Total Appropriation, Department of<br>Environmental Protection ..... | <u>\$257,255,000</u> |
|----------------------------------------------------------------------|----------------------|

### **46 DEPARTMENT OF HEALTH AND SENIOR SERVICES**

#### ***20 Physical and Mental Health***

##### ***21 Health Services***

|                                     |             |
|-------------------------------------|-------------|
| 01-4215 Vital Statistics.....       | \$1,100,000 |
| 02-4220 Family Health Services..... | 232,420,000 |

|                                                 |                      |
|-------------------------------------------------|----------------------|
| 03-4230 Public Health Protection Services ..... | 100,840,000          |
| 08-4280 Laboratory Services.....                | 5,877,000            |
| 12-4245 AIDS Services .....                     | <u>80,471,000</u>    |
| Total Appropriation, Health Services .....      | <u>\$420,708,000</u> |

## Personal Services:

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$37,365,000) |
| Employee Benefits .....            | (12,754,000)   |
| Materials and Supplies.....        | (2,792,000)    |
| Services Other Than Personal.....  | (19,465,000)   |
| Maintenance and Fixed Charges..... | (1,053,000)    |

## Special Purpose:

|                                                                               |               |
|-------------------------------------------------------------------------------|---------------|
| Supplemental Food Program - Women,<br>Infants, and Children (WIC).....        | (110,692,000) |
| N.J. Project: Providing a MED Home in<br>a Neighborhood of Services .....     | (137,000)     |
| Women, Infants, and Children (WIC)<br>Farmer's Market Nutrition Program.....  | (2,200,000)   |
| Early Hearing Detection and Intervention<br>(EHD) Tracking, Research.....     | (21,000)      |
| Maternal and Child Health (MCH) Early<br>Childhood Comprehensive System ..... | (26,000)      |
| Child Nutrition Program - Inspection Services.....                            | (95,000)      |
| Environmental Health Education.....                                           | (73,000)      |
| Demonstration Program to Conduct Health<br>Assessments .....                  | (91,000)      |
| Adult Blood Lead Surveillance .....                                           | (12,000)      |
| Adult Viral Hepatitis Prevention .....                                        | (200,000)     |
| Public Employees Occupational Safety and<br>Health - State Plan.....          | (468,000)     |
| Surveillance of Hazardous Substance<br>Emergency Events.....                  | (113,000)     |
| National Cancer Prevention and Control -<br>Public Health .....               | (1,161,000)   |
| Pandemic Influenza Healthcare Preparedness ...                                | (1,935,000)   |
| National Violent Death Reporting System .....                                 | (16,000)      |
| H1N1 Public Health Emergency Response .....                                   | (18,404,000)  |
| Fundamental and Expanded Occupational<br>Health .....                         | (587,000)     |
| West Nile Virus - Laboratory .....                                            | (149,000)     |
| Tuberculosis Control Program.....                                             | (20,000)      |
| Clinical Laboratory Improvement Amendments<br>Program .....                   | (172,000)     |
| Emergency Preparedness for BioTerrorism -<br>Laboratories.....                | (162,000)     |

|                                                 |             |
|-------------------------------------------------|-------------|
| Food Emergency Response Network -               |             |
| E. Coli in Ground Beef.....                     | (109,000)   |
| HIV/AIDS Surveillance Grant.....                | (20,000)    |
| HIV/AIDS Events without Care in New Jersey..... | (30,000)    |
| Enhanced HIV/AIDS Surveillance - Perinatal..... | (145,000)   |
| Minority AIDS Initiatives.....                  | (24,000)    |
| Other Special Purpose .....                     | (7,936,000) |

**State Aid and Grants:**

|                                                  |               |
|--------------------------------------------------|---------------|
| Preventative Health and Health Services          |               |
| Block Grant .....                                | (1,161,000)   |
| State Office of Rural Health .....               | (168,000)     |
| Abstinence Education - Family Health             |               |
| Services (FHS) .....                             | (721,000)     |
| Asthma Surveillance and Coalition Building ..... | (472,000)     |
| USDA Incentive Program.....                      | (144,000)     |
| National Cancer Prevention and Control .....     | (2,990,000)   |
| West Nile Virus - Public Health .....            | (761,000)     |
| Immunization Project .....                       | (2,965,000)   |
| Emergency Preparedness For Bioterrorism .....    | (16,536,000)  |
| Expanded and Integrated HIV Testing .....        | (1,470,000)   |
| Federal Lead Abatement Program .....             | (8,000)       |
| State Aid and Grants .....                       | (172,022,000) |
| Additions, Improvements and Equipment .....      | (2,863,000)   |

**22 Health Planning and Evaluation**

|                                                          |                      |
|----------------------------------------------------------|----------------------|
| 06-4260 Long Term Care Systems .....                     | \$19,493,000         |
| 07-4270 Health Care Systems Analysis.....                | <u>183,653,000</u>   |
| Total Appropriation, Health Planning and Evaluation..... | <u>\$203,146,000</u> |

## Personal Services:

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages.....            | (\$6,850,000) |
| Employee Benefits.....             | (2,646,000)   |
| Materials and Supplies.....        | (73,000)      |
| Services Other Than Personal ..... | (863,000)     |
| Maintenance and Fixed Charges..... | (1,069,000)   |

## Special Purpose:

|                                        |             |
|----------------------------------------|-------------|
| Long Term Care - Medicaid .....        | (1,001,000) |
| Implement Patient Safety Act.....      | (200,000)   |
| Nurse Aide Certification Program ..... | (1,000,000) |
| HCSA - Medicaid .....                  | (1,511,000) |
| Other Special Purpose .....            | (6,412,000) |

**State Aid and Grants:**

|                                             |               |
|---------------------------------------------|---------------|
| State Office of Rural Health .....          | (150,000)     |
| State Aid and Grants .....                  | (180,803,000) |
| Additions, Improvements and Equipment ..... | (568,000)     |

**25 Health Administration**

99-4210 Administration and Support Services .....\$4,498,000

Total Appropriation, Health Administration .....\$4,498,000

**Personal Services:**

Salaries and Wages.....(\$1,499,000)

Employee Benefits .....(300,000)

Materials and Supplies.....(40,000)

Services Other Than Personal.....(271,000)

**Special Purpose:**

Immunization Program.....(933,000)

New Jersey's Reducing Health Disparities

Initiative .....(19,000)

Other Special Purpose .....(59,000)

**State Aid and Grants:**

Preventative Health and Health Services

Block Grant .....(841,000)

State Aid and Grants.....(536,000)

**26 Senior Services**

22-4275 Medical Services for the Aged .....\$1,246,535,000

55-4275 Programs for the Aged .....49,911,000

57-4275 Office of the Public Guardian.....1,400,000

Total Appropriation, Senior Services .....\$1,297,846,000

**Personal Services:**

Salaries and Wages.....(\$10,440,000)

Employee Benefits .....(3,018,000)

Materials and Supplies.....(230,000)

Services Other Than Personal.....(2,196,000)

Maintenance and Fixed Charges.....(458,000)

**Special Purpose:**

Administration of U.S. Department of

Health and Human Services Programs .....(5,510,000)

ADM DHSS Federal Programs - SBUM.....(1,790,000)

Elder Abuse - Older Americans Act Title III .....(168,000)

Empowering Older People to Take

More Control of Their Health .....(193,000)

Other Special Purpose .....(4,025,000)

**State Aid and Grants:**

Alternate Family Care .....(1,000,000)

Comprehensive Personal Care Home .....(7,500,000)

Global Budget for Long Term Care.....(157,112,000)

Counseling on Health Insurance for

Medicare Enrollees.....(429,000)

|                                                       |                        |
|-------------------------------------------------------|------------------------|
| Social Services Block Grant -                         |                        |
| Senior Services .....                                 | (2,422,000)            |
| Medicaid Match County Offices on Aging.....           | (480,000)              |
| Empowering Older People to Take                       |                        |
| More Control of Their Health.....                     | (220,000)              |
| State Aid and Grants .....                            | (1,100,296,000)        |
| Addition, Improvements and Equipment .....            | (359,000)              |
| Total Appropriation, Health and Senior Services ..... | <u>\$1,926,198,000</u> |

#### **54 DEPARTMENT OF HUMAN SERVICES**

##### ***20 Physical and Mental Health***

##### ***23 Mental Health Services***

|                                                   |                     |
|---------------------------------------------------|---------------------|
| 08-7700 Community Services .....                  | \$14,543,000        |
| 09-7700 Addiction Services.....                   | 53,548,000          |
| 99-7700 Administration and Support Services ..... | 2,150,000           |
| 99-7710 Administration and Support Services ..... | 653,000             |
| 99-7720 Administration and Support Services ..... | 629,000             |
| 99-7725 Administration and Support Services ..... | 221,000             |
| 99-7740 Administration and Support Services ..... | 794,000             |
| 99-7760 Administration and Support Services ..... | <u>359,000</u>      |
| Total Appropriation, Mental Health Services ..... | <u>\$72,897,000</u> |

##### **Personal Services:**

|                                   |               |
|-----------------------------------|---------------|
| Salaries and Wages .....          | (\$9,731,000) |
| Employee Benefits.....            | (21,000)      |
| Materials and Supplies.....       | (72,000)      |
| Services Other Than Personal..... | (2,916,000)   |

##### **Special Purpose:**

|                                |             |
|--------------------------------|-------------|
| Title XIX Indirect Costs ..... | (1,235,000) |
| Other Special Purpose .....    | (5,000)     |

##### ***State Aid and Grants:***

|                                             |              |
|---------------------------------------------|--------------|
| Substance Abuse Block Grant .....           | (43,254,000) |
| State Aid and Grants .....                  | (15,383,000) |
| Additions, Improvements and Equipment ..... | (280,000)    |

##### ***24 Special Health Services***

|                                                             |                        |
|-------------------------------------------------------------|------------------------|
| 21-7540 Health Services Administration and Management ..... | \$119,575,000          |
| 22-7540 General Medical Services .....                      | <u>3,104,444,000</u>   |
| Total Appropriation, Special Health Services .....          | <u>\$3,224,019,000</u> |

##### **Personal Services:**

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages .....           | (\$18,264,000) |
| Materials and Supplies.....        | (98,000)       |
| Services Other Than Personal.....  | (10,799,000)   |
| Maintenance and Fixed Charges..... | (1,931,000)    |

##### **Special Purpose:**

|                                         |              |
|-----------------------------------------|--------------|
| Payments to Fiscal Agents.....          | (80,727,000) |
| Professional Standards Review           |              |
| Organization Utilization Review .....   | (862,000)    |
| Drug Utilization Review Board -         |              |
| Administrative Costs .....              | (23,000)     |
| NJ KidCare - Administration.....        | (3,500,000)  |
| NJ KidCare B-C-D - Administration ..... | (5,480,000)  |

***State Aid and Grants:***

|                                              |               |
|----------------------------------------------|---------------|
| Payments for Medical Assistance              |               |
| Recipients - Adult Mental Health.....        | (27,646,000)  |
| Hospital Health Care Subsidy.....            | (32,982,000)  |
| Hospital Relief Offset Payments .....        | (62,645,000)  |
| Graduate Medical Education .....             | (45,000,000)  |
| Payments for Medical Assistance Recipients - |               |
| ICF/MR .....                                 | (6,610,000)   |
| Payments for Medical Assistance              |               |
| Recipients - Inpatient Hospital .....        | (278,452,000) |
| Payments for Medical Assistance              |               |
| Recipients - Prescription Drugs.....         | (185,277,000) |
| Payments for Medical Assistance              |               |
| Recipients - Outpatient Hospital .....       | (144,875,000) |
| Payments for Medical Assistance              |               |
| Recipients - Physician Services.....         | (32,549,000)  |
| Payments for Medical Assistance              |               |
| Recipients - Home Health Care.....           | (11,674,000)  |
| Payments for Medical Assistance              |               |
| Recipients - Medicare Premiums.....          | (180,253,000) |
| Payments for Medical Assistance              |               |
| Recipients - Dental Services.....            | (10,491,000)  |
| Payments for Medical Assistance              |               |
| Recipients - Psychiatric Hospital.....       | (10,705,000)  |
| Payments for Medical Assistance              |               |
| Recipients - Medical Supplies.....           | (18,121,000)  |
| Payments for Medical Assistance              |               |
| Recipients - Clinic Services .....           | (136,148,000) |
| Payments for Medical Assistance              |               |
| Recipients - Transportation Services.....    | (41,619,000)  |
| Payments for Medical Assistance Recipients - |               |
| Other Services .....                         | (33,262,000)  |
| Home Health Background Checks -              |               |
| Title XIX federal matching funds.....        | (1,800,000)   |
| Eligibility Determination Services .....     | (12,387,000)  |
| Health Benefit Coordination Services .....   | (9,198,000)   |

|                                                                       |                 |
|-----------------------------------------------------------------------|-----------------|
| NJ Family Care II - Affordable and<br>Accessible Health Coverage..... | (464,888,000)   |
| Managed Care Initiative .....                                         | (1,040,533,000) |
| State Aid and Grants.....                                             | (315,001,000)   |
| Additions, Improvements and Equipment .....                           | (219,000)       |

### ***27 Disability Services***

|                                                |                      |
|------------------------------------------------|----------------------|
| 27-7545 Disability Services.....               | <u>\$188,698,000</u> |
| Total Appropriation, Disability Services ..... | <u>\$188,698,000</u> |
| Personal Services:                             |                      |
| Salaries and Wages.....                        | (\$972,000)          |
| Materials and Supplies.....                    | (4,000)              |
| Services Other Than Personal.....              | (31,000)             |
| State Aid and Grants.....                      | (187,691,000)        |

