NEW JERSEY STATE LEGISLATURE

OFFICE OF LEGISLATIVE SERVICES

BILL DRAFTING MANUAL

2013

INTRODUCTION

The Office of Legislative Services (OLS) is a nonpartisan agency of the New Jersey Legislature that provides a variety of services for the Legislature including bill drafting. This manual has been prepared under the authority found at N.J.S.A.52:11-61 to provide general standards for OLS staff to draft, review, examine, and edit legislation.

This manual is designed to serve both as a learning instrument for beginning bill drafters that complements their training and as a resource for experienced bill drafters. It sets out the basic rules and general practices for drafting legislation and demonstrates these with examples.

This manual is comprehensive but does not encompass every situation. There may be times when a drafter is required to deviate from the practices set forth in the manual due to the instructions of a legislator; the need to adhere to model language, to address judicial opinions interpreting existing statutes, or to include agreed-upon negotiated language; or because of time constraints. The goal of the drafter should always be to draft statutory language in a clear and concise manner that accomplishes the goal of the bill sponsor.

This manual has three appendices: A, B, and C.
Appendix A includes bill examples based upon the discussions in specific sections of the text.
Appendix B follows a draft as it moves from introduction to enactment. It includes the documents as prepared by staff (the "drafter's versions") and the documents after processing by BPU (the "official versions").
Appendix C contains various reference materials.

Pursuant to N.J.S.A.52:11-70, all requests to OLS staff for legal assistance and bill drafting, and all communications between legislators and OLS staff concerning such requests, are confidential. No information can be released to the public or to any person other than the requester or persons authorized by the requester, unless the requester consents to the release.

This manual has been redacted to remove references to, and text of, confidential legislative material.

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CHAPTER 1 OVERVIEW OF THE LEGISLATIVE PROCESS

It is important for bill drafters to recognize the division of State government into three separate branches and the role of each branch with respect to the creation, enactment, and implementation of the law.

1.1 Organization of State Government

The State government, pursuant to Article III of the New Jersey Constitution, is separated into three distinct and coequal branches.

- **Legislative Branch**: This branch, consisting of an elected Senate and General Assembly, debates ideas for new laws and passes bills and other legislation for enactment into law.
- **Executive Branch**: This branch, which administers and enforces the law, is headed by the Governor who signs legislation into law when it is presented by the legislative branch.
- **Judicial Branch**: This branch, led by the State Supreme Court, interprets the meaning and scope of the law passed by the legislative branch, and examines the administration and enforcement of the law by the executive branch.

1.1.1 Legislative Branch

Organization as Two Houses: The Legislature is organized as two separate Houses.

- **Senate**: This House consists of 40 members who serve four-year terms, except for a two-year term after legislative redistricting based on the decennial census. The 2-4-4 senatorial cycle allows for elections as soon as possible after each reapportionment following the decennial census.
- **General Assembly**: This House consists of 80 members who serve two-year terms.

The Senate is led by the President of the Senate who is selected by the members of the Senate. In the General Assembly, the members similarly select a Speaker of the General Assembly. These two presiding officers are responsible for organizing their respective Houses, scheduling the calendar of House activities, and setting the agenda of bills and other matters to be considered by their Houses during their scheduled legislative sessions.

Each House, pursuant to its own rules, establishes committees to consider bills and examine public policy in specific subject areas, such as transportation, environment, and labor. These standing reference committees are typically composed of between five and 11 members.

A House generally considers its standing reference committees to possess expertise about the complexities of that committee's designated subject area. A committee may meet and vote to approve, amend, or reject bills or other legislation prior to the debate of these items by the full membership of a House. The role of the standing reference committees in reviewing and voting on legislation is an important step in the legislative process.

CHAPTER 1 OVERVIEW OF THE LEGISLATIVE PROCESS

Organization for Two-year Term: Each Legislature is constituted for a formal two-year term, divided into two annual sessions.

The first annual session of a two-year term always begins on the second Tuesday of January in an even-numbered year and ends on the second Tuesday in January one year later, when the second annual session begins. The second annual session ends in the following January when the Legislature convenes to start the first annual session of the next two-year legislative term. Although the Legislature may choose to officially end a session by voting a final adjournment (*sine die*) at any time prior to the second Tuesday in January, it has not done so in recent years. In effect, each House always stands ready to meet at the call of its presiding officer.

The distinction between the two session years, or legislative years, of a two-year term is largely ceremonial because Article IV, Section I, paragraph 3 of the Constitution provides that all bills and resolutions introduced in the Legislature during its first annual session can remain under consideration throughout its second annual session. Only at the end of the second annual session, when a new, two-year Legislature commences, do bills, resolutions, and other unfinished business of the concluding two-year legislative term expire.

Helpful Hint:
A bill can exist in the Legislature for up to two years, but if not approved by the Legislature and presented to the Governor for enactment into law at the end of the two-year term, it expires. The proposals contained in the expired bill can be revived for legislative consideration by introducing a new bill during a new two-year legislative term.

Organization for Meeting Days During Two-year Term: Each House convenes an average of 40 times per annual session. These meeting days usually occur on Mondays or Thursdays.

There are two types of meeting days.

- **Sessions**: The full membership of a House meets in the respective Senate or General Assembly chamber to debate and vote upon legislation and conduct other business.

- **Quorums**: Quorums are scheduled so that a House may conduct business by meeting separately in committee meetings or public hearings. These days are referred to as quorums because the House must conduct a roll call, or quorum call, in chambers to determine that at least a majority of that House's members are present in order to conduct any business (21 out of 40 in the Senate; 41 out of 80 in the General Assembly).

Powers and Responsibilities Relevant to the Legislative Process: The basis of the powers, functions, practices, and procedures of the Legislature are found in Article IV of the New Jersey Constitution, as well as in the self-adopted rules, customs, and traditions of the two Houses.

The Legislature's functions include:

- Proposing and passing bills to be considered and signed into law as statutes by the Governor;
- Overriding vetoes of the Governor in order to enact bills into law when bills have been considered, but rejected, by the Governor;
- Making amendments to certain vetoed bills to satisfy the concerns of the Governor and then returning the bills to the Governor for reconsideration and signing into law as statutes;
- Making appropriations of monies through bills for the administration and enforcement of the law by State, county, and local governments;
- Proposing and adopting resolutions which establish committees or commissions or express the policies, opinions, organization, or direction of one or both Houses;
- Conducting studies and investigations on issues which assist legislators in the formulation of bills and resolutions;
- Providing oversight of the administration and enforcement of statutes by the executive branch and county and local governments to ensure compliance with legislative intent;
- Proposing and approving amendments to the New Jersey Constitution which are then presented to the public for a final vote; and
- Acting on proposed amendments to the Constitution of the United States submitted to state legislatures for ratification.

1.1.2 Executive Branch

The powers and responsibilities of the executive branch are found in Article V of the New Jersey Constitution. The Governor is empowered to sign or reject bills approved by the Legislature, and administer and enforce all laws through various principal departments, as well as other administrative agencies, offices, and instrumentalities.

Governor's Powers and Responsibilities Relevant to the Legislative Process: The Governor's functions which are relevant to the legislative process include:

- Signing bills approved by the Legislature into law;
- Vetoing bills approved by the Legislature as absolute vetoes which can then only become law if the veto is overridden by the Legislature;
- Recommending specific amendments as conditional vetoes to bills for consideration by the Legislature, and after legislative action on the conditional veto, reconsidering the amended bills for signing;

- Signing bills with appropriations into law while exercising a line-item veto which allows the Governor to reduce or eliminate the amount of money appropriated by the Legislature for a specified purpose;
- Signing joint resolutions approved by the Legislature which then have the effect of law;
- Delivering an annual State of the State address to the Legislature which describes the conditions of the State and recommends legislative initiatives;
- Delivering an annual budget message to the Legislature describing the Governor's proposed annual budget for the upcoming fiscal year; and
- Ensuring that all enacted laws are faithfully executed.

1.1.3 Judicial Branch

The judicial branch is described in Article VI of the New Jersey Constitution. The Judiciary is organized into trial courts, appellate courts, and a court of last resort, the Supreme Court. Inferior courts of limited jurisdiction, such as municipal courts, which handle motor vehicle violations, non-indictable offenses, and other limited matters, are also part of the judicial branch. The Chief Justice of the Supreme Court is the administrative head of all State courts in New Jersey.

The courts interpret the meaning and scope of the New Jersey Constitution, the statutory law enacted by the legislative branch, and the administration and enforcement of the law by the executive branch.

Judicial Powers and Responsibilities Relevant to the Legislative Process:

- Interpreting the meaning and scope of laws;
- Determining whether statutes are unconstitutional based on the provisions of the Constitutions of the United States and New Jersey; and
- Recommending to the Legislature, through court decisions and published opinions, changes to the law to better establish legislative clarity, address statutory inconsistencies, or resolve issues which may not have been previously considered when the Legislature originally debated and passed the legislation.

1.2 Legislative Process

When a member of the Legislature has an idea for a new statute, changes to an existing statute, an amendment to the New Jersey Constitution, or other matters of legislative concern, the member requests a draft from the Office of Legislative Services (OLS). OLS researches and analyzes issues associated with the idea, drafts the provisions of the bill or resolution to meet the purposes of the member's request, and puts the bill or resolution into proper technical form. The

methodology and technical details of the drafting process are presented throughout the subsequent chapters of this manual.

1.2.1 Preparing a Bill or Resolution for Introduction

Four Copies to the Requesting Legislator: A bill or resolution is ready for introduction once OLS prepares four copies of the bill or resolution which are presented to the requesting legislator: one House copy, one OLS copy, one Public copy, and one courtesy copy for the legislator. The legislator signs on the cover, or fronter, of the House copy. (See *5.1.)

Sponsoring the Legislation: Upon signing the bill or resolution, the requesting legislator becomes the first prime sponsor of the legislation; the first prime sponsor is responsible for promoting the legislation and guiding its passage through the legislative process. The first prime sponsor may seek out additional members of the same House to assist with the promotion and passage of the bill or resolution. These additional members may, with the approval of the first prime sponsor, sign onto the bill or resolution as additional prime sponsors, called co-prime sponsors, who share direct responsibility for promoting and guiding the legislation. The second member to sign a bill or resolution is the second prime sponsor. In the General Assembly, third and additional prime sponsors may sign on with the consent of the Speaker and existing prime sponsors. (See Rule 15:4d. of the rules of the General Assembly.) In both Houses, additional members may also sign on as co-sponsors, who join in support of the legislation but do not take direct responsibility for promoting and guiding it. (See rules 16:1 and 16:2 of the rules of the Senate and rule 15:4 of the rules of the General Assembly; note that the rules governing sponsorship of legislation are subject to change.)

Delivery to the Secretary of the Senate or the Clerk of the General Assembly: Once the prime sponsor and any additional sponsors sign the House copy of the bill or resolution, the signed House copy along with the OLS and Public copies are delivered to the Secretary of the Senate or the Clerk of the General Assembly, as appropriate. Delivery should be made on a meeting day of that House, whether it be for a session or a quorum. In the General Assembly, the Clerk assigns the bill or resolution a number and transfers the House, OLS, and Public copies to OLS's Bill Processing Unit (BPU) for processing. In the Senate, BPU is responsible for assigning numbers to all bills and resolutions. Once a bill or resolution has been assigned a number it is considered proposed for introduction.