### ***30 Educational, Cultural, and Intellectual Development***

#### ***32 Operation and Support of Educational Institutions***

|                                                                                 |                      |
|---------------------------------------------------------------------------------|----------------------|
| 01-7601 Purchased Residential Care .....                                        | \$260,829,000        |
| 02-7601 Social Supervision and Consultation .....                               | 52,479,000           |
| 03-7601 Adult Activities .....                                                  | 52,149,000           |
| 05-7610 Residential Care and Habilitation Services .....                        | 14,141,000           |
| 05-7620 Residential Care and Habilitation Services .....                        | 50,518,000           |
| 05-7630 Residential Care and Habilitation Services .....                        | 54,483,000           |
| 05-7640 Residential Care and Habilitation Services .....                        | 45,959,000           |
| 05-7650 Residential Care and Habilitation Services .....                        | 65,181,000           |
| 05-7660 Residential Care and Habilitation Services .....                        | 47,928,000           |
| 05-7670 Residential Care and Habilitation Services .....                        | 50,008,000           |
| 99-7600 Administration and Support Services .....                               | 8,200,000            |
| 99-7610 Administration and Support Services .....                               | 2,528,000            |
| 99-7620 Administration and Support Services .....                               | 2,176,000            |
| 99-7630 Administration and Support Services .....                               | 3,483,000            |
| 99-7640 Administration and Support Services .....                               | 5,336,000            |
| 99-7650 Administration and Support Services .....                               | 5,573,000            |
| 99-7660 Administration and Support Services .....                               | 1,725,000            |
| 99-7670 Administration and Support Services .....                               | <u>5,761,000</u>     |
| Total Appropriation, Operation and Support of Educational<br>Institutions ..... | <u>\$728,457,000</u> |
| Personal Services:                                                              |                      |
| Salaries and Wages.....                                                         | (\$365,868,000)      |
| Materials and Supplies.....                                                     | (19,342,000)         |
| Services Other Than Personal.....                                               | (9,577,000)          |
| Maintenance and Fixed Charges.....                                              | (1,527,000)          |
| State Aid and Grants.....                                                       | (331,742,000)        |
| Additions, Improvements and Equipment .....                                     | (401,000)            |

**33 Supplemental Education and Training Programs**

|                                                                           |                     |
|---------------------------------------------------------------------------|---------------------|
| 11-7560 Services for the Blind and Visually Impaired.....                 | \$11,131,000        |
| 99-7560 Administration and Support Services .....                         | <u>2,273,000</u>    |
| Total Appropriation, Supplemental Education and<br>Training Programs..... | <u>\$13,404,000</u> |

**Personal Services:**

|                                             |               |
|---------------------------------------------|---------------|
| Salaries and Wages.....                     | (\$7,230,000) |
| Materials and Supplies.....                 | (35,000)      |
| Services Other Than Personal.....           | (470,000)     |
| Maintenance and Fixed Charges.....          | (160,000)     |
| State Aid and Grants.....                   | (5,356,000)   |
| Additions, Improvements and Equipment ..... | (153,000)     |

**50 Economic Planning, Development, and Security****53 Economic Assistance and Security**

|                                                             |                      |
|-------------------------------------------------------------|----------------------|
| 15-7550 Income Maintenance Management.....                  | \$822,536,000        |
| Total Appropriation, Economic Assistance and Security ..... | <u>\$822,536,000</u> |

**Personal Services:**

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$10,030,000) |
| Materials and Supplies.....        | (2,581,000)    |
| Services Other Than Personal.....  | (32,185,000)   |
| Maintenance and Fixed Charges..... | (3,296,000)    |

**Special Purpose:**

|                                                                     |              |
|---------------------------------------------------------------------|--------------|
| Work First New Jersey Technology<br>Investment - Food Stamps .....  | (12,811,000) |
| EBT - Operational Food Stamp Match<br>for CWA's .....               | (2,619,000)  |
| Work First New Jersey - Benefits Transfer -<br>Operational .....    | (466,000)    |
| Work First New Jersey - Technology<br>Investments .....             | (7,232,000)  |
| Work First New Jersey - Technology<br>Investment - TANF/CCDF .....  | (2,802,000)  |
| Child Support Incentive Funding .....                               | (1,356,000)  |
| EBT Operational - Child Care Discretionary .....                    | (56,000)     |
| EBT Operational - Child Care M&M .....                              | (335,000)    |
| EBT Operational - Child Care TANF.....                              | (194,000)    |
| Work First New Jersey - Technology<br>Investments - Title XIX.....  | (12,357,000) |
| Work First New Jersey - Technology<br>Investment - Title IV-D ..... | (13,646,000) |

**State Aid and Grants:**

|                                           |             |
|-------------------------------------------|-------------|
| Faith Based Initiatives .....             | (1,055,000) |
| SSBG CWA Administration TANF Transfer.... | (2,814,000) |

State Aid and Grants .....(714,389,000)  
 Additions, Improvements and Equipment .....(2,312,000)

**70 Government Direction, Management, and Control**

**76 Management and Administration**

99-7500 Administration and Support Services .....\$27,820,000  
 Total Appropriation, Management and Administration.....\$27,820,000  
 Personal Services:  
     Salaries and Wages .....(\$5,805,000)  
 Services Other Than Personal.....(1,826,000)  
 Special Purpose:  
     Child Support Enforcement Program .....(984,000)  
     Title XIX Community Care Waiver .....(3,071,000)  
     Title XIX Medical Assistance .....(9,760,000)  
     Refugee Resettlement Program .....(135,000)  
     Vocational Rehabilitation Act - Section 120 .....(581,000)  
     Food Stamp Program .....(984,000)  
     Temporary Assistance to Needy Families  
         Block Grant .....(1,731,000)  
     Transfer to State Police for  
         Fingerprinting/Background Checks.....(2,174,000)  
 State Aid and Grants .....(769,000)  
 Total Appropriation, Department of Human Services .....\$5,077,831,000

**62 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

**50 Economic Planning, Development, and Security**

**51 Economic Planning and Development**

18-4570 Planning and Analysis .....\$9,929,000  
 Total Appropriation, Economic Planning and Development.....\$9,929,000  
 Personal Services:  
     Salaries and Wages .....(\$2,404,000)  
     Employee Benefits.....(1,434,000)  
 Materials and Supplies.....(378,000)  
 Services Other Than Personal.....(1,372,000)  
 Maintenance and Fixed Charges.....(459,000)  
 Special Purpose:  
     Reports and Analysis - Unemployment Insurance(899,000)  
     ES 202 Covered Employment and Wages.....(124,000)  
     Current Employment Statistics .....(192,000)  
     Local Area Unemployment Statistics .....(17,000)  
     Occupational Employment Statistics .....(181,000)  
     Labor Market Information – ES .....(512,000)  
     ES Cost Reimbursable Grants - Alien Labor  
         Certification.....(32,000)

|                                                       |           |
|-------------------------------------------------------|-----------|
| Permanent Mass Layoff Plant Closings.....             | (24,000)  |
| Redesigned Occupational Safety and Health (ROSH)..... | (27,000)  |
| One Stop Labor Market Information .....               | (602,000) |
| JTPA Title III LMI-PROS.....                          | (878,000) |
| Other Special Purpose .....                           | (181,000) |

***State Aid and Grants:***

|                                             |           |
|---------------------------------------------|-----------|
| JTPA Title II CIDS.....                     | (62,000)  |
| Additions, Improvements and Equipment ..... | (151,000) |

***53 Economic Assistance and Security***

|                                                           |                      |
|-----------------------------------------------------------|----------------------|
| 01-4510 Unemployment Insurance.....                       | \$182,665,000        |
| 02-4515 Disability Determination .....                    | <u>66,771,000</u>    |
| Total Appropriation, Economic Assistance and Security ... | <u>\$249,436,000</u> |

**Personal Services:**

|                                    |                 |
|------------------------------------|-----------------|
| Salaries and Wages.....            | (\$103,438,000) |
| Employee Benefits .....            | (35,151,000)    |
| Materials and Supplies.....        | (3,560,000)     |
| Services Other Than Personal.....  | (40,850,000)    |
| Maintenance and Fixed Charges..... | (12,600,000)    |

**Special Purpose:**

|                                             |              |
|---------------------------------------------|--------------|
| Unemployment Insurance.....                 | (29,848,000) |
| Reed Act Improvements .....                 | (5,000,000)  |
| Employment Security Revenue .....           | (3,069,000)  |
| Disability Determination Services.....      | (3,620,000)  |
| Old Age and Survivor Insurance              |              |
| Disability Determination Services.....      | (1,000,000)  |
| State Aid and Grants.....                   | (10,000,000) |
| Additions, Improvements and Equipment ..... | (1,300,000)  |

***54 Manpower and Employment Services***

|                                                             |                      |
|-------------------------------------------------------------|----------------------|
| 07-4535 Vocational Rehabilitation Services .....            | \$54,530,000         |
| 09-4545 Employment Services.....                            | 37,869,000           |
| 10-4545 Employment and Training Services .....              | 153,251,000          |
| 12-4550 Workplace Standards.....                            | <u>4,960,000</u>     |
| Total Appropriation, Manpower and Employment Services ..... | <u>\$250,610,000</u> |

**Personal Services:**

|                                    |                |
|------------------------------------|----------------|
| Salaries and Wages.....            | (\$36,218,000) |
| Employee Benefits .....            | (11,742,000)   |
| Materials and Supplies.....        | (1,194,000)    |
| Services Other Than Personal.....  | (9,400,000)    |
| Maintenance and Fixed Charges..... | (12,020,000)   |

**Special Purpose:**

|                                                                             |                      |
|-----------------------------------------------------------------------------|----------------------|
| Vocational Rehabilitation Act of 1973 .....                                 | (2,791,000)          |
| Employment Services .....                                                   | (3,200,000)          |
| Disabled Veterans' Outreach Program .....                                   | (718,000)            |
| Local Veterans' Employment Representatives .....                            | (376,000)            |
| Trade Adjustment Assistance Project .....                                   | (40,000)             |
| Employment Services Grants - Alien Labor<br>Certification .....             | (300,000)            |
| Work Opportunity Tax Credit .....                                           | (172,000)            |
| Employment Services Cost Reimbursable Grants -<br>Migrant Housing .....     | (5,000)              |
| Agricultural Wage Surveys .....                                             | (42,000)             |
| Workforce Investment Act .....                                              | (350,000)            |
| Employment Services Rapid Response Team .....                               | (190,000)            |
| National Council on Aging - Senior<br>Community Services Employment .....   | (203,000)            |
| Adult and Continuing Education - Workforce<br>Investment Act .....          | (483,000)            |
| Adult Basic Ed Leadership .....                                             | (1,307,000)          |
| Adult Basic Ed Civics Administration .....                                  | (99,000)             |
| Adult Basic Education Civics Leadership .....                               | (380,000)            |
| Occupational Safety Health Act - On-Site<br>Consultation .....              | (581,000)            |
| Other Special Purpose .....                                                 | (4,741,000)          |
| <b>State Aid and Grants:</b>                                                |                      |
| Technology Related Assistance Project .....                                 | (550,000)            |
| Adult Basic Ed Non-Admin .....                                              | (12,820,000)         |
| Adult Basic Ed Civics Non Administration .....                              | (3,730,000)          |
| State Aid and Grants .....                                                  | (146,441,000)        |
| Additions, Improvements and Equipment .....                                 | (517,000)            |
| Total Appropriation, Department of Labor and<br>Workforce Development ..... | <u>\$509,975,000</u> |

## 66 DEPARTMENT OF LAW AND PUBLIC SAFETY

### 10 Public Safety and Criminal Justice

#### 12 Law Enforcement

|                                                 |                      |
|-------------------------------------------------|----------------------|
| 06-1200 State Police Operations .....           | \$77,426,000         |
| 09-1020 Criminal Justice .....                  | <u>34,445,000</u>    |
| Total Appropriation, Law Enforcement .....      | <u>\$111,871,000</u> |
| Personal Services:                              |                      |
| Salaries and Wages .....                        | (\$2,421,000)        |
| Employee Benefits .....                         | (844,000)            |
| Special Purpose:                                |                      |
| Fatality Analysis Reporting System (FARS) ..... | (240,000)            |

|                                                  |              |
|--------------------------------------------------|--------------|
| Paul Coverdell National Forensic Science         |              |
| Improvement .....                                | (500,000)    |
| Domestic Marijuana Eradication                   |              |
| Suppression Program.....                         | (75,000)     |
| Flood Mitigation Assistance.....                 | (8,000,000)  |
| Recreational Boating Safety .....                | (4,000,000)  |
| Internet Crimes Against Children.....            | (400,000)    |
| Hazardous Materials Transportation .....         | (500,000)    |
| Pre-Disaster Mitigation - Competitive.....       | (3,000,000)  |
| Repetitive Flood Claim Program – FEMA .....      | (750,000)    |
| Severe Repetitive Loss – FEMA .....              | (27,451,000) |
| NIEHS Worker Health Safety Training.....         | (150,000)    |
| Incident Command .....                           | (1,500,000)  |
| Emergency Management Performance Grant -         |              |
| Non Terrorism .....                              | (9,000,000)  |
| Solving Cold Cases .....                         | (310,000)    |
| Port Security - New York/New Jersey (North)..... | (3,450,000)  |
| Port Security - Delaware Bay (South) .....       | (1,700,000)  |
| Forensic Casework DNA Backlog Reduction ...      | (1,400,000)  |
| Hazard Materials Emergency Preparedness .....    | (600,000)    |
| Sex Offender Registration and Notification       |              |
| Act (SORNA).....                                 | (400,000)    |
| Cops Hiring Program.....                         | (14,000,000) |
| Bulletproof Vest Partnership .....               | (500,000)    |
| Medicaid Fraud Unit.....                         | (1,480,000)  |
| Victim Assistance Grants .....                   | (13,000,000) |
| Project Safe Neighborhoods .....                 | (500,000)    |
| Anti Trafficking Task Force .....                | (300,000)    |
| Enhancement of Data Analysis Center.....         | (50,000)     |
| Justice Assistance Grant (JAG) .....             | (10,000,000) |
| Byrne Discretionary Grant - Statewide            |              |
| Response to Violent Crime Reduction .....        | (600,000)    |
| Residential Treatment for Substance Abuse.....   | (750,000)    |
| State Aid and Grants.....                        | (4,000,000)  |

### ***13 Special Law Enforcement Activities***

|                                                               |                     |
|---------------------------------------------------------------|---------------------|
| 03-1160 Office of Highway Traffic Safety.....                 | \$39,539,000        |
| 21-1400 Regulation of Alcoholic Beverages.....                | <u>360,000</u>      |
| Total Appropriation, Special Law Enforcement Activities ..... | <u>\$39,899,000</u> |
| Special Purpose:                                              |                     |
| Federal Highway Safety Program -                              |                     |
| State Match.....                                              | (\$600,000)         |
| Highway Safety - Traffic Records.....                         | (500,000)           |

|                                               |             |
|-----------------------------------------------|-------------|
| Occupant Protection Child Passenger Safety    |             |
| Training and Education .....                  | (100,000)   |
| Planning and Administration Section 406 ..... | (200,000)   |
| Safe Passage on Our Highways .....            | (100,000)   |
| Occupant Protection Section 406 Seat          |             |
| Belt Enforcement.....                         | (1,000,000) |
| Police Traffic Services Section 406.....      | (1,972,000) |
| Roadway Safety Section 406 .....              | (500,000)   |
| Emergency Services .....                      | (10,000)    |
| Pedestrian Safety Study .....                 | (500,000)   |
| FHWA Program Management.....                  | (400,000)   |
| Motorcycle Training Program .....             | (10,000)    |
| Training Grant - Section 402 .....            | (75,000)    |
| Motorcycle Safety Program.....                | (20,000)    |
| Pedestrian Safety Grant .....                 | (700,000)   |
| Occupant Protection Grant .....               | (4,500,000) |
| Highway Safety Performance Plan .....         | (200,000)   |
| Selective Enforcement Management .....        | (2,500,000) |
| School Bus Set Aside Program.....             | (20,000)    |
| Community Traffic Safety.....                 | (3,300,000) |
| Highway Safety - Alcohol Education and        |             |
| Public Awareness Coordinator .....            | (550,000)   |
| Highway Safety - Safety Restraints            |             |
| Program Management .....                      | (900,000)   |
| Safety Belt Performance Grants .....          | (4,500,000) |
| Drunk Driver Prevention .....                 | (8,507,000) |
| Paid Advertising .....                        | (325,000)   |
| State Traffic Safety Information System ..... | (1,500,000) |
| Motorcycle Safety.....                        | (800,000)   |
| Child Safety/Child Booster Seats .....        | (3,900,000) |
| Motorcycle Incentive .....                    | (150,000)   |
| Distracted Driver Incentive.....              | (1,200,000) |
| Enforcing Underage Drinking Laws.....         | (360,000)   |

### ***18 Juvenile Services***

|                                                   |                    |
|---------------------------------------------------|--------------------|
| 34-1500 Juvenile Community Programs .....         | \$3,107,000        |
| 99-1500 Administration and Support Services ..... | <u>1,559,000</u>   |
| Total Appropriation, Juvenile Services .....      | <u>\$4,666,000</u> |
| Personal Services:                                |                    |
| Salaries and Wages .....                          | (\$1,121,000)      |
| Employee Benefits.....                            | (392,000)          |
| Special Purpose:                                  |                    |
| IDEA - Handicapped .....                          | (214,000)          |

|                                                  |             |
|--------------------------------------------------|-------------|
| Juvenile Mentoring Programs - Juvenile           |             |
| Justice Initiative.....                          | (60,000)    |
| Juvenile Aftercare Programs .....                | (98,000)    |
| Title I - Part D, Neglected and Delinquent ..... | (588,000)   |
| Juvenile Accountability Incentive Block          |             |
| Grant (JAIBG).....                               | (1,129,000) |
| Title V Funding .....                            | (35,000)    |
| Juvenile Justice Delinquency Prevention .....    | (1,029,000) |

***19 Central Planning, Direction and Management***

|                                                   |                     |
|---------------------------------------------------|---------------------|
| 13-1005 Homeland Security and Preparedness .....  | \$52,885,000        |
| 99-1000 Administration and Support Services ..... | <u>4,000,000</u>    |
| Total Appropriation, Central Planning,            |                     |
| Direction and Management .....                    | <u>\$56,885,000</u> |

Special Purpose:

|                                                |                |
|------------------------------------------------|----------------|
| Homeland Security Grant Program .....          | (\$11,903,000) |
| Metropolitan Medical Response System .....     | (564,000)      |
| Citizen Corps Program .....                    | (242,000)      |
| Urban Area Security Initiative.....            | (37,293,000)   |
| UASI Nonprofit Security Grant                  |                |
| Program (NSGP) .....                           | (1,600,000)    |
| Regional Catastrophic Preparedness Grant ..... | (1,283,000)    |
| National Criminal History Program - Office     |                |
| of the Attorney General .....                  | (4,000,000)    |

***80 Special Government Services***

***82 Protection of Citizens' Rights***

|                                                          |                    |
|----------------------------------------------------------|--------------------|
| 16-1350 Protection of Civil Rights.....                  | \$850,000          |
| 19-1440 Victims of Crime Compensation Office .....       | <u>3,677,000</u>   |
| Total Appropriation, Protection of Citizens' Rights..... | <u>\$4,527,000</u> |

Personal Services:

|                         |             |
|-------------------------|-------------|
| Salaries and Wages..... | (\$375,000) |
|-------------------------|-------------|

Special Purpose:

|                                                                |                      |
|----------------------------------------------------------------|----------------------|
| Housing and Urban Development .....                            | (475,000)            |
| Victim Compensation Award .....                                | (3,677,000)          |
| Total Appropriation, Department of Law and Public Safety ..... | <u>\$217,848,000</u> |

**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS**

***10 Public Safety and Criminal Justice***

***14 Military Services***

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 40-3620 New Jersey National Guard Support Services..... | \$50,799,000        |
| 99-3600 Administration and Support Services .....       | <u>24,041,000</u>   |
| Total Appropriation, Military Services.....             | <u>\$74,840,000</u> |

Personal Services:

|                                                 |               |
|-------------------------------------------------|---------------|
| Salaries and Wages .....                        | (\$9,663,000) |
| Employee Benefits .....                         | (1,065,000)   |
| Materials and Supplies .....                    | (15,248,000)  |
| Services Other Than Personal .....              | (2,223,000)   |
| Maintenance and Fixed Charges .....             | (250,000)     |
| Special Purpose:                                |               |
| Dining Facility Operations .....                | (150,000)     |
| Natural and Cultural Resources Management ..... | (5,000)       |
| Federal Distance Learning Program .....         | (180,000)     |
| Administrative Services Activities .....        | (60,000)      |
| Training and Equipment - Pool Sites .....       | (42,000)      |
| Army Training and Technology Lab .....          | (662,000)     |
| Air National Guard Security Agreement -         |               |
| Atlantic City .....                             | (24,000)      |
| Air National Guard Security Agreement -         |               |
| McGuire .....                                   | (19,000)      |
| Army National Guard Electronic Security         |               |
| System .....                                    | (100,000)     |
| McGuire Air Force Base Environmental .....      | (26,000)      |
| Atlantic City Operations and Maintenance .....  | (11,000)      |
| Atlantic City Environmental .....               | (45,000)      |
| Warren Grove Sustainment Restoration &          |               |
| Modernization .....                             | (7,000)       |
| Antiterrorism Program Manager .....             | (30,000)      |
| Atlantic City Sustainment, Restoration          |               |
| and Modernization .....                         | (750,000)     |
| Armory Renovations and Improvements .....       | (3,489,000)   |
| Challenge Youth Academy HVAC                    |               |
| Replacement .....                               | (750,000)     |
| Medical Clinic - Sea Girt .....                 | (16,000,000)  |
| Combined Logistics Facility .....               | (4,041,000)   |
| NJNG Photovoltaic Sea Girt Program .....        | (1,000,000)   |
| Photovoltaic - MAVA HQ .....                    | (3,000,000)   |
| Sea Girt Regional Training Institute -          |               |
| Construction .....                              | (16,000,000)  |

### **80 Special Government Services**

#### **83 Services to Veterans**

|                                                   |             |
|---------------------------------------------------|-------------|
| 20-3630 Domiciliary and Treatment Services .....  | \$3,000,000 |
| 20-3640 Domiciliary and Treatment Services .....  | 2,700,000   |
| 20-3650 Domiciliary and Treatment Services .....  | 2,700,000   |
| 50-3610 Veterans' Outreach and Assistance .....   | 960,000     |
| 70-3610 Burial Services .....                     | 7,504,000   |
| 99-3630 Administration and Support Services ..... | 840,000     |

|                                                   |                     |
|---------------------------------------------------|---------------------|
| 99-3640 Administration and Support Services ..... | 840,000             |
| 99-3630 Administration and Support Services ..... | 840,000             |
| Total Appropriation, Services to Veterans .....   | <u>\$19,384,000</u> |
| Personal Services:                                |                     |
| Salaries and Wages.....                           | (\$3,402,000)       |
| Employee Benefits .....                           | (123,000)           |
| Materials and Supplies.....                       | (7,139,000)         |
| Special Purpose:                                  |                     |
| Medicare Part A Receipts for Resident Care        |                     |
| and Operational Costs .....                       | (5,336,000)         |
| Transitional Housing .....                        | (360,000)           |
| BG Doyle Memorial Cemetery Road Repair.....       | (504,000)           |
| Electronic Healthcare Records Conversion          |                     |
| Project .....                                     | (2,520,000)         |
| Total Appropriation, Department of Military and   |                     |
| Veterans' Affairs .....                           | <u>\$94,224,000</u> |

#### **74 DEPARTMENT OF STATE**

##### ***30 Educational, Cultural, and Intellectual Development***

##### ***36 Higher Educational Services***

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| 45-2405 Student Assistance Programs .....             | \$13,898,000        |
| 80-2400 Statewide Planning and Coordination for       |                     |
| Higher Education .....                                | <u>7,191,000</u>    |
| Total Appropriation, Higher Educational Services..... | <u>\$21,089,000</u> |
| Personal Services:                                    |                     |
| Salaries and Wages.....                               | (\$7,148,000)       |
| Employee Benefits .....                               | (2,951,000)         |
| Materials and Supplies.....                           | (327,000)           |
| Services Other Than Personal.....                     | (2,352,000)         |
| Maintenance and Fixed Charges.....                    | (1,013,000)         |
| Special Purpose:                                      |                     |
| Student Loan Administrative Cost Deduction            |                     |
| and Allowance.....                                    | (241,000)           |
| Other Special Purpose .....                           | (196,000)           |
| <b><i>State Aid and Grants:</i></b>                   |                     |
| National Health Services Corps - Student Loan         |                     |
| Repayment Program.....                                | (240,000)           |
| State Aid and Grants.....                             | (6,559,000)         |
| Additions, Improvement and Equipment.....             | (62,000)            |

##### ***37 Cultural and Intellectual Development Services***

|                                                |                    |
|------------------------------------------------|--------------------|
| 05-2530 Support of the Arts .....              | <u>\$1,000,000</u> |
| Total Appropriation, Cultural and Intellectual |                    |
| Development Services.....                      | <u>\$1,000,000</u> |

## Special Purpose:

National Endowment for the Arts

Partnership.....(\$1,000,000)

**70 Government Direction, Management, and Control****74 General Government Services**

01-2505 Office of the Secretary of State .....\$6,710,000

25-2525 Election Management and Coordination .....5,325,000Total Appropriation, General Government Services .....\$12,035,000

## Special Purpose:

AMERICOR Competitive Grants.....(\$1,000,000)

Office of Faith-Based Initiatives - Compassion

Capital Fund Grant .....(500,000)

Foster Grandparent Program.....(800,000)

Americorps - VISTA Grant Program.....(40,000)

Americorps Grants.....(3,200,000)

Learn and Serve .....(560,000)

State Commission .....(400,000)

Professional Development.....(140,000)

Disability .....(70,000)

Help America Vote Act .....(5,000,000)

Election Assistance for Persons with

Disabilities.....(325,000)

Total Appropriation, Department of State .....\$34,124,000**78 DEPARTMENT OF TRANSPORTATION****10 Public Safety and Criminal Justice****11 Vehicular Safety**01-6400 Motor Vehicle Services .....\$4,200,000Total Appropriation, Vehicular Safety .....\$4,200,000

## Special Purpose:

Commercial Bus Inspection Unit.....(\$500,000)

Driver's License Security Grant Program.....(1,200,000)

Commercial Drivers' License Program .....(2,500,000)

**60 Transportation Programs****61 State and Local Highway Facilities**00-6300 Federal Highway Administration .....\$1,201,129,665Total Appropriation, State and Local Highway Facilities .....\$1,201,129,665**Federal Highway Administration**DescriptionCountyAmount

6th Street Viaduct Pedestrian and

Bicycle Pathway

Hudson

(\$1,439,840)

|                                                                                                      |            |              |
|------------------------------------------------------------------------------------------------------|------------|--------------|
| ADA Curb Ramp Implementation                                                                         | Various    | (1,000,000)  |
| Almond Road (CR 540), CR 645 to<br>Cumberland County Line, Resurfacing                               | Salem      | (2,191,000)  |
| Battleship New Jersey Access Road (Clinton<br>Ave) Repaving/Streetscape                              | Camden     | (413,658)    |
| Bears Head Road, Estell Ave to Harley Ave,<br>Repaving (CR 552)                                      | Atlantic   | (50,000)     |
| Bears Head Road, Pittsburg Ave to Rt 40,<br>Repaving (CR 552)                                        | Atlantic   | (50,000)     |
| Belmont Avenue Gateway Community<br>Enhancement Project (CR 675)                                     | Passaic    | (359,600)    |
| Bergen Arches through Jersey City Palisades                                                          | Hudson     | (13,406,728) |
| Bergen County, Specialized Bus Transit                                                               | Bergen     | (974,000)    |
| Berkeley Avenue Bridge                                                                               | Essex      | (1,000,000)  |
| Berkshire Valley Road Bridge over<br>Rockaway River                                                  | Morris     | (2,800,000)  |
| Berlin Road Streetscape Improvements,<br>Camden County                                               | Camden     | (648,000)    |
| Betterments, Bridge Preservation                                                                     | Various    | (5,000,000)  |
| Bicycle & Pedestrian Facilities/<br>Accommodations                                                   | Various    | (5,000,000)  |
| Bicycle Facilities and Street Lighting,<br>Haddon Heights                                            | Various    | (189,244)    |
| Bridge Deck/Superstructure<br>Replacement Program                                                    | Various    | (50,000,000) |
| Bridge Inspection, Local Bridges                                                                     | Various    | (6,100,000)  |
| Bridge Inspection, State NBIS Bridges                                                                | Various    | (16,400,000) |
| Bridge Management System                                                                             | Various    | (400,000)    |
| Bridge Painting Program                                                                              | Various    | (17,000,000) |
| Bridge Scour Countermeasures                                                                         | Various    | (6,000,000)  |
| Bridge St., Clay St., Jackson St. Bridges;<br>Essex County                                           | Essex      | (980,000)    |
| Camden County Bus Purchase                                                                           | Camden     | (100,000)    |
| Camden County Roadway Safety Improvements                                                            | Camden     | (500,000)    |
| Canal Crossing Infrastructure Planning Project                                                       | Hudson     | (2,831,000)  |
| Carteret Ferry Service Terminal                                                                      | Middlesex  | (2,827,296)  |
| Centerton Road (CR 553/CR 611) from Landis<br>Avenue (NJ Rt 56) to Salem County Line,<br>Resurfacing | Cumberland | (1,350,000)  |
| Church Street Bridge, CR 579                                                                         | Hunterdon  | (525,000)    |
| Clay St. Reconstruction                                                                              | Essex      | (491,964)    |
| Commissioners Pike (CR 581), Woodstown-<br>Daretown Road to Route 40, Phase IV                       | Salem      | (100,000)    |
| County Route 6 Bridge (MA-14)                                                                        | Monmouth   | (2,000,000)  |