1.2.2 First Reading

The bill or resolution is formally introduced when the Secretary of the Senate or the Clerk of the General Assembly announces the bill or resolution number and its sponsors, and reads its title. This introduction is known as the first reading. The first reading usually occurs at the meeting day of a House (for a session or a quorum) following the day that the legislation was proposed for introduction. However, with the permission of the President of the Senate or the Speaker of the General Assembly, legislation can be proposed for introduction and receive first reading on the same day.

After the first reading, the presiding officer of the appropriate House will usually refer the bill or resolution to a standing reference committee based upon the subject matter of the

legislation. However, the presiding officer may also opt to move the bill or resolution forward in the legislative process without a committee reference. (See second reading, *1.2.4.)

Please note that the prime sponsor may ask OLS to make changes to a bill or resolution prior to first reading, while the bill is still proposed for introduction. These changes may be substantial and may include both substantive and technical changes. A bill that is proposed for introduction may be completely replaced. Once the bill or resolution is formally introduced, it may be changed only in committee, on the floor of either House, or as the result of action taken by the Governor. An OLS drafter asked to make changes to a bill or resolution which is proposed for introduction should consult a Section Chief.

1.2.3 Committee Activity

Setting Committee Agendas: If the presiding officer refers the bill or resolution to a standing reference committee, the legislation is scheduled for consideration by the committee at the discretion of the committee chair who sets the agenda for each committee meeting. This discretion means that some bills and resolutions get immediate consideration, while others await consideration for many months, and still others never get placed onto a committee agenda (and as a result, expire at the end of a two-year legislative term without moving further in the legislative process).

Committee Review and Voting: If the bill or resolution appears on a committee agenda, the members of the standing reference committee review the legislation at a public meeting in which input on the matter may be considered. The prime sponsor or other sponsors may also appear before the committee to promote the legislation and answer any questions. Based upon the committee's review, sponsors' testimony, and information or testimony provided by interested parties and the public, the committee has several options:

- *Release the legislation*: The members, by a majority vote on the bill or resolution, agree to move it forward in the legislative process. For most bills or resolutions, the next step is second reading but a second reference to another committee is possible. Upon releasing legislation, the committee will specify that it was considered favorably, unfavorably, or without recommendation.

- *Release with committee amendments:* The members agree to adopt additions or deletions to the provisions of the bill or resolution. Once the amendments are adopted, the legislation is released from the committee.

- *Release a committee substitute:* The members agree to replace the bill or resolution with a new bill or resolution which encompasses the same subject matter as the provisions of the original legislation. Once adopted, the substitute legislation is released from the committee.

- *Hold the legislation:* At the discretion of the committee chair, the bill or resolution may be held by the committee, meaning it is not subjected to any committee vote. Any legislation held by a committee does not move forward in the legislative process unless it reappears on a committee agenda and is voted on.

- *Reject the legislation:* The bill does not receive enough affirmative votes to be released. This is rarely done. Usually, when it appears that a bill does not have enough votes to be released, it is held by the committee.

All committee votes on a bill or resolution, along with copies of the committee amendments or the committee substitute, if approved by the committee, are then reported to the Secretary of the Senate or the Clerk of the General Assembly, as appropriate, along with a committee statement explaining the committee's actions.

(For more details on these committee activities, see *Chapter 9.)

1.2.4 Second Reading

After the bill or resolution is released from committee or advanced without committee reference, the Secretary of the Senate or the Clerk of the General Assembly announces the bill or resolution number and its sponsors for the second time, and reads its title on a meeting day of that House, whether a session or a quorum. This procedure is known as the second reading.

Helpful Hint:
A bill or resolution released by a standing reference committee on a meeting day will receive second reading on the same meeting day unless it is referred to a second committee.

Floor Amendments and Substitutes: Following the second reading, the bill or resolution may be changed by any member of the House during a session by proposing amendments or a substitute on the floor of the House. Floor amendments and floor substitutes must be adopted by a majority vote. (For more on floor amendments and floor substitutes, see *9.6.1, *9.6.2, and *9.6.3.)

One-Day Waiting Period Before Bill or Resolution Advances: The bill or resolution, whether or not changed by floor amendments or replaced with a floor substitute, must now sit for at least one day before advancing any further in the legislative process, unless three-fourths of the members of the House vote (30 votes in the Senate; 60 votes in the General Assembly) to make the legislation an emergency measure and immediately advance it to third reading. (See rule 17:4 of the rules of the Senate and rule 15:11 of the rules of the General Assembly; note that these rules are subject to change.)

1.2.5 Third Reading

Following the second reading and the one-day waiting period, the bill or resolution is scheduled for final consideration by the House at the discretion of the presiding officer, who sets the list of legislation for debate at each session. This discretion by the presiding officer means that some bills and resolutions are quickly scheduled for third reading while others await consideration. This scheduling discretion does not apply if the House, during a session, moves the legislation forward after second reading as an emergency measure. (See *1.2.4.)

On the scheduled session day, the Secretary of the Senate or the Clerk of the General Assembly, as appropriate, announces, for the third time, the bill or resolution number and its sponsors, and reads its title. This action is called the third reading.

Final Debate: Immediately following the third reading, the House may debate the bill or resolution on the floor of the chambers. Any debate on the legislation must pertain to the provisions of the legislation. If a member wishes to change the legislation before the final vote, the member must follow procedures to move the legislation back to second reading for purposes of amendment.

1.2.6 Final Vote

At the conclusion of any debate, a final vote is taken and recorded. The bill or resolution passes when approved: by a majority of the House (21 votes in the Senate; 41 votes in the General Assembly), or by a two-thirds majority (27 votes in the Senate; 54 votes in the General Assembly) in the case of certain special laws, or by a three-fifths majority (24 votes in the Senate; 48 votes in the General Assembly) in the case of a concurrent resolution proposing to amend the Constitution. (See *10.4 for special laws and *10.1 for constitutional amendments.)

Helpful Hint:
At this point, a one-House resolution is officially adopted, while bills, joint resolutions, and concurrent resolutions must continue forward in the legislative process. After a one-House resolution is adopted, it is filed with the Secretary of State.

Holding a Bill or Resolution for Future Consideration: Prior to the recording of a final vote, the prime sponsor, usually in response to concerns raised during the members' debate, may request that the bill or resolution be removed from floor consideration, or held. When legislation is held, there is no final vote, and the bill or resolution does not move forward in the legislative process unless it is rescheduled for third reading on another session day.

1.2.7 Moving to the Second House: Starting the Process All Over Again

The presiding officer of the appropriate House signs a jurat, a certificate confirming the passage of the bill or resolution in that House. The legislation is then delivered to the other House.

In the second House, the bill or resolution passes through the same process as it did in the House of origin: first reading, committee action (unless skipped at the discretion of the presiding officer), second reading, third reading, and final vote. Further progress of the legislation depends upon the activities of the second House. If the second House makes no changes at any point, the legislation, upon final vote in the second House, receives final legislative approval. If, however, the second House amends the legislation by either committee or floor amendments, then the legislation as amended and approved by that House must be returned to the House of origin for a floor vote to concur in the amendments. This process does not require the amended legislation to return to first reading in that House. If instead the second House substitutes the legislation by a committee or floor substitute, then the substituted legislation approved by the second House must

be returned to the House of origin for first reading because the substitute by the second House is considered to be entirely new legislation originating in that House.

1.2.8 Final Legislative Passage

The bill or resolution receives final legislative passage when it passes both Houses in identical form. This may require the legislation to move back and forth between the two Houses several times before achieving final passage.

Helpful Hint:
At this point, a concurrent resolution is officially adopted, while bills and joint resolutions, which require action by the Governor, must continue forward in the legislative process. After a concurrent resolution is adopted, it is filed with the Secretary of State. (See *10.1.1.)

1.2.9 Governor's Action

Once the bill or joint resolution receives final approval by the Legislature, the Governor's participation in the legislative process becomes necessary in order for the legislation to take effect.

Joint Resolutions - Signing as Matter of Custom: Although it is only a matter of custom and tradition and not constitutional mandate, a joint resolution is enacted when signed by the Governor. Joint resolutions carry the effect of law.

Bills Enacted into Law by Governor's Action or Overriding Governor's Veto: After both Houses pass the bill in identical form, the New Jersey Constitution requires that the bill be delivered to the Governor before the close of the following day by the last House to take action on the bill.

Generally, bills are enacted into law during a two-year term by:

- *Governor's signature:* The Governor considers the provisions of the bill and signs the bill;
- *Governor takes no action:* After presentation of the bill to the Governor, 45 days pass, and during this period the Governor takes no action concerning the bill. If the House of origin is not meeting on the 45th day, the bill becomes law on the first day when the House next reconvenes on a meeting day (a session or a quorum);
- *Overriding a Governor's absolute veto:* If during the 45-day period following the presentment of the bill for consideration (or longer if the House of origin is not meeting on the 45th day), the Governor entirely rejects the bill and returns it to its House of origin, and subsequently each House reapproves the bill by a two-thirds vote (27 votes in the Senate; 54 votes in the General Assembly);

- *Overriding a Governor's conditional veto:* During the 45-day period following the presentment of the bill for consideration (or longer if the House of origin is not meeting on the 45th day), the Governor returns the bill to its House of origin with recommended amendments, but both Houses instead reapprove the bill without any recommended changes by a two-thirds vote (27 in the Senate; 54 in the General Assembly). This action, from the perspective of the Legislature, is the same as overriding an absolute veto;

- *Accepting a Governor's conditional veto:* During the 45-day period following the presentment of the bill for consideration (or longer if the House of origin is not meeting on the 45th day), the Governor returns the bill to its House of origin with recommended amendments, and both Houses amend and reapprove the bill by a majority vote (21 in the Senate; 41 in the General Assembly). The bill is then returned to the Governor and signed into law; or

- *Overriding a Governor's line-item veto:* During the 45-day period following the presentment of any bill for consideration that has an appropriation of money (or longer if the House of origin is not meeting on the 45th day), the Governor may sign the bill while reducing or eliminating any individual appropriation item. In addition to exercising a line item veto of items of appropriations expressed in dollar amounts, the Governor may use the line item veto authority to eliminate conditions, limits, and restrictions on appropriations expressed as language provisions in the bill. The Legislature can override a line-item veto if both Houses reapprove the original appropriation amount or language provisions by a two-thirds vote (27 in the Senate; 54 in the General Assembly); otherwise the Governor's modification to the appropriation becomes law.

  A line-item veto override, if exercised by the Legislature, only concerns whether a specific appropriation or language provision becomes law based upon the specific rejection of the Governor's modification of the original version passed by both Houses; the remainder of the bill is not affected by the line-item veto or override, and still becomes law. Thus, all appropriations, and related language provisions, in the bill that have not been subject to a line-item veto will become law regardless of any further override action by the Legislature. This is different from a bill that has been modified by being conditionally vetoed, which will only become law if the Legislature takes some further action; for a conditionally vetoed bill to become law, the Legislature must adopt the conditional veto based on the Governor's modifications, or override the conditional veto so that the bill becomes law based upon the original version passed by both Houses.