|                                                                                    |                     |              |
|------------------------------------------------------------------------------------|---------------------|--------------|
| County Route 571 at Francis Mills                                                  | Ocean               | (4,000,000)  |
| Crash Reduction Program                                                            | Various             | (4,850,000)  |
| Culvert Replacement Program                                                        | Various             | (1,000,000)  |
| DBE Supportive Services Program                                                    | Various             | (500,000)    |
| Delancy Street, Avenue I to Avenue P                                               | Essex               | (12,000,000) |
| Disadvantaged Business Enterprise                                                  | Various             | (100,000)    |
| Drainage Rehabilitation & Improvements                                             | Various             | (4,000,000)  |
| DVRPC, Future Projects                                                             | Various             | (1,544,000)  |
| East Coast Greenway, Middlesex/<br>Union Counties                                  | Middlesex,<br>Union | (719,921)    |
| Edison National Historic Site,<br>Traffic Improvements                             | Essex               | (172,780)    |
| Egg Harbor Road, Hurffville-Cross Keys Road<br>to Hurffville-Grenloch Road, CR 630 | Gloucester          | (6,000,000)  |
| Eighth Street Bridge                                                               | Passaic             | (800,000)    |
| Englishtown Borough, Road Improvements                                             | Monmouth            | (750,000)    |
| Ferry Program                                                                      | Various             | (10,000,000) |
| Fifth Avenue Bridge (AKA Fair Lawn<br>Avenue Bridge) over Passaic River            | Passaic             | (1,200,000)  |
| Garden State Parkway Interchange<br>Improvements in Cape May                       | Cape May            | (28,008,448) |
| Gloucester County Bus Purchase                                                     | Gloucester          | (70,000)     |
| Gloucester County Roadway Safety<br>Improvements                                   | Gloucester          | (500,000)    |
| Gordon Street over "Out of Service" Conrail<br>Branch, Replacement                 | Union               | (750,000)    |
| Greenville Yard and Lift Bridge - State-of-<br>Good-Repair                         | Hudson              | (70,010,000) |
| Greenville Yard and Lift Bridge - Temporary<br>Maintenance of Barge Operations     | Hudson              | (1,200,000)  |
| Hackensack River Walkway                                                           | Bergen              | (1,439,840)  |
| Haddon Avenue/Franklin Avenue, Intersection<br>Improvements, CR 561/692            | Camden              | (2,000,000)  |
| Halls Mill Road                                                                    | Monmouth            | (700,000)    |
| Hanover Street Bridge over Rancocas<br>Creek, CR 616                               | Burlington          | (3,240,000)  |
| Highway Safety Improvement Program Planning                                        | Various             | (4,000,000)  |
| Hoboken Observer Highway Operational and<br>Safety Improvements                    | Hudson              | (1,799,800)  |
| Holmdel Twp., Road Improvements to<br>Reduce Flooding                              | Monmouth            | (98,393)     |
| Hudson County Pedestrian Safety Improvements                                       | Hudson              | (719,921)    |
| Intelligent Transportation Systems                                                 | Various             | (1,000,000)  |

|                                                                      |                |              |
|----------------------------------------------------------------------|----------------|--------------|
| Intermodal Access Improvements to the Peninsula at Bayonne           | Hudson         | (1,439,840)  |
| Intersection Improvement Program                                     | Various        | (1,000,000)  |
| Irvington Center Streetscape                                         | Essex          | (719,921)    |
| ITS Earmark Funding                                                  | Various        | (500,000)    |
| Jersey City Signalization Improvements                               | Hudson         | (792,000)    |
| JFK Boulevard Reconstruction (CR 625)                                | Cape May       | (1,097,000)  |
| Landing Road Bridge Over Morristown Line, CR 631                     | Morris         | (800,000)    |
| Landis Avenue, Myrtle Street to Boulevards, Resurfacing              | Cumberland     | (100,000)    |
| Landis Avenue, Union Rd to Cumberland County Line, Repaving (CR 540) | Atlantic       | (50,000)     |
| Landis Avenue, Union Rd to Tuckahoe Rd, Repaving                     | Atlantic       | (900,000)    |
| Laurel Avenue NJ Transit Bridge Replacement                          | Monmouth       | (719,921)    |
| Lehigh Rail Line Separation                                          | Somerset       | (759,515)    |
| Local CMAQ Initiatives                                               | Various        | (4,820,000)  |
| Local Project Development Support                                    | Various        | (1,000,000)  |
| Local Safety/High Risk Rural Roads Program                           | Various        | (5,240,000)  |
| Long Valley Safety Project                                           | Morris         | (719,921)    |
| Market Street/Essex Street/Rochelle Avenue                           | Bergen         | (3,844,123)  |
| Maryland Avenue, Route 187 (Brigantine Blvd) to Pacific Avenue       | Atlantic       | (50,000)     |
| McGinley Square Parking Facility                                     | Hudson         | (755,916)    |
| Meadowlands Adaptive Signal System for Traffic Reduction (MASSTR)    | Bergen, Hudson | (5,000,000)  |
| Metropolitan Planning                                                | Various        | (22,699,000) |
| Middle Thorofare, Mill Creek, Upper Thorofare Bridges, CR 621        | Cape May       | (1,129,714)  |
| Milford-Warren Glen Road, CR 519                                     | Hunterdon      | (250,000)    |
| Millburn Townwalk, adjacent to the West Branch of the Rahway River   | Essex          | (539,940)    |
| Motor Vehicle Crash Record Processing                                | Various        | (4,000,000)  |
| New Jersey Scenic Byways Program                                     | Various        | (2,250,000)  |
| New Providence Downtown Streetscape                                  | Union          | (245,000)    |
| Newark Access Variable Message Signage System                        | Essex          | (359,960)    |
| Newark and First Street Improvements, Hoboken                        | Hudson         | (215,977)    |
| NJ Underground Railroad                                              | Various        | (320,342)    |
| NJTPA, Future Projects                                               | Various        | (1,300,000)  |
| North Avenue Corridor Improvement Project (NACI)                     | Union          | (14,066,000) |

|                                                                                 |                 |              |
|---------------------------------------------------------------------------------|-----------------|--------------|
| North Avenue, Elizabeth Pedestrian and Bicycle Project                          | Union           | (53,993)     |
| North Broad Street Redevelopment Project                                        | Essex           | (487,000)    |
| North Plainfield Downtown Streetscape and Pedestrian Improvements (Final Phase) | Somerset        | (300,000)    |
| NY Susquehanna and Western Rail Line Bicycle/Pedestrian Path                    | Morris, Passaic | (2,000,000)  |
| Ozone Action Program in New Jersey                                              | Various         | (40,000)     |
| Park and Ride/Transportation Demand Management Program                          | Various         | (8,000,000)  |
| Pavement Preservation                                                           | Various         | (5,000,000)  |
| Pedestrian Safety Corridor Program                                              | Various         | (500,000)    |
| Peninsula at Bayonne Harbor, Intermodal Access Improvements                     | Hudson          | (1,439,840)  |
| Planning and Research, Federal-Aid                                              | Various         | (27,022,000) |
| Port Reading Junction                                                           | Somerset        | (2,095,000)  |
| Pre-Apprenticeship Training Program for Minorities and Women                    | Various         | (500,000)    |
| Princeton Township Roadway Improvements                                         | Mercer          | (498,500)    |
| Rahway River Corridor Greenway Bicycle and Pedestrian Path                      | Essex           | (400,000)    |
| Rail-Highway Grade Crossing Program, Federal                                    | Various         | (6,800,000)  |
| Recreational Trails Program                                                     | Various         | (1,411,000)  |
| Restriping Program & Line Reflectivity Management System                        | Various         | (15,000,000) |
| Resurfacing, Federal                                                            | Various         | (7,000,000)  |
| Right of Way Full-Service Consultant Term Agreements                            | Various         | (200,000)    |
| RIMIS - Phase II Implementation                                                 | Various         | (100,000)    |
| River Road Improvements, Cramer Hill                                            | Camden          | (4,504,806)  |
| Riverbank Park Bike Trail                                                       | Hudson          | (1,799,800)  |
| Robert Wood Johnson University Hospital Parking Facility                        | Middlesex       | (1,439,840)  |
| Rochelle Park and Paramus, Bergen County                                        | Bergen          | (1,287,000)  |
| Rockfall Mitigation                                                             | Various         | (2,000,000)  |
| Rosemont-Raven Rock Road Bridge over Lockatong Creek                            | Hunterdon       | (3,050,000)  |
| Route 571 at Route 527, Reconstruction, Toms River Township                     | Ocean           | (300,000)    |
| Rutgers Transportation Safety Resource Center (TSRC)                            | Various         | (1,300,000)  |
| Safe Corridors Program                                                          | Various         | (2,500,000)  |
| Safe Routes to School Program                                                   | Various         | (5,587,000)  |
| Safety Service Patrol                                                           | Various         | (6,000,000)  |

|                                                                                    |            |              |
|------------------------------------------------------------------------------------|------------|--------------|
| Schalk's Crossing Road Bridge, CR 683                                              | Middlesex  | (8,741,000)  |
| Secaucus Connector                                                                 | Hudson     | (3,587,847)  |
| Sign Structure Rehabilitation Program                                              | Various    | (3,000,000)  |
| Sign Structure Replacement Contract 2009-1                                         | Various    | (5,500,000)  |
| Silver Run Road (CR 627), Buckshutem Road (CR 670) to Dividing Creek Road (CR 555) | Cumberland | (750,000)    |
| SJTPO, Future Projects                                                             | Various    | (1,000,000)  |
| Smithville Road Bridge over Rancocas Creek, CR 684                                 | Burlington | (2,500,000)  |
| South Amboy Intermodal Center                                                      | Middlesex  | (8,508,377)  |
| South Orange Avenue, Traffic, Operational and Roadway Improvements, CR 510         | Essex      | (1,000,000)  |
| South Pemberton Road, CR 530                                                       | Burlington | (9,982,182)  |
| St. Georges Avenue Improvements                                                    | Union      | (359,960)    |
| Stanton Station Road Bridge over South Branch of Raritan River                     | Hunterdon  | (2,500,000)  |
| Statewide Incident Management Program                                              | Various    | (5,800,000)  |
| Statewide Traffic Management/Information Program                                   | Various    | (4,000,000)  |
| Sunset Avenue over Deal Lake (O-10)                                                | Monmouth   | (1,000,000)  |
| Sussex Turnpike, CR 617                                                            | Morris     | (1,200,000)  |
| Tanyard Road, Resurfacing & Safety Improvements (CR 663)                           | Gloucester | (500,000)    |
| Teaneck Pedestrian Overpass                                                        | Bergen     | (500,000)    |
| Tilton Road, Burton Ave. to Cresson Ave., Repaving (Sec. 4A)                       | Atlantic   | (1,000,000)  |
| Tilton Road, Cresson Ave. to Hingston Ave., Repaving (Sec. 4B)                     | Atlantic   | (1,100,000)  |
| Traffic Monitoring Systems                                                         | Various    | (12,910,000) |
| Traffic Operations Center (North)                                                  | Various    | (5,950,000)  |
| Traffic Operations Center (South)                                                  | Various    | (5,500,000)  |
| Traffic Signal Replacement                                                         | Various    | (2,500,000)  |
| Traffic Signal Timing and Optimization                                             | Various    | (1,700,000)  |
| Training and Employee Development                                                  | Various    | (1,800,000)  |
| TransitChek Mass Marketing Efforts - New Jersey                                    | Various    | (40,000)     |
| Transportation and Community Development Initiative (TCDI) DVRPC                   | Various    | (80,000)     |
| Transportation and Community System Preservation Program                           | Various    | (4,000,000)  |
| Transportation Demand Management Program Support                                   | Various    | (230,000)    |
| Transportation Enhancements                                                        | Various    | (10,000,000) |
| Transportation Management Associations                                             | Various    | (5,690,000)  |

|                                                                                       |                        |              |
|---------------------------------------------------------------------------------------|------------------------|--------------|
| Tremley Point Access Local Roadway Improvements                                       | Middlesex, Union       | (9,061,000)  |
| Trenton Amtrak Bridges                                                                | Mercer                 | (600,000)    |
| Two Bridges Road Bridge and West Belt Extension                                       | Morris, Passaic, Essex | (1,400,000)  |
| Union City, Street Improvements & Traffic Signal Replacement                          | Hudson                 | (300,000)    |
| Union School House Road over North Branch of the Raritan River, Bridge Replacement    | Morris                 | (2,900,000)  |
| Valley Avenue, Chestnut Avenue to Landis Avenue                                       | Cumberland             | (892,000)    |
| Veterans Field Pedestrian Walkway/Bike Path                                           | Middlesex              | (614,955)    |
| West Brook Road Bridge over Wanaque Reservoir                                         | Passaic                | (7,561,000)  |
| West Front Street Bridge (S-17) over Swimming River, CR 10                            | Monmouth               | (10,000,000) |
| Western Boulevard Extension                                                           | Ocean                  | (2,879,681)  |
| White Bridge Road Bridge                                                              | Hunterdon              | (1,600,000)  |
| Youth Employment and TRAC Programs                                                    | Various                | (250,000)    |
| Route 1 Business, Brunswick Circle to Texas Avenue                                    | Mercer                 | (30,000)     |
| Route 1, South Brunswick, Drainage Improvements                                       | Middlesex              | (600,000)    |
| Route 1, Southbound Nassau Park Boulevard to I-95, Safety Improvements                | Mercer                 | (3,500,000)  |
| Route 3, Passaic River Crossing                                                       | Bergen, Passaic        | (40,794,000) |
| Route 4, Bridge over Palisade Avenue, Windsor Road and CSX Railroad                   | Bergen                 | (500,000)    |
| Route 4, Jones Road Bridge                                                            | Bergen                 | (1,000,000)  |
| Route 9, Bridge over Waretown Creek                                                   | Ocean                  | (500,000)    |
| Route 9, Lacey Road Intersection Improvements                                         | Ocean                  | (7,282,000)  |
| Route 9, Various Locations from South of Alexander Ave to South of Route 79, Pavement | Monmouth               | (6,882,000)  |
| Route 10, Commerce Boulevard Improvements                                             | Morris                 | (5,800,000)  |
| Route 17, Williams Avenue to I-80                                                     | Bergen                 | (14,681,842) |
| Route 18, Ext., Hoes Lane Extension to I-287 (3A)                                     | Middlesex              | (18,472,000) |
| Route 18, Bridge over Route 1                                                         | Middlesex              | (700,000)    |
| Route 18, SB, from S. of Rt 138 to S. of Deal Rd, Pavement                            | Monmouth               | (3,784,000)  |
| Route 18, South Woodland Ave, Intersection Improvements                               | Middlesex              | (1,400,000)  |