CHAPTER 1 OVERVIEW OF THE LEGISLATIVE PROCESS

There are procedural considerations to be aware of for any bill which moves forward in the legislative process during the final 45 days of a two-year term (See Article V, Section I, paragraph 14 of the Constitution):

- *Bill approved and presented to the Governor 45 days before the end of the two-year legislative term:* Any bill still pending the Governor's approval after 44 days of consideration must be returned to the Legislature if the Governor exercises any type of veto, as this is the day before the two-year legislative term ends, so that the Legislature may act regarding any veto. If the bill is not returned by the Governor by this time, the bill becomes law;

- *Bill approved between 45 and 10 days before the end of the two-year legislative term (days 44 to 11):* As above, any bill still pending the Governor's approval must be returned to the Legislature, if the Governor exercises any type of veto. It must be returned by the day before the conclusion of the two-year term, so that the Legislature may act regarding any veto. If the bill is not returned by the Governor by this time, the bill becomes law; and

- *Bill approved within 10 days preceding the end of the two-year legislative term (day 10 to end of term):* Any bill presented by the Legislature during the last 10 days of the two-year term becomes law only if signed by the Governor. If not signed, it is "pocketed" by the Governor and simply expires (hence the term "pocket veto"). The Governor has until seven days after the end of the two-year term to sign any bill presented by the Legislature during the last 10 days of its two-year term.

Although courts generally afford legislative acts a presumption of constitutionality, United States v. Morrison, 529 U.S. 598, 607 (2000), New Jersey Sports & Exposition Auth. v. McCrane, 61 N.J. 1, 8 (1972), they will invalidate statutes found to authorize unconstitutional practices. There are a range of tests developed and used by courts to examine issues of constitutionality. Bill drafters should have a basic understanding of the most common federal and State constitutional issues so that they can help make requesters of legislation aware of such issues and assist in addressing such issues when drafting, potentially avoiding future legal challenges to the legislation produced.

Please note that the following summaries are intended to be a foundation on which bill drafters should add their own research based upon the particulars of the bill draft and the scope and intent of the requester's objectives. Of particular focus for the drafter should be determining whether the specifics of the request possibly invoke the application of a slight variation, or fully developed exception, to the constitutional considerations set forth below, as several such instances have developed over time to address particular situations.

2.1 General Constitutional Considerations – Federal and State

2.1.1 Supremacy Clause / Preemption Doctrine

Article VI, Clause 2 of the United States Constitution declares, "This Constitution, and the Laws of the United States . . . shall be the supreme Law of the Land . . . ." This Supremacy Clause gives rise to the legal doctrine of preemption, in which a state law that is found to contradict the United States Constitution or congressional enactments will be declared unconstitutional.

Courts recognize three ways in which federal law may preempt state law. The first way is express preemption which applies when Congress explicitly declares through legislation exclusive control over a regulatory field. The second, field preemption, applies when Congress comprehensively, although not explicitly, occupies an entire field of regulation through one or more legislative enactments, leaving no room for the states to supplement federal law. The final way, conflict preemption, applies when simultaneous compliance with both the federal and state law is impossible or when state law creates an obstacle to accomplishing the full purposes and objectives of Congress under a federal scheme. English v. General Elec. Co., 496 U.S. 72, 78-79 (1990); Gade v. National Solid Wastes Management Ass'n, 505 U.S. 88, 98, 108-109 (1992) (Illinois law to license hazardous waste remediation workers preempted on conflict preemption grounds due to different national certifying standards established pursuant to Occupational Safety and Health Act of 1970).

The Supremacy Clause's preemption over state laws applies not just to congressional enactments but to federal agencies established by such enactments and the regulations they promulgate. New York v. FERC, 535 U.S. 1 (2002). "[A] federal agency may pre-empt state law . . . when and if it is acting within the scope of its congressionally delegated authority." Louisiana Pub. Serv. Comm'n, v. FCC, 476 U.S. 355, 374 (1986).

The Supremacy Clause is also the basis for federal supremacy over the states regarding foreign affairs: "[A]ll Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land. . . ." U.S. Const., Art. VI, Cl. 2. Therefore,

international treaties, other agreements, and federal actions towards other countries may be found to supersede state laws which implicate the foreign affairs controlled by such activities. United States v. Pink, 315 U.S. 203, 223, 230-231 (1942); Crosby v. National Foreign Trade Council, 530 U.S. 363 (2000) (Massachusetts law restricting authority of state agencies to purchase goods or services from companies doing business with Burma preempted by federal enactment regulating relationship with, and imposing sanctions upon, that country).

2.1.2 Freedom of Speech and Association

The First Amendment of the United States Constitution states: "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." This federal restriction against interference with free expression was made applicable to the actions of state governments by the Fourteenth Amendment of the United States Constitution. Lovell v. City of Griffin, 303 U.S. 444, 450 (1938).

While the right to free expression is highly protected, it is not absolute and may be subject to reasonable regulations necessary to promote or preserve a state's public welfare. Legislation that regulates expression may be either content-based or content-neutral.

***Content-based / Strict Scrutiny*:** Content-based legislation specifically applies to a particular subject matter or viewpoint. It is therefore usually given the highest standard of court review, known as strict scrutiny, to determine whether the law violates the First Amendment. United States v. Playboy Entertainment Group, Inc., 529 U.S. 803 (2000). Under this highest standard, a court will overturn the legislation as unconstitutional unless it is *narrowly tailored* to achieve a *compelling* public purpose. Id. at 813.