|                                                                                      |                        |              |
|--------------------------------------------------------------------------------------|------------------------|--------------|
| Route 21, Newark Waterfront<br>Community Access                                      | Essex                  | (5,263,520)  |
| Route 21, Southbound Viaduct and Chester<br>Avenue Bridge                            | Essex                  | (1,000,000)  |
| Route 22, Bloy Street to Liberty Avenue                                              | Union                  | (1,500,000)  |
| Route 22, Chestnut Street Bridge<br>Replacement (CR 626)                             | Union                  | (1,800,000)  |
| Route 22, EB, Auxiliary Lane between<br>U-Turns H and G                              | Union                  | (500,000)    |
| Route 22, ITS Closed Loop System Extension,<br>Somerset County                       | Somerset,<br>Union     | (2,764,000)  |
| Route 22, ITS Closed Loop System,<br>Somerset County                                 | Somerset               | (2,342,000)  |
| Route 22, Sustainable Corridor Long-term<br>Improvements                             | Somerset               | (1,307,000)  |
| Route 22, Sustainable Corridor Short-term<br>Improvements                            | Somerset               | (7,977,000)  |
| Route 22, Traffic Signal Improvements/Signal<br>Coordination, Somerset County        | Somerset               | (4,187,000)  |
| Route 23, Bridge over Pequannock River/<br>Hamburg Turnpike                          | Morris,<br>Passaic     | (2,500,000)  |
| Route 23, Hardyston Twp., Silver Grove Road<br>to Holland Mountain Road              | Sussex                 | (1,200,000)  |
| Route 23, Sussex Borough Realignment &<br>Papakating Creek Bridge                    | Sussex                 | (1,265,000)  |
| Route 27, N. of Evergreen St. to Vicinity of<br>Elizabeth River, Pavement            | Middlesex,<br>Union    | (10,986,000) |
| Route 27, Six Mile Run Bridge (3E)                                                   | Middlesex,<br>Somerset | (5,620,000)  |
| Route 27, South Plainfield Branch<br>(Lake Avenue Bridge)                            | Middlesex              | (5,748,000)  |
| Route 29 Boulevard, Cass Street to North<br>of Calhoun Street (Southern Section)     | Mercer                 | (2,771,014)  |
| Route 29 Boulevard, North of Calhoun Street<br>to Sullivan Way (Northern Section)    | Mercer                 | (735,000)    |
| Route 29, Delaware River Pedestrian/Bike<br>Path, Stacy Park to Assunpink Creek      | Mercer                 | (944,190)    |
| Route 29, Drainage Improvements                                                      | Mercer                 | (400,000)    |
| Route 30, Various Locations from E. of<br>Broadway Ave to London Ave, Pavement       | Camden                 | (3,850,000)  |
| Route 30/130, Collingswood/Pennsauken<br>(Phase B), PATCO Bridge to North Park Drive | Camden                 | (24,288,000) |
| Route 31, Bridge over CSX Railroad                                                   | Mercer                 | (200,000)    |
| Route 31, NB, Minneakoning Road to mp 24.92                                          | Hunterdon              | (900,000)    |

|                                                                            |                         |              |
|----------------------------------------------------------------------------|-------------------------|--------------|
| Route 31, Pennington Circle Safety Improvements                            | Mercer                  | (500,000)    |
| Route 31/202, Flemington Circle                                            | Hunterdon               | (1,100,000)  |
| Route 34, Colts Neck, Intersection Improvements (CR 537)                   | Monmouth                | (490,000)    |
| Route 34/35, Colts Neck and Wall Twps., Pavement                           | Monmouth                | (2,130,000)  |
| Route 35 Cherry Tree Lane to Rt 9, Resurfacing Various Locations           | Middlesex,<br>Monmouth  | (6,781,000)  |
| Route 35, Eatontown Borough Downtown Redevelopment                         | Monmouth                | (287,000)    |
| Route 35, Eatontown Borough Intersection Improvements                      | Monmouth                | (287,459)    |
| Route 35, Greenwood Drive to Prospect Avenue                               | Middlesex,<br>Monmouth  | (19,647,000) |
| Route 35, Restoration, Berkeley Twp. to Toms River Twp. (MP 0-4)           | Ocean                   | (3,205,000)  |
| Route 37, Mathis Bridge Eastbound over Barnegat Bay                        | Ocean                   | (7,400,000)  |
| Route 40, Atlantic County, Drainage                                        | Atlantic                | (600,000)    |
| Route 40, MP 6.0 to 8.0, Pavement                                          | Salem                   | (3,900,000)  |
| Route 45, Carpenter Street to Red Bank Avenue                              | Gloucester              | (2,100,000)  |
| Route 45, Gloucester County Drainage                                       | Gloucester              | (1,400,000)  |
| Route 46, E. of Forest Rd to W. of Flanders Rd, Pavement                   | Morris                  | (3,350,000)  |
| Route 46, Passaic Avenue to Willowbrook Mall                               | Essex, Passaic          | (2,800,000)  |
| Route 46, Rockfall Mitigation, MP 1.4-2.4                                  | Warren                  | (5,525,000)  |
| Route 47/347 and Route 49/50 Corridor Enhancement                          | Cape May,<br>Cumberland | (800,000)    |
| Route 48, Layton Lake Dam                                                  | Salem                   | (700,000)    |
| Route 50, N. of Rt 9 to S. of Reading Ave & Schoolhouse Rd, Pavement       | Cape May                | (2,894,000)  |
| Route 50, Tuckahoe River Bridge (2E 3B)                                    | Cape May,<br>Atlantic   | (20,460,039) |
| Route 52, Causeway Replacement, Contract A                                 | Cape May                | (14,900,000) |
| Route 57, CR 519 Intersection Improvement                                  | Warren                  | (2,503,803)  |
| Route 72, East Road                                                        | Ocean                   | (500,000)    |
| Route 72, Manahawkin Bay Bridges, Contract 3                               | Ocean                   | (2,420,000)  |
| Route 76/676, Bridge Deck Replacements                                     | Camden                  | (1,000,000)  |
| Route 77, Swedesboro-Hardingville Road, Intersection Improvements (CR 538) | Gloucester              | (2,455,000)  |
| Route 78, Union/Essex Rehabilitation, Contract B                           | Union, Essex            | (34,419,000) |

|                                                                                               |               |               |
|-----------------------------------------------------------------------------------------------|---------------|---------------|
| Route 80, Median Cross Over Protection,<br>Vicinity of Ledgewood Avenue (Rt 46) to<br>Mill Rd | Morris        | (1,324,000)   |
| Route 80, Parsippany-Troy Hills Roadway<br>Improvement                                        | Morris        | (36,000,000)  |
| Route 88, Bridge over Beaver Dam Creek                                                        | Ocean         | (500,000)     |
| Route 120, MP 0.00 to 2.09, Pavement                                                          | Bergen        | (1,649,000)   |
| Route 130, Camden County, Drainage                                                            | Camden        | (500,000)     |
| Route 130, Craft's Creek Bridge                                                               | Burlington    | (4,216,000)   |
| Route 130, Crystal Lake Dam                                                                   | Burlington    | (300,000)     |
| Route 130, Hollywood Avenue (CR 618)                                                          | Salem         | (500,000)     |
| Route 130, Raccoon Creek Bridge Replacement<br>and Pavement Rehabilitation                    | Gloucester    | (3,932,000)   |
| Route 168, Bridge over Big Timber Creek                                                       | Gloucester    | (500,000)     |
| Route 168, Newton Lake Dam                                                                    | Camden        | (600,000)     |
| Route 173, Bridge over Pohatcong Creek                                                        | Warren        | (1,000,000)   |
| Route 206, Bridge over Clarks Creek and<br>Sleepers Brook                                     | Atlantic      | (500,000)     |
| Route 206, South Broad Street Bridge over<br>Assunpink Creek                                  | Mercer        | (900,000)     |
| Route 206, Southbound Merge Improvements<br>with I-287 Ramp                                   | Somerset      | (200,000)     |
| Route 206, Whitehorse Circle (CR 533, 524)                                                    | Mercer        | (500,000)     |
| Route 208, S. of Rt 4 to Boulevard Ave,<br>Resurfacing                                        | Bergen        | (3,800,000)   |
| Route 280, Harrison Township Operations<br>Improvements                                       | Hudson        | (1,943,000)   |
| Route 280, Route 21 Interchange Improvements                                                  | Essex, Hudson | (10,000,000)  |
| Route 287, S. of South St (CR 601) to Littleton<br>Rd (CR 630), Resurfacing                   | Morris        | (17,470,000)  |
| Route 287/78, I-287/202/206 Interchange<br>Improvements                                       | Somerset      | (2,500,000)   |
| Route 295, Northbound Approach to Route 1<br>Exits, ITS Improvements                          | Mercer        | (500,000)     |
| Route 295, SB from N. of Raccoon Creek to<br>Repaupo Rd, Pavement                             | Gloucester    | (3,010,000)   |
| Route 295/42/I-76, Direct Connection,<br>Contract 1                                           | Camden        | (101,656,000) |
| Route 295/42/I-76, Direct Connection,<br>Contract 3                                           | Camden        | (7,800,000)   |
| Route 322, Raccoon Creek Bridge/Mullica<br>Hill Pond Dam                                      | Gloucester    | (11,745,000)  |
| Route 440, High Street Connector                                                              | Middlesex     | (1,488,822)   |

Route 440, NJ Turnpike Interchange

Upgrade, Jersey City Hudson (2,339,681)

Route 440/1&9, Boulevard through Jersey City Hudson (639,991)

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), approval by the Joint Budget Oversight Committee of transfers among federal appropriations by project shall not be required. Notice of a transfer approved by the Director of the Division of Budget and Accounting pursuant to that section shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

#### ***62 Public Transportation***

Federal Highway Administration.....\$101,000,000

Federal Transit Administration.....395,593,000

Total Appropriation, Public Transportation.....\$496,593,000

| <b>Description</b>                     | <b>County</b> | <b>Amount</b>   |
|----------------------------------------|---------------|-----------------|
| Federal Highway Administration         |               |                 |
| Rail Rolling Stock Procurement         | Various       | (\$100,000,000) |
| Transit Enhancements                   | Various       | (1,000,000)     |
| Federal Transit Administration         |               |                 |
| Bus Acquisition Program                | Various       | (74,626,000)    |
| Job Access and Reverse Commute Program | Various       | (4,000,000)     |
| Light Rail Vehicle Rolling Stock       | Various       | (6,862,000)     |
| New Freedom Program                    | Various       | (2,291,000)     |
| Preventive Maintenance-Bus             | Various       | (79,670,000)    |
| Preventive Maintenance-Rail            | Various       | (161,110,000)   |
| Rail Rolling Stock Procurement         | Various       | (52,114,000)    |
| Section 5310 Program                   | Various       | (4,800,000)     |
| Section 5311 Program                   | Various       | (6,300,000)     |
| Small/Special Services Program         | Various       | (1,120,000)     |
| Transit Enhancements                   | Various       | (2,700,000)     |

#### ***64 Regulation and General Management***

05-6070 Multimodal Services.....\$18,425,000

Total Appropriation, Regulation and General Management.....\$18,425,000

Special Purpose:

Motor Carrier Safety Assistance Program.....(\$10,000,000)

Airport Fund.....(1,500,000)

National Oceanic & Atmospheric

Administration.....(325,000)

New Jersey Maritime Program.....(1,600,000)

New Jersey Maritime Program - Ferry Boat.....(5,000,000)

Total Appropriation, Department of Transportation.....\$1,720,347,665

**82 DEPARTMENT OF THE TREASURY****50 Economic Planning, Development, and Security****52 Economic Regulation**

|                                                |                    |
|------------------------------------------------|--------------------|
| 54-2007 Utility Regulation .....               | \$600,000          |
| 56-2014 Energy Resource Management.....        | <u>3,592,000</u>   |
| Total Appropriation, Economic Regulation ..... | <u>\$4,192,000</u> |
| Personal Services:                             |                    |
| Salaries and Wages.....                        | (\$305,000)        |
| Employee Benefits .....                        | (298,000)          |
| Materials and Supplies.....                    | (51,000)           |
| Services Other Than Personal.....              | (2,736,000)        |
| Maintenance and Fixed Charges.....             | (110,000)          |
| Special Purpose:                               |                    |
| Division of Gas Expansion.....                 | (600,000)          |
| Diamond Shamrock Administration.....           | (42,000)           |
| Additions, Improvements and Equipment .....    | (50,000)           |

**70 Government Direction, Management, and Control****72 Governmental Review and Oversight**

|                                                             |                    |
|-------------------------------------------------------------|--------------------|
| 14-2068 Office of the State Comptroller .....               | <u>\$3,160,000</u> |
| Total Appropriation, Governmental Review and Oversight..... | <u>\$3,160,000</u> |
| Personal Services:                                          |                    |
| Salaries and Wages.....                                     | (\$3,160,000)      |

**80 Special Government Services****82 Protection of Citizens' Rights**

|                                                          |                    |
|----------------------------------------------------------|--------------------|
| 58-2022 Mental Health Advocacy .....                     | \$223,000          |
| 81-2097 Elder Advocacy .....                             | 450,000            |
| 89-2048 Civil Legal Services for the Poor .....          | <u>1,228,000</u>   |
| Total Appropriation, Protection of Citizens' Rights..... | <u>\$1,901,000</u> |
| Personal Services:                                       |                    |
| Salaries and Wages.....                                  | (\$284,000)        |
| Employee Benefits .....                                  | (99,000)           |
| Materials and Supplies.....                              | (15,000)           |
| Services Other Than Personal.....                        | (37,000)           |
| Maintenance and Fixed Charges.....                       | (3,000)            |
| Special Purpose:                                         |                    |
| Medicaid Reimbursement.....                              | (223,000)          |
| Ombudsperson - Older Americans Act Title III ...         | (131,000)          |
| Civil Legal Services for the Poor .....                  | (5,000)            |
| State Aid and Grants .....                               | (1,104,000)        |
| Total Appropriation, Department of the Treasury .....    | <u>\$9,253,000</u> |

**98 THE JUDICIARY*****10 Public Safety and Criminal Justice***

|                                              |                      |
|----------------------------------------------|----------------------|
| 03-9720 Civil Courts .....                   | \$5,300,000          |
| 03-9730 Family Courts .....                  | 34,581,000           |
| 07-9740 Probation Services .....             | 66,545,000           |
| 11-9760 Trial Court Services .....           | <u>4,612,000</u>     |
| Total Appropriation, Judicial Services ..... | <u>\$111,038,000</u> |

**Special Purpose:**

|                                                                       |                         |
|-----------------------------------------------------------------------|-------------------------|
| SJI - Guardianship Monitoring .....                                   | (\$300,000)             |
| NICS – Backloading .....                                              | (5,000,000)             |
| NJ Court Improvement Database .....                                   | (300,000)               |
| NJ Court Improvement Training .....                                   | (300,000)               |
| Child Support and Paternity Program Title IV-<br>(Family Court) ..... | (33,256,000)            |
| NJ State Court Improvement Grant .....                                | (400,000)               |
| State Access and Visitation Program .....                             | (325,000)               |
| Child Support and Paternity Program<br>Title IV-D (Probation) .....   | (66,545,000)            |
| Child Support and Paternity Program<br>Title IV-D (Trial) .....       | (4,612,000)             |
| Total Appropriation, Federal Funds .....                              | <u>\$12,128,463,665</u> |

Notwithstanding the provisions of any State law or regulation to the contrary, no State agency shall accept or expend federal funds except as appropriated by the Legislature or otherwise provided in this act.

In addition to the federal funds appropriated in this act, there are appropriated the following federal funds, subject to the approval of the Director of the Division of Budget and Accounting: emergency disaster aid funds including grants for preventive measures; pass-through grants to political subdivisions of the State over which the State is not permitted to exercise discretion in the use or distribution of the funds and for which no State matching funds are required; the first 25% of unanticipated grant awards, and up to 25% of increases in previously anticipated grant awards for which no State matching funds are required except, for the purpose of this section, federal funds received by one executive agency that are ultimately expended by another executive agency shall not be considered pass-through grants; federal financial aid funds for students attending post-secondary educational institutions in excess of the amount specifically appropriated, and any such grants intended to prevent threats to homeland security up to 100% of previously anticipated or unanticipated grant award amounts for which no State matching funds are required, provided however, that the Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of such grants; and all other grants of \$500,000 or less which have been awarded competitively.

For the purposes of federal funds appropriations, “political subdivisions of the State” means counties, municipalities, school districts, or agencies thereof, regional, county or municipal authorities, or districts other than interstate authorities or districts; “discretion” refers to any action in which an agency may determine either the amount of funds to be allocated or the recipient of the allocation; and “grants” refers to one-time, or time limited awards, which are received pursuant to submission of a grant application in competition with other grant applications.

The unexpended balances at the end of the preceding fiscal year of federal funds are appropriated for the same purposes. The Director of the Division of Budget and Accounting shall inform the Legislative Budget and Finance Officer by November 1, 2011 of any unexpended balances which are continued.

Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendations of any department head or the department head’s designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the Director deems improper.

The sum herein appropriated to the Department of Transportation for the Hudson-Bergen Light Rail Transit System is hereby appropriated, to the extent necessary, to pay the principal of and interest on the grant anticipation notes issued by the New Jersey Transit Corporation.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification, and within the federal matching funding, in the Division of Medical Assistance and Health Services and Division of Disability Services in the Department of Human Services, and within the Medical Services for the Aged program classification, and within the federal matching funding, in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law, regulation or Executive Order to the contrary, any purchase by the State or by a State agency or local government unit of equipment, goods or services related to homeland security and domestic preparedness, that is paid for or reimbursed by federal funds awarded by the U.S. Department of Homeland Security or other federal agency, appropriated in the current fiscal year, may be made through the receipt of public bids or as an alternative to public bidding and subject to the provisions of this paragraph, through direct purchase without advertising for bids or rejecting bids already received but not awarded. The equipment, goods or services purchased by a

local government unit shall be referred to in the grant agreement issued by the State administrative agency administering such funds and shall be authorized by resolution of the governing body of the local government unit entering into the grant agreement. Such resolution may, without subsequent action of the local governing body, simultaneously accept the grant from the State administrative agency, authorize the insertion of the revenue and offsetting appropriation in the budget of the local government unit, and authorize the contracting agent of the local government unit to procure the equipment, goods or services. A copy of such resolution shall be filed with the chief financial officer of the local government unit, the State administrative agency and the Division of Local Government Services in the Department of Community Affairs. Purchases made without public bidding shall be from vendors that shall either (1) be holders of a current State contract for the equipment, goods or services sought, or (2) be participating in a federal procurement program established by a federal department or agency, or (3) have been approved by the State Treasurer in consultation with the New Jersey Domestic Security Preparedness Task Force. All homeland security purchases herein shall continue to be subject to all grant requirements and conditions approved by the State administrative agency. The Director of the Division of Purchase and Property may enter into or participate in purchasing agreements with one or more other states, or political subdivisions or compact agencies thereof, for the purchase of such equipment, goods or services, using monies appropriated under this act, to meet the domestic preparedness and homeland security needs of this State. Such purchasing agreement may provide for the sharing of costs and the methods of payments relating to such purchases. Furthermore, a county government awarding a contract for Homeland Security equipment, goods or services, may, with the approval of the vendor, extend the terms and conditions of the contract to any other county government that wants to purchase under that contract, subject to notice and documentation requirements issued by the Director of the Division of Local Government Services.

Of the amounts appropriated for Income Maintenance Management, amounts may be transferred to the various departments in accordance with the Division of Family Development's agreements, subject to the approval of the Director of the Division of Budget and Accounting. Any unobligated balances remaining from funds transferred to the departments shall be transferred back to the Division of Family Development subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, in addition to the federal funds hereinabove appropriated, there are appropriated to the appropriate executive agencies, subject to the approval of the Director of the Division of Budget and Accounting, such additional federal funds received during this fiscal year pursuant to any federal law authorizing a federal economic stimulus program or any other similar federal program for the purposes, projects, and programs set forth in such law; provided, however, that

if the federal law does not delineate the specific purposes, projects, and programs to be funded by the federal funds, the purposes, projects, and programs to be funded by the federal funds shall be subject to the approval of the Joint Budget Oversight Committee, and further provided, however, that the State Treasurer shall report to the President of the Senate, the Speaker of the General Assembly, the Chair of the Senate Budget and Appropriations Committee, and the Chair of the Assembly Budget Committee at least quarterly on the receipt and utilization of all additional federal funds received during this fiscal year pursuant to any federal law authorizing a federal economic stimulus program.

Officials from the appropriate executive agencies are hereby authorized to take such steps, if any, as may be necessary to qualify for, apply for, receive and expend such federal funds and to make such commitments, representations and other agreements as may be required by the federal government to receive federal funds under federal law authorizing the federal economic stimulus program or any other similar federal law. Furthermore, and notwithstanding any other law or regulation to the contrary, officials from the appropriate executive agencies may encumber any of these federal funds appropriated pursuant to this provision prior to entering into any contract, grant or other agreement obligating the federal funds, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, federal funds provided under the State Energy Program (SEP) and the Energy Efficiency and Conservation Block Grant Program (Block Grant Program), pursuant to the American Recovery and Reinvestment Act, Pub.L. 111-5 and any other similar type of federal stimulus law which may be hereinafter enacted (collectively referred to as ARRA), are appropriated. Subject to the approval of the Director of the Division of Budget and Accounting as set forth below, such appropriations are to include the administrative costs of the respective agencies in administering the specified programs provided such use is consistent with ARRA and federal approvals. In the event that the administrative costs are not permitted to be paid from the ARRA monies received by the State, there is hereby appropriated from the Clean Energy Fund, subject to the approval of the Director of the Division of Budget and Accounting such sums as shall be necessary to pay for the administrative costs of the agencies administering the specified programs listed below. Notwithstanding the specific appropriations made below, in the event that the federal funds received under ARRA are not in their entirety or in part allocated to the specific purposes listed below, to permit flexibility in the handling of appropriations, amounts may be transferred to and from the various items of the appropriations listed below or may be used for such other purposes permitted under ARRA subject to the approval of the Director of the Division of Budget and Accounting and upon the recommendation of the State Treasurer. The federal funds provided pursuant to ARRA with respect to the SEP shall be used only for purposes allowed under

part D of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.), and the federal funds provided pursuant to ARRA with respect to the Block Grant Program shall be used only for implementation of programs authorized under subtitle E of Title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.). With respect to all federal funds which are appropriated pursuant to this provision, NJEDA, HMFA, the Office of Energy Savings and the BPU shall prepare and timely submit to the United States Department of Energy the reports required under subsection (c) of section 1512 of Pub.L. 111-5, including without limitation the detailed information required with respect to all projects or activities for which such federal funds were expended or obligated.

a. SEP. SEP monies received by the State under ARRA are hereby appropriated to the Clean Energy Fund and shall be allocated by the Board of Public Utilities (BPU) as follows. The BPU shall enter into memoranda of understanding with the applicable agencies listed below which memoranda of understanding shall provide for the transfer of such monies to the applicable agencies for the purposes listed below.

(1) \$15,000,000 to the New Jersey Economic Development Authority (NJEDA) for a grant and loan program to be developed and administered by the NJEDA to fund public and private renewable energy, energy efficiency and alternative energy projects, with applications prioritized based on the ability to create jobs, reduce greenhouse gas emissions, save or create energy, and provide for innovative technology;

(2) \$20,643,000 for a program to be developed and administered by the BPU for grants to State departments, agencies, authorities and public colleges and universities for renewable and energy efficiency projects at such entities, including but not limited to, wind, solar, or hydro energy, biofuels, geothermal, and energy storage applications, with applications prioritized by an interagency evaluation team consisting of one representative from each of the following, BPU, NJEDA, Office of Economic Growth, New Jersey Commission on Science and Technology, and the Office of Energy Savings, based on the ability to create jobs, reduce greenhouse gas emissions, save or create energy, and provide for innovative technology;

(3) \$7,000,000 to the New Jersey Housing Mortgage Finance Agency (HMFA) for a program to be developed and administered by the HMFA to provide financing for the construction of solar energy projects on qualified multi-family housing financed through the HMFA, such funds to be leveraged with existing State energy rebate programs and the federal investment tax credit, with grants prioritized based on the ability to create jobs, generate energy, provide benefits to property residents and to meet HMFA timeframes, and with HMFA retaining ownership of all related solar renewable energy certificates for the purpose of establishing a revolving fund to support additional solar energy projects at HMFA-supported residential properties;

(4) \$8,000,000 to the HMFA for a low-interest loan program to be developed and administered by the HMFA for energy efficiency upgrades at single-family and multi-family facilities that are at or below 250% of the area median income (the higher of statewide or county median income) based on a family of four, and affordable multi-family housing owners which meet HMFA's affordability requirements, and which are not eligible for equivalent financing programs offered by the utilities or the Clean Energy Program;

(5) \$17,000,000 to the Clean Energy Program for energy efficiency programs administered by the BPU, to be issued to public and private entities on a first-come, first-served basis and specifically targeting customers who are either not currently eligible for Clean Energy Fund incentives or whose energy consumption patterns do not make them likely applicants; and

(6) \$6,000,000 to the Office of Energy Savings in the New Jersey Department of the Treasury for the purposes of energy efficiency and renewable energy programs and projects in State facilities, including State offices, State health facilities and State prisons.

b. Block Grant Program. Block Grant monies received by the State under ARRA are hereby appropriated as follows:

(1) \$4,160,700 to the Office of Energy Savings in the New Jersey Department of the Treasury for the purposes of energy efficiency and renewable energy programs and projects in State facilities, including State offices, State health facilities and State prisons; and

(2) \$10,240,000 to the BPU for grants to cities, counties and other local units of government which are not eligible to receive directly from the federal government funds under the Block Grant Program.

Notwithstanding the provisions of any law or regulation to the contrary, the Department of Labor and Workforce Development shall consider consistent with applicable federal law a formal association of community based organizations to be a "local consortium" for the purposes of receiving funding for the delivery of English as a Second Language or Civics education/training.

Grand Total Appropriation, All Funds ..... \$41,825,026,665

2. All dedicated funds are hereby appropriated for their dedicated purposes. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting and with the approval of the Legislative Budget and Finance Officer, private contributions, revolving funds and dedicated funds received, receivable or estimated to be received for the use of the State or its agencies in excess of those anticipated, unless otherwise provided herein. The unexpended balances at the end of the preceding fiscal year of such funds, or any portion thereof, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. In the event a person or entity wishes to make a monetary donation to the State for a particular purpose, the head of the State agency or department to which such monetary donation is made is hereby authorized to accept such monetary donation.

3. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, the following: sums required to refund amounts credited to the State Treasury which do not represent State revenue; sums received representing insurance to cover losses by fire and other casualties and the unexpended balance at the end of the preceding fiscal year of such sums; sums received by any State department or agency from the sale of equipment, when such sums are received in lieu of trade-in value in the replacement of such equipment; and sums received in the State Treasury representing refunds of payments made from appropriations provided in this act.

4. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, sums required to satisfy receivables previously established from which non-reimbursable costs and ineligible expenditures have been incurred.

5. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, from federal or other non-State sources amounts not to exceed the cost of services necessary to document and support retroactive claims.

6. There are appropriated such sums as may be required to pay interest liabilities to the federal government as required by the Treasury/State agreement pursuant to the provisions of the "Cash Management Improvement Act of 1990," Pub.L. 101-453 (31 U.S.C. s.6501 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

7. There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, from interest earnings of the various bond funds such sums as may be necessary for the State to comply with the federal "Tax Reform Act of 1986," Pub.L. 99-514 (26 U.S.C. s.1 et seq. as amended), which requires issuers of tax-exempt debt obligations to rebate any arbitrage earnings to the federal government.

8. There are appropriated from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting, such sums as are necessary to pay interest, at the average rate of earnings during the fiscal year from the State's general investments, to those bond funds that have borrowed money from the General Fund or other bond funds and that have insufficient resources to accrue and pay the interest expense on such borrowing.

9. In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund the costs of the collection of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting.

10. There are appropriated from the Legal Services Trust Fund established pursuant to section 6 of P.L.1996, c.52 (C.22A:2-51), for transfer to the General Fund as State revenue such funds as are necessary to support the appropriations for the following programs contained in this Act: Legal Services of New Jersey grant, ten judgeships in the Judiciary, and for Clinical Legal Programs for the Poor at the Rutgers-Camden Law School, the Rutgers-Newark Law School, and Seton Hall Law School.