The strict scrutiny standard, however, is not applied to certain content-based legislation used to regulate types of expression considered only to be of slight social value, and thus afforded far less protection under the First Amendment. Among the types of lesser protected expression are: obscene expression (patently offensive, sexual content); child pornography; and defamation. R.A.V. v. City of St. Paul, 505 U.S. 377, 382-383 (1992).

Content-neutral / Intermediate Scrutiny: On the other hand, content-neutral legislation regulates the time, place, and manner of expression, but not the substance of that expression. Such legislation is not examined at the highest standard of scrutiny generally applied to content-based legislation, but is instead subject to a less stringent intermediate scrutiny standard. Under the intermediate scrutiny standard, the legislative action is only permissible if it is *substantially related* to an *important* public purpose. Turner Broadcast Sys., Inc. v. FCC, 520 U.S. 180, 189-190 (1997).

Legislation addressing commercial expression, both with respect to its time, place, and manner as well as its content, is also examined by courts using the intermediate scrutiny standard. Edenfield v. Fane, 507 U.S. 761, 766-767 (1993).

New Jersey Constitution: Under the New Jersey Constitution, free expression is generally protected by Article I, paragraph 6: "Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to

restrain or abridge the liberty of speech or of the press." Article I, paragraph 18 adds: "The people have the right freely to assemble together, . . . to make known their opinions to their representatives, and to petition for redress of grievances." The New Jersey Supreme Court has determined that the protections and standards of review under the New Jersey clauses on free expression run parallel to those provided under the First Amendment of the United States Constitution. Township of Pennsauken v. Schad, 160 N.J. 156, 176 (1999).

2.1.3 Equal Protection

The Fourteenth Amendment, in Section 1, of the United States Constitution provides that "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." This Equal Protection Clause guarantees that people similarly situated will be treated similarly by states under the law, and restricts the states' ability to categorize individuals on the basis of certain inherent traits or other characteristics in order to justify treating them differently.

When evaluating Equal Protection Clause claims under the United States Constitution, courts apply one of three different standards of review, usually determined by the nature of the class being treated differently under the law. The traditional indicia determining the level of review include whether "the class is . . . saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process." San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 28 (1973).

Suspect Class / Strict Scrutiny: Courts refer to a category established by legislation based on race, national origin, or alienage as a suspect class. Graham v. Richardson, 403 U.S. 365, 371-372 (1971). Legislation which treats members of a suspect class differently is subjected to the highest standard of court review, the strict scrutiny standard. The legislation will be overturned unless the different treatment is shown to be *narrowly tailored* to achieve a *compelling* public purpose. Gratz v. Bollinger, 539 U.S. 244, 270 (2003).

The strict scrutiny standard is also utilized by courts to examine legislation directly infringing upon a fundamental right. Clark v. Jeter, 486 U.S. 456, 461 (1988). A fundamental right is one expressly or implicitly guaranteed by the United States Constitution, and is usually associated with individual liberty, including the rights enumerated in the Bill of Rights, the right to vote, and matters of privacy including marriage, procreation, and the care, custody, and control of children. Troxel v. Granville, 530 U.S. 57, 65-66 (2000); Harper v. Virginia Bd. of Elections, 383 U.S. 663, 667 (1966); Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535, 541 (1942). Thus, legislation creating a category based on some factor other than race, national origin, or alienage is still subject to the highest standard of review when the resulting unequal treatment of affected persons directly involves a fundamental right. Zablocki v. Redhail, 434 U.S. 374, 375, 386-387 (1978) (strict scrutiny applied to overturn Wisconsin law prohibiting marriage by persons not current in child support obligations because action directly interfered with their fundamental right to marry).

***Semi-suspect Class / Intermediate Scrutiny*:** Courts refer to a category established by legislation based upon gender or illegitimacy as a semi-suspect class. Legislation which treats a semi-suspect class differently is subject to a less stringent intermediate scrutiny standard. Applying this standard, the different treatment is only permissible if it is *substantially related* to

an *important* public purpose. United States v. Virginia, 518 U.S. 515, 532-533 (1996); Clark v. Jeter, 486 U.S. 456, 461 (1988).

The intermediate scrutiny standard is also applied by courts to examine legislation which indirectly interferes with a fundamental right. Thus, the standard applies regardless of whether the impacted category of persons is based on gender or illegitimacy when the resulting unequal treatment indirectly touches upon a fundamental right. Bullock v. Carter, 405 U.S. 134, 142-144, 147 (1972) (intermediate scrutiny applied to overturn law establishing excessive filing fees for primary elections because action indirectly interfered with fundamental right to vote by limiting voters' choice of candidates); Barone v. Department of Human Services, 107 N.J. 355, 365 (1987); Watkins v. Davis, 259 N.J. Super. 482, 488 (Law Div. 1992), aff'd, 268 N.J. Super. 211 (App. Div. 1993).

General Classification / Rational Basis: If a law neither targets a suspect or semi-suspect class, nor burdens a fundamental right, the resulting legislative classification must simply be *rationally related* to a *legitimate* governmental purpose. This default standard of review by the courts is referred to as the rational basis standard. San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 40, 54-55 (1973) (school financing system upheld on rational basis standard even though disparities existed between wealthy and poorer districts; poor students did not constitute a suspect or semi-suspect class and education is not a constitutionally-based fundamental right).

New Jersey Constitution: The New Jersey Constitution does not use the phrase "equal protection." However, the New Jersey Supreme Court recognizes, under Article I, paragraph 1, an implicit guarantee of equal protection under the law: "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, or acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness."