11. The unexpended balances at the end of the preceding fiscal year in the accounts of the several departments and agencies heretofore appropriated or established in the category of Additions, Improvements and Equipment are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

12. The unexpended balances at the end of the preceding fiscal year in the Capital Construction accounts for all departments and agencies are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

13. Unless otherwise provided, unexpended balances at the end of the preceding fiscal year in accounts of appropriations enacted subsequent to April 1 of the preceding fiscal year, are appropriated.

14. The unexpended balances at the end of the preceding fiscal year in accounts that are funded by Interfund Transfers are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

15. Notwithstanding any provisions in this act or the provisions of any law or regulation to the contrary, no unexpended balances at the end of the preceding fiscal year are appropriated without the approval of the Director of the Division of Budget and Accounting, except that the Legislative Branch of State government shall be exempt from this provision. The Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of those instances in which unexpended balances are not appropriated pursuant to this section.

16. The administrative costs of the Special Education Medicaid Initiative (SEMI) and the Medicaid Administrative Claiming (MAC) program, including the participation of a consultant, are appropriated and shall be paid from the revenue received, subject to the approval of the Director of the Division of Budget and Accounting.

17. The following transfer of appropriations rules are in effect for the current fiscal year:

a. To permit flexibility in the handling of appropriations, any department or agency that receives an appropriation by law, may, subject to the provisions of this

section, or unless otherwise provided in this act, apply to the Director of the Division of Budget and Accounting for permission to transfer funds from one item of appropriation to a different item of appropriation. For the purposes of this section, "item of appropriation" means the spending authority identified by an organization code, appropriation source, and program code, unique to the item. If the director consents to the transfer, the amount transferred shall be credited by the director to the designated item of appropriation and notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. However, the director, after consenting thereto, shall submit the following transfer requests to the Legislative Budget and Finance Officer for legislative approval or disapproval unless otherwise provided in this act:

(1) Requests for the transfer of State and other non-federal funds, in amounts greater than \$300,000, to or from any item of appropriation;

(2) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose account, as defined by major object 5, or Grant account, as defined by major object 6, within an item of appropriation, from or to a different item of appropriation;

(3) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose or Grant account in which the identifying organization code, appropriation source, and program code, remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations;

(4) Requests for the transfer of State funds, in amounts greater than \$50,000, between items of appropriation in different departments or between items of appropriation in different appropriation classifications herein entitled as Direct State Services, Grants-In-Aid, State Aid, Capital Construction and Debt Service;

(5) Requests for the transfer of federal funds, in amounts greater than \$300,000, from one item of appropriation to another item of appropriation, if the amount of the transfer to an item in combination with the amount of the appropriation to that item would result in an amount in excess of the appropriation authority for that item, as defined by the program class;

(6) Requests for such other transfers as are appropriate in order to ensure compliance with the legislative intent of this act.

b. The Joint Budget Oversight Committee or its successor may review all transfer requests submitted for legislative approval and may direct the Legislative Budget and Finance Officer to approve or disapprove any such transfer request. Transfers submitted for legislative approval pursuant to paragraph (4) of subsection a. of this section shall be made only if approved by the Legislative Budget and Finance Officer at the direction of the committee.

c. The Legislative Budget and Finance Officer shall approve or disapprove requests for the transfer of funds submitted for legislative approval within 10 working days of the physical receipt thereof and shall return them to the director. If any provision of this act or any supplement thereto requires the Legislative Budget and Finance Officer to approve or disapprove requests for the transfer of

funds, the request shall be deemed to be approved by the Legislative Budget and Finance Officer if, within 20 working days of the physical receipt of the request, he has not disapproved the request and so notified the requesting officer. However, this time period shall not pertain to any transfer request under review by the Joint Budget Oversight Committee or its successor, provided notice of such review has been given to the director.

d. No amount appropriated for any capital improvement shall be used for any temporary purpose except extraordinary snow removal or extraordinary transportation maintenance, subject to the approval of the Director of the Division of Budget and Accounting. However, an amount from any appropriation for an item of capital improvement may be transferred to any other item of capital improvement subject to the approval of the director, and, if in an amount greater than \$300,000, subject to the approval of the Legislative Budget and Finance Officer.

e. The provisions of subsections a. through d. of this section shall not apply to appropriations made to the Legislative or Judicial branches of State government. To permit flexibility in the handling of these appropriations, amounts may be transferred to and from the various items of appropriation by the appropriate officer or designee with notification given to the director on the effective date thereof.

f. Notwithstanding any provisions of this section to the contrary, transfers to and from the Special Purpose appropriation to the Governor for emergency or necessity under the Other Interdepartmental Accounts program classification and transfers from the appropriations to the various accounts in the category of Salary Increases and Other Benefits, both in the Interdepartmental Accounts, shall not be subject to legislative approval or disapproval.

18. The Director of the Division of Budget and Accounting shall make such correction of the title, text or account number of an appropriation necessary to make such appropriation available in accordance with legislative intent. Such correction shall be by written ruling, reciting in appropriate detail the facts thereof, and reasons therefore, attested by the signature of the Director of the Division of Budget and Accounting and filed in the Division of Budget and Accounting of the Department of the Treasury as an official record thereof, and any action thereunder, including disbursement and the audit thereof, shall be legally binding and of full force and virtue. An official copy of each such written ruling shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date of the ruling.

19. The Legislative Budget and Finance Officer with the cooperation and assistance of the Director of the Division of Budget and Accounting is authorized to adjust this appropriations bill to reflect any reorganizations which have been implemented since the presentation of the Governor's Budget Message and Recommendations that were proposed for this fiscal year.

20. None of the funds appropriated to the Executive Branch of State government for Information Processing, Development, Telecommunications, and Related Services and Equipment shall be available to pay for any of these services or equipment without the review of the Office of Information Technology, and compliance with Statewide policies and standards and an approved department Information Technology Strategic Plan.

21. If the sum provided in this act for a State aid payment pursuant to formula is insufficient to meet the full requirements of the formula, all recipients of State aid shall have their allocation proportionately reduced, subject to the approval of the Director of the Division of Budget and Accounting.

22. When the duties or responsibilities of any department or branch, except for the Legislature and any of its agencies, are transferred to any other department or branch, it shall be the duty of the Director of the Division of Budget and Accounting and the director is hereby empowered to transfer funds appropriated for the maintenance and operation of any such department or branch to such department or branch as shall be charged with the responsibility of administering the functions so transferred. The Director of the Division of Budget and Accounting shall have the authority to create such new accounts as may be necessary to carry out the intent of the transfer. Information copies of such transfers shall be transmitted to the Legislative Budget and Finance Officer upon the effective date thereof. If such transfers may be required among appropriations made to the Legislature and its agencies, the Legislative Budget and Finance Officer, subject to the approval of the President of the Senate and the Speaker of the General Assembly, is hereby empowered and it shall be that officer's duty to effect such transactions hereinabove described and to notify the Director of the Division of Budget and Accounting upon the effective date thereof.

23. The Director of the Division of Budget and Accounting is empowered and it shall be the director's duty in the disbursement of funds for payment of expenses classified as salary increases and other benefits, employee benefits, debt service, rent, telephone, data processing, motor pool, insurance, travel, postage, lease payments on equipment purchases, additions, improvements and equipment, and compensation awards to credit or transfer to the Department of the Treasury, to an Interdepartmental account, or to the General Fund, as applicable, from any other department, branch or non-State fund source out of funds appropriated or credited thereto, such sums as may be required to cover the costs of such payment attributable to such other department, branch or non-State fund source, or to reimburse the Department of the Treasury, an Interdepartmental account, or the General Fund for reductions made representing statewide savings in the above expense classifications, as the director shall determine. Receipts in any non-State funds are appropriated for the purpose of such transfer.

24. The Governor is empowered to direct the State Treasurer to transfer from any State department to any other State department such sums as may be necessary for the cost of any emergency occasioned by aggression, civil disturbance, sabotage, or disaster. In addition, there are appropriated such additional sums as may be necessary for emergency repairs and reconstruction of State facilities or property, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee. Appropriations referred to the Joint Budget Oversight Committee shall be deemed approved, unless a resolution of disapproval is adopted within 10 working days of receipt of notification of the proposed appropriation.

25. Upon request of any department receiving non-State funds, the Director of the Division of Budget and Accounting is empowered to transfer such funds from that department to other departments as may be charged with the responsibility for the expenditure thereof.

26. The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to any State agency for services provided, or to be provided, by that agency to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

27. Notwithstanding the provisions of any law or regulation to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Property Tax Relief Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

28. Notwithstanding the provisions of any law or regulation to the contrary, should appropriations in the Casino Revenue Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Casino Revenue Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

29. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), sums appropriated for services for the various State departments and agencies may be expended for the purchase of contract services from the New Jersey Sea Grant Consortium as if it were a State government agency pursuant to subsection (a) of section 5 of P.L.1954, c.48 (C.52:34-10).

30. Out of the amounts hereinabove appropriated, the Director of the Division of Budget and Accounting is empowered to approve payment of obligations

applicable to prior fiscal years, upon the written recommendation of any department head, or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the Director deems improper.

31. Whenever any county, municipality, school district or a political subdivision thereof withholds funds from a State agency, or causes a State agency to make payment on behalf of a county, municipality, school district or a political subdivision thereof, then the Director of the Division of Budget and Accounting may withhold State aid payments and transfer the same as payment for such funds, as the Director of the Division of Budget and Accounting shall determine.

32. The Director of the Division of Budget and Accounting is empowered to establish revolving and dedicated funds as required. Notice of the establishment of such funds shall be transmitted to the Legislative Budget and Finance Officer upon the effective date thereof.

33. The Director of the Division of Budget and Accounting may, upon application therefore, allot from appropriations made to any official, department, commission or board, a sum to establish a petty cash fund for the payment of expenses under rules and regulations established by the director. Allotments thus made by the Director of the Division of Budget and Accounting shall be paid to such person as shall be designated as the custodian thereof by the official, department, commission or board making a request therefore, and the money thus allotted shall be disbursed by such custodian who shall require a receipt therefore from all persons obtaining money from the fund. The director shall make regulations governing disbursement from petty cash funds.

34. From appropriations to the various departments of State government, the Director of the Division of Budget and Accounting is empowered to transfer sums sufficient to pay any obligation due and owing in any other department or agency.

35. Notwithstanding the provisions of any law or regulation to the contrary, the State Treasurer may transfer from any fund in the State Treasurer's custody, deposited with the State Treasurer pursuant to law, sufficient sums to enable payments from any appropriation made herein for any obligations due and owing. Any such transfer shall be restored out of the taxes or other revenue received in the Treasury in support of this act. Except for transfers from the several funds established pursuant to statutes that provide for interest earnings to accrue to those funds, all such transfers shall be without interest. If the statute provides for interest earnings, it shall be calculated at the average rate of earnings during the fiscal year from the State's general investments and such sums as are necessary shall be appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

36. Any qualifying State aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Property Tax Relief Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided, however, that the available unreserved, undesignated fund balance in the Property Tax Relief Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

37. Notwithstanding any other provisions of this act, the State Treasurer, upon warrant of the Director of the Division of Budget and Accounting, shall pay any claim not exceeding \$4,000 out of any appropriations made to the several departments, provided such claim is recommended for payment by the head of such department. The Legislative Budget and Finance Officer shall be notified of the amount and description of any such claim at the time such payment is made. Any claimant who has presented a claim not exceeding \$4,000, which has been denied or not recommended by the head of such department, shall be precluded from presenting said claim to the Legislature for consideration.

38. Unless otherwise provided, federal grant and project receipts representing reimbursement for agency and central support services, indirect and administrative costs, as determined by the Director of the Division of Budget and Accounting, shall be transmitted to the Department of the Treasury for credit to the General Fund; provided, however, that a portion of the indirect and administrative cost recoveries received which are in excess of the amount anticipated may be reclassified into a dedicated account and returned to State departments and agencies, as determined by the Director of the Division of Budget and Accounting, who shall notify the Legislative Budget and Finance Officer of the amount of such funds returned, the departments or agencies receiving such funds and the purpose for which such funds will be used, within 10 working days of any such transaction. Such receipts shall be forwarded to the Director of the Division of Budget and Accounting upon completion of the project or at the end of the fiscal year, whichever occurs earlier.

39. Notwithstanding the provisions of any law or regulation to the contrary, each local school district that participates in the Special Education Medicaid Initiative (SEMI) shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 17.5% of claims approved by the State by June 30.

40. Notwithstanding the provisions of any law or regulation to the contrary, each local school district that participates in the Medicaid Administrative Claiming (MAC) initiative shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 17.5% of claims approved by the State by June 30.

41. Notwithstanding the provisions of P.L.1943, c.188 (C.52:14-17.1 et seq.), the rate of reimbursement for mileage allowed for employees traveling by personal automobile on official business shall be \$.31 per mile.

42. State agencies shall prepare and submit a copy of their agency or departmental budget requests for the next ensuing fiscal year to the Director of the Division of Budget and Accounting by the deadline and in the manner required by the Director. In addition, State agencies shall prepare and submit a copy of their spending plans involving all State, federal and other non-State funds to the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer by November 1, and updated spending plans on February 1 and May 1 of this fiscal year. The spending plans shall account for any changes in departmental spending which differ from this appropriations act and all supplements to this act. The spending plans shall be submitted on forms specified by the Director of the Division of Budget and Accounting.

43. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with copies of all BB-4s, Application for non-State Funds, and accompanying project proposals or grant applications, which require a State match and that may commit or require State support after the grant's expiration.

44. In order to provide effective cash flow management for revenues and expenditures of the General Fund and the Property Tax Relief Fund in the implementation of this annual appropriations act, there are appropriated from the General Fund such sums as may be required to pay the principal of and interest on tax and revenue anticipation notes including notes in the form of commercial paper (hereinafter collectively referred to as short-term notes), together with any costs or obligations relating to the issuance thereof or contracts related thereto, according to the terms set forth hereinabove. Provided further that, to the extent that short-term notes are issued for cash flow management purposes in connection with the Property Tax Relief Fund, there are appropriated from the Property Tax Relief Fund such sums as may be required to pay the principal of those short-term notes.