A review of legislation for equal protection violations under the New Jersey Constitution is not decided using the federal three-tier approach. Instead, courts utilize a more flexible balancing test to determine whether there is an appropriate government interest suitably furthered by the differential treatment. This balancing test requires a real relationship between the classification of persons treated differently by the legislation and the government purpose that it purportedly serves. Often the State and federal review yield the same results, as the considerations guiding an equal protection analysis under the New Jersey Constitution are implicit in the federal three-tier approach. Barone v. Department of Human Services, 107 N.J. 355, 368 (1987).

2.1.4 Procedural and Substantive Due Process

The Fourteenth Amendment, in Section 1, of the United States Constitution provides that "No State shall . . . deprive any person of life, liberty, or property, without due process of law." The Due Process Clause guarantees that State actions against a person's life, liberty, or property are not arbitrary or oppressive.

Under the Due Process Clause, a deprivation of life is self-explanatory. A deprivation of liberty denotes more than restricting a person's freedom from bodily restraint. While not defined with absolute exactness, courts recognize that it also encompasses "the right of the individual to

contract, to engage in any of the common occupations of life, . . . to marry, establish a home and bring up children, . . . and generally to enjoy those privileges long recognized . . . as essential to the orderly pursuit of happiness by free men." Meyer v. Nebraska, 262 U.S. 390, 399 (1923). A deprivation of property relates to infringing upon real or personal property and any recognized interest stemming from that property, or additionally infringing upon some lawfully acquired present or future benefit. Goldberg v. Kelly, 397 U.S. 254 (1970), superseded on other grounds by statute (person receiving welfare benefits under statutory and administrative standards defining benefit eligibility has property interest in continued receipt of benefits safeguarded by due process); Board of Regents v. Roth, 408 U.S. 564, 576-578 (1972) (absent state statute or university rule, non-tenured professor hired for one year had no property interest, and therefore no due process protection, concerning continued employment).

The Due Process Clause set forth in the Fourteenth Amendment (like its Fifth Amendment counterpart addressing federal legislative actions) also "guarantees more than fair process." Washington v. Glucksberg, 521 U.S. 702, 719 (1997). It includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." Id. at 720. The recognition of both procedural and substantive due process rights under the Due Process Clause splits the development of the Supreme Court's case law into two distinct categories.

Procedural Due Process: Procedural due process requires adequate, fair notice and procedures by the government, including an opportunity for the person to address the government's action; in other words, procedural due process represents the constitutional standard as to "how" a government may proceed regarding any infringement against life, liberty, or property. Courts determine the constitutional adequacy of procedures set forth in legislation using a three-factor balancing test, comparing: 1) the personal interest affected by the governmental action; 2) the risk of an erroneous deprivation of that interest through the procedures used, as well as the probable value, if any, of added procedural requirements; and 3) the public interest served by the government's action, and the extent to which the public interest will be impeded by the use of additional safeguards. Mathews v. Eldridge, 424 U.S. 319, 334-335 (1976).

Substantive Due Process: Regardless of the apparent fairness of a procedure, the Fourteenth Amendment Due Process Clause further demands heightened protections against legislative actions which deprive a person of particular rights. Because this aspect of the constitutional doctrine relates to the substance of those rights, it is referred to as substantive due process.

Under substantive due process, if legislation infringes upon a person's fundamental right (see description under 2.1.3) or liberty interest (see description under 2.1.4 above), then the government is required, regardless of the adequacy and fairness of any procedure, to demonstrate its action meets the court's highest, strict scrutiny standard of review; the legislation must be *narrowly tailored* to achieve a *compelling* public purpose. Washington v. Glucksberg, 521 U.S. 702, 719-721 (1997); Troxel v. Granville, 530 U.S. 57 (2000) (Washington statute authorizing court ordered visitation rights to any person on basis of best interests of child infringed on parents' fundamental right to rear their children, and overturned for violating their substantive due process rights because statute was not narrowly tailored to a compelling public purpose).

If a fundamental right or liberty interest is not involved in the legislative action, then the government need only meet the court's default, rational basis standard, meaning the legislation must only *rationally relate* to *any legitimate* public purpose. Washington v. Glucksberg, 521 U.S. 702 (1997) (Washington's ban on assisted suicide, not a fundamental right or liberty interest, upheld as rationally related to legitimate government purpose to preserve life, particularly society's vulnerable and elderly, and the integrity of the medical profession).

New Jersey Constitution: The New Jersey Constitution, under Article I, paragraph 1, contains language which implies due process protections against government interference: "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness."

The New Jersey Supreme Court has determined that this provision has a broader due process reach than the Fourteenth Amendment Due Process Clause under the United States Constitution. Doe v. Poritz, 142 N.J. 1, 104 (1995); In re Allegations of Sexual Abuse at E. Park High Sch., 314 N.J. Super. 149, 161 (App. Div. 1998). This may lead to an occasional divergence between federal and State constitutional determinations, even though a court's analysis under the New Jersey Constitution employs the same, above described three-factor balancing test for procedural due process considerations, and the strict scrutiny and rational basis standards for substantive due process. Right to Choose v. Byrne, 91 N.J. 287 (1982) (although United States Constitution permitted Congress to restrict federal Medicaid funds for abortion only to save life of mother, New Jersey Constitution's due process protections more broadly require State Medicaid funding for abortion to protect life or general health of mother).

2.1.5 Commerce Clause

Article I, Section 8, Clause 3 of the United States Constitution provides that Congress has the power "To regulate Commerce with foreign Nations, and among the several States." The purpose of the Commerce Clause is "to avoid the tendencies toward economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation." Hughes v. Oklahoma, 441 U.S. 322, 325 (1979). Put another way, the Commerce Clause expresses the "principle that our economic unit is the Nation . . . [and] has as its corollary that the states are not separable economic units." H.P. Hood & Sons, Inc. v. Du Mond, 336 U.S. 525, 537-538 (1949).