45. The State Treasurer is authorized to issue short-term notes, which notes shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution, and the State Treasurer is authorized to pay any costs or obligations relating to the issuance of such short-term notes or contracts relating thereto. Such short-term notes shall be issued in such amounts and at such times as the State Treasurer shall deem necessary for the above stated purposes and for the payment of related costs, and on such terms and conditions, sold in such manner and at such prices, bearing interest at such fixed or variable rate or rates, renewable at such time or times, and entitled to such security, and using such paying agents as shall be determined by the State Treasurer. The State

Treasurer is authorized to enter into such contracts and to take such other actions, all as determined by the State Treasurer to be appropriate to carry out the above cash flow management purposes. The State Treasurer shall give consideration to New Jersey-based vendors in entering into such contracts. Whenever the State Treasurer issues such short-term notes, the State Treasurer shall report on each such issuance to the Chairman of the Senate Budget and Appropriations Committee and the Chairman of the Assembly Appropriations Committee.

46. The Tobacco Settlement Fund, created and established in the Department of the Treasury as a separate non-lapsing fund pursuant to section 53 of P.L.1999, c.138, is reestablished and continued. The unexpended balances at the end of the preceding fiscal year in the Tobacco Settlement Fund are appropriated. The Tobacco Settlement Fund shall be the repository for payments made by the tobacco manufacturers pursuant to the settlement agreement entered into by the tobacco manufacturers and the State on November 23, 1998 that resolved the State's pending claims against the tobacco industry and all other monies, including interest earnings on balances in the fund, credited or transferred thereto from any other fund or source pursuant to law. Balances in the Tobacco Settlement Fund shall be deposited in such depositories as the State Treasurer may select. Amounts transferred from the Tobacco Settlement Fund to the General Fund as anticipated revenue shall be excluded when calculating deposits to the Surplus Revenue Fund pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.).

47. Notwithstanding the provisions of section 29 of P.L.1983, c.303 (C.52:27H-88), or any law or regulation to the contrary, interest earned in the current fiscal year on balances in the Enterprise Zone Assistance Fund, shall be credited to the General Fund.

48. There is appropriated \$400,000 from the Casino Simulcasting Fund for transfer to the Casino Revenue Fund.

49. In all cases in which language authorizes the appropriation of additional receipts not to exceed a specific amount, and the specific amount is insufficient to cover the amount due for fringe benefits and indirect costs, there are appropriated from receipts such additional amounts as are required to fully cover the amount due for fringe benefits and indirect costs, subject to the approval of the Director of the Division of Budget and Accounting.

50. There are appropriated, out of receipts derived from any structured financing transaction, such sums as may be necessary to satisfy any obligation incurred in connection with any structured financing agreement, subject to the approval of the Director of the Division of Budget and Accounting. In addition, there are appropriated such sums as may be necessary to pay costs incurred in connection with any proposed structured financing transaction, subject to the approval of the Director of the Division of Budget and Accounting.

51. Notwithstanding the provisions of any departmental language or statute, receipts in excess of those anticipated or appropriated as provided in the Departmental Revenue Statements (BB-103s) in the budget submission for this fiscal year are not available for expenditure until a comprehensive expenditure plan is submitted to and approved by the Director of the Division of Budget and Accounting.

52. Such sums as may be necessary are appropriated or transferred from existing appropriations for the purpose of promoting awareness to increase participation in programs that are administered by the State, including but not limited to programs to preserve or promote public health and safety, subject to the approval of the Director of the Division of Budget and Accounting.

53. There are appropriated such additional sums as may be required to pay the amount of any civil penalty imposed on a State officer, employee or custodian pursuant to section 12 of P.L.2001, c.404 (C.47:1A-11), as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

54. Receipts derived from the provision of copies and other materials related to compliance with section 12 of P.L.2001, c.404 (C.47:1A-11), are appropriated for the purpose of offsetting agency and departmental expenses of complying with the public access law, subject to the approval of the Director of the Division of Budget and Accounting.

55. Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated from the Universal Service Fund \$72,652,000 for transfer to the General Fund as State revenue.

56. Any qualifying State aid or Grants-In-Aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Casino Revenue Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided, however, that the available unreserved, undesignated fund balance in the Casino Revenue Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

57. Providing that the contributions made during the current fiscal year by the University of Medicine and Dentistry of New Jersey and its affiliates to the University of Medicine and Dentistry of New Jersey Self-Insurance Reserve Fund is equal to the amount established in a memorandum of agreement between the Department of the Treasury and the University, and, if after such amount having been contributed, the receipts deposited within the University of Medicine and Dentistry of New Jersey Self-Insurance Reserve Fund are insufficient to pay claims

expenditures, there is appropriated from the General Fund to the Self-Insurance Reserve Fund such sums as may be necessary to pay the remaining claims, subject to the approval of the Director of the Division of Budget and Accounting.

58. In addition to any amounts hereinabove appropriated to pay debt service on bonds, notes and other obligations by the various independent authorities, payment of which is to be made by the State subject to appropriation pursuant to a contract with the State Treasurer or pursuant to a lease with a State department, there are hereby appropriated such additional sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts or leases, as applicable.

59. Such sums as may be required to initiate the implementation of information systems development or modification during the current fiscal year to support fees, fines or other revenue enhancements, or to initiate cost savings or budget efficiencies that are to be implemented during the subsequent fiscal year, and that are proposed in the Governor's Budget Message and Recommendations for the subsequent fiscal year, shall be transferred between appropriate accounts, subject to the approval of the Director of the Division of Budget and Accounting.

60. Notwithstanding the provisions of any law or regulation to the contrary, no funding shall be provided by any program supported in part or in whole by State funding for erectile dysfunction medications for individuals who are registered on New Jersey's Sex Offender Registry.

61. For the purposes of the "State Appropriations Limitation Act," P.L.1990, c.94 (C.52:9H-24 et seq.), the amounts appropriated to the developmental centers in the Department of Human Services due to opportunities for increased recoveries and amounts carried forward in the State Employees Health Benefits accounts shall be deemed a "Base Year Appropriation."

62. The amounts hereinabove appropriated for employee fringe benefits in Interdepartmental Direct State Services and Grants-in-Aid; Department of Education State Aid; and Department of the Treasury State Aid may be transferred between accounts for the same purposes, as the Director of the Division of Budget and Accounting shall determine.

63. Notwithstanding the provisions of P.L.2004, c.68 (C.34:1B-21.16 et seq.) or any law or regulation to the contrary, funds remaining in the Dedicated Cigarette Tax Revenue Fund at the end of the current fiscal year are appropriated from such fund for transfer to the General Fund as State revenue.

64. Unless otherwise provided in this act, all unexpended balances at the end of the preceding fiscal year that are appropriated by this act are appropriated for the same purpose.

65. Notwithstanding the provisions of section 14 of Article 3 of P.L.1944, c.112 (C.52:27B-23) or any law or regulation to the contrary, copies of the budget message shall be made available to the State library, public libraries, newspapers and citizens of the State only through the State of New Jersey website.

66. There are appropriated such sums as are necessary, not to exceed \$3,500,000, to fund costs incurred by the State, including attorneys' costs, in connection with arbitration/litigation relating to claims by participating tobacco manufacturers that they are entitled to reductions in payments they make under the Tobacco Master Settlement Agreement, subject to the approval of the Director of the Division of Budget and Accounting.

67. The Director of the Division of Budget and Accounting is empowered and it shall be the director's duty in the disbursement of funds for payment of expenses classified as debt service, to credit or transfer among the various departments, as applicable, out of funds appropriated or credited thereto for debt service payments, such sums as may be required to cover the costs of such payment attributable to debt service or to reimburse the various departments for reductions made representing Statewide savings resulting from bond retirements or defeasances in debt service accounts, as the director shall determine. If the director consents to the transfer, the amount transferred shall be credited by the director to the designated item of appropriation and notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

68. The unexpended balances at the end of the preceding fiscal year in accounts that provide matching State funds in the various departments and agencies are appropriated in order to provide State authority to match federal grants that have project periods extending beyond the current State fiscal year.

69. Notwithstanding the provisions of any law or regulation to the contrary, it is not possible in Fiscal Year 2012 to appropriate monies to fund all programs authorized or required by statute. As a result, the Governor's Budget Message and Recommendations for Fiscal Year 2012 recommended, and the Legislature agrees, that either no State funding or less than the statutorily required amount be appropriated for certain of these statutory programs. To the extent that these or other statutory programs have not received all or some appropriations for Fiscal Year 2012 in this Appropriations Act which would be required to carry out these statutory programs, such lack of appropriations represents the intent of the Legislature to suspend in full or in part the operation of the statutory programs, including any statutorily imposed restrictions or limitations on the collection of State revenue that is related to the funding of those programs.

70. Notwithstanding the provisions of section 21 of P.L.1983, c.303 (C.52:27H-80) or any other law or regulation to the contrary, crediting of revenues

to each account for each enterprise zone in the Enterprise Zone Assistance Fund shall be reduced by the amount of revenues credited from the General Fund into a special account in the Property Tax Relief Fund pursuant to Article VIII, Section I, paragraph 7b of the New Jersey Constitution derived from sales tax collected in such enterprise zone.

71. Notwithstanding the provisions of any other law or regulation to the contrary, there is appropriated as revenue to the General Fund the revenue credited in the current fiscal year to each account for each enterprise zone in the Enterprise Zone Assistance Fund attributable to local projects and the local costs for administering the Urban Enterprise Zone program, as defined by section 29 of P.L.1983, c.303 (C.52:27H-88).

72. Notwithstanding the provisions of P.L.2000, c.12, or any other law or regulation to the contrary, funds may be transferred from the Tobacco Settlement Fund to the General Fund during this fiscal year, which transfer amount shall be based upon the available balances in the Tobacco Settlement Fund, subject to the approval of the Director of the Division of Budget and Accounting.

73. In order to accurately report expenditures related to enhanced Title XIX Federal Medical Assistance Percentage included in the American Recovery and Reinvestment Act, State and federal funds appropriations may be transferred among the Department of Children and Families, Department of Health and Senior Services, and Department of Human Services to reflect the actual pattern of expenditures among the respective agencies involved, provided, however, that such transfers shall not increase the total appropriation of combined State and federal funds for any program, subject to the approval of the Director of the Division of Budget and Accounting.

74. Notwithstanding the provisions of section 16 of Article 3 of P.L.1944, c.112 (C.52:27B-25), or any other law or regulation to the contrary, the Director of the Division of Budget and Accounting shall not be required to allot appropriations on a quarterly basis.

75. The funding by a State department in the Executive Branch for a contract for drug screening tests or other laboratory screening tests shall be conditioned upon the following provision: the State department as part of the contract procurement and award process shall notify the Department of Health and Senior Services (DHSS) of the proposed contract and provide an opportunity for DHSS to submit a proposal, provided, however, the State Department shall not be required to make the award to DHSS if DHSS is the lowest bidder as factors other than cost may be considered in the evaluation of the proposals, subject to the approval of the Director of the Division of Budget and Accounting.

76. Notwithstanding the provisions of any law or regulation to the contrary, there is appropriated \$20,000,000 from the State Recycling Fund to the General Fund as State revenue.

77. Notwithstanding the provisions of any law or regulation to the contrary, the amounts hereinabove appropriated to the Real Estate Commission, Civil Service Commission, New Jersey Maritime Pilot and Docking Pilot Commission, State Athletic Control Board, Public Employment Relations Commission and Appeal Board, New Jersey State Board of Mediation, Council on Affordable Housing, New Jersey Racing Commission, Council on Local Mandates, Garden State Preservation Trust, the various State professional boards, the Certified Psychoanalysts Advisory Committee and the Audiology and Speech-Language Pathology Advisory Committee in the Department of Law and Public Safety, shall be subject to the following conditions: 1) the base salary, per diem salary, or any other form of compensation, including that for expenses, for the board members or commissioners paid for out of State funds shall not exceed \$100 per month; and 2) no State monies shall be used to pay for participation in the State Health Benefits Program by board members or commissioners. No other compensation shall be paid; provided, however, that this paragraph shall not apply to the Commissioner/Chief Executive Officer of the State Athletic Control Board, the Chairperson/Chief Executive Officer of the Civil Service Commission, the Chairman of the Public Employment Relations Commission, and any commissioner or board member of any other State board, commission or independent authority who, in addition to being a member of the board or commission also hold a full time staff position for such entity.

78. Notwithstanding the provisions of any law or regulation to the contrary, of the amounts hereinabove appropriated no grant monies shall be paid to a grantee for the costs of any efforts by the grantee or on behalf of the grantee for lobbying activities.

79. Notwithstanding the provisions of subsection c. of section 145 of P.L.1977, c.110 (C.5:12-145) and section 22 of P.L.1970, c.13 (C.5:9-22) or any law or regulation to the contrary, such monies as are required are appropriated to the State Treasurer to publish via the internet reports accounting for the total revenues received in the Casino Revenue Fund and the State Lottery Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding fiscal year ending June 30.

80. Notwithstanding the provisions of any other law or regulation to the contrary, and in furtherance of the purposes of P.L.2010, c.104 (C.48:23-18 et al.), there are hereby appropriated, subject to the approval of the Director of the Division of Budget and Accounting, such sums as are necessary for the operation of the New Jersey Public Broadcasting Authority (NJBPA) as required by the Federal Communications Commission (FCC) to maintain the FCC licenses owned

by the NJBPA, to oversee any agreements with private operators, and to carry out any other duties and responsibilities that the NJBPA has under P.L.2010, c.104 and as the FCC licensee of broadcast stations, including the costs of employees, office space, equipment, consultants, professional advisors including lawyers, and any other costs determined to be necessary to carry out the NJPBA mission under P.L.2010, c.104 consistent with FCC requirements.

81. Notwithstanding the provisions of any other law or regulation to the contrary, the unexpended balances at the end of the preceding fiscal year in each account for each enterprise zone in the Enterprise Zone Assistance Fund attributable to local projects and the local costs for administering the Urban Enterprise Zone program are appropriated to each enterprise zone for the purposes described in section 29 of P.L.1983, c.303 (C.52:27H-88). Such funds shall be disbursed to such enterprise zones by November 1, 2011. Provided further, the use of such unexpended balances and the use of second generation funds for eligible purposes by such enterprise zones shall not require approval by the New Jersey Urban Enterprise Zone Authority. Further, an enterprise zone may use project funds for administrative purposes, but the entire administrative budget of such enterprise zone shall not exceed its fiscal year 2011 administrative budget.

82. Notwithstanding any provision of law or regulation to the contrary, the comprehensive Medicaid waiver submitted by the State to the U.S. Department of Health and Human Services' Centers for Medicare and Medicaid Services shall include restrictions on the expenditure of amounts hereinabove appropriated that reduce eligibility for services based on financial criteria, impose new or increased co-payments for clients, limit the amount, duration or scope of services.

83. This act shall take effect July 1, 2011.

Approved June 30, 2011.