Thus, the Commerce Clause provides Congress authority, over the states, to affirmatively regulate interstate commerce. Under case law developed by the United States Supreme Court, the clause is expanded to also apply to matters of interstate commerce in which Congress has not acted. This aspect of the Commerce Clause is referred to as the dormant Commerce Clause.

Under the Commerce Clause, a state is prohibited from enacting laws that discriminate against out-of-state persons and entities in a way that improperly interferes with interstate commerce. Thus, a Commerce Clause analysis often involves balancing the national need to limit burdens imposed on out-of-state parties against the local concern of individual states to protect the health, safety, and welfare of their own citizens. City of Philadelphia v. New Jersey, 437 U.S. 617 (1978) (law prohibiting the importation of most waste materials that originated or were collected outside the State improperly interfered with interstate commerce); Borough of Glassboro v.

Gloucester County Bd. of Chosen Freeholders, 100 N.J. 134 (1985), cert. den. 474 U.S. 1008 (1985) (State action to exclude out-of-State municipality from utilizing landfill that had nearly reached capacity, while still providing limited access to certain in-State municipalities, was not improper burden on interstate commerce).

2.1.6 Contracts Clause

Article I, Section 10, Clause 1 of the United States Constitution declares that "No State shall . . . pass any . . . Law impairing the Obligation of Contracts." The obligations protected by the clause include not only the express terms of a contract but also the contemporaneous state law pertaining to its interpretation, operation, and enforcement. United States Trust Co. v. New Jersey, 431 U.S. 1 (1977). The United States Supreme Court has noted that the clause does not prohibit all manner of legislation impacting contracts. Instead the clause is applied flexibly, determining the constitutionality of legislation which alters contractual obligations by balancing the interests of the contracting parties against the state's purpose in taking action. Allied Structured Steel Co. v. Spannaus, 438 U.S. 234, 240 (1978).

In general, to ascertain whether legislation creates a Contracts Clause violation, a court must first inquire whether the change in law creates a substantial impairment of the contractual relationship, i.e., substantially adjusts the rights and responsibilities of the contracting parties. If a substantial impairment exists, then the legislation will only stand if it has a significant and legitimate public purpose, and the adjustment to the rights and responsibilities of the parties was reasonable and appropriate in light of that purpose. United States Trust Co. v. New Jersey, 431 U.S. 1, 22-23 (1977); Home Bldg. & Loan Ass'n v. Blaisdell, 290 U.S. 398 (1934) (Minnesota statute temporarily suspending mortgage foreclosure process during Great Depression did not violate Contracts Clause for creditor-mortgagees with contractual foreclosure rights because of state's interest in protecting vital interests of community during dire economic emergency).

New Jersey Constitution: The New Jersey Constitution also contains a Contracts Clause in Article IV, Section VII, paragraph 3: "The Legislature shall not pass any . . . law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made." The same standards used to ascertain violations under the federal Contracts Clause are applied to determine violations under the New Jersey Contracts Clause. Fidelity Union Trust Co. v. New Jersey Highway Auth., 85 N.J. 277, 299 (1981).

2.1.7 Takings Clause / Eminent Domain

The Fifth Amendment of the United States Constitution proclaims that no "private property be taken for public use, without just compensation." This amendment is known as the federal Takings Clause, and the power it describes is sometimes referred to as eminent domain. The Takings Clause was made applicable to the states by the Fourteenth Amendment of the United States Constitution. Bennis v. Michigan, 516 U.S. 442, 446 (1996).

The term property under the Takings Clause includes not just real property, but the entire bundle of rights which flow from the ownership of something, whether a form of real or personal property. The clause broadly applies to address every sort of interest a person may possess with respect to that property. United States v. General Motors Corp., 323 U.S. 373, 377-378 (1945).

Although the clearest form of taking is a physical taking, which occurs when the government takes physical control of private land or personal property for its own use, there is a second form of taking recognized under the Takings Clause, known as a regulatory taking. A regulatory taking arises when "government actions do not encroach upon or occupy the property yet still affect and limit its use to such an extent that a taking occurs." Palazzolo v. Rhode Island, 533 U.S. 606, 617 (2001). Such takings are based upon the principle "that while property may be regulated to a certain extent, if a regulation goes too far it will be recognized as a taking." Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 415 (1922).

Whichever form of taking being considered, physical or regulatory, the Takings Clause analysis is the same. The clause requires that there be a public purpose supporting the action, and that just compensation result for the affected property owner. In terms of public purpose, state legislatures have broad latitude to determine what public needs justify the taking. In fact, the United States Supreme Court applies its lowest level of review, the rational basis standard, when examining legislation instituting a taking action. Kelo v. City of New London, 545 U.S. 469, 488 n.20 (2005); Hawaii Hous. Auth. v. Midkiff, 467 U.S. 229, 241-243 (1984).

New Jersey Constitution: The New Jersey Constitution, under Article I, paragraph 20, provides a Takings Clause worded similarly to that contained in the United States Constitution: "Private property shall not be taken for public use without just compensation. Individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners." The protections afforded to property owners under the New Jersey and United States Constitutions are considered to be coextensive; thus, the same standards used to determine a federal Takings Clause violation are applied to determine violations under the New Jersey Takings Clause. Littman v. Gimello, 115 N.J. 154, 161 (1989).

2.1.8 Ex Post Facto Laws

Article I, Section 10, Clause 1 of the United States Constitution prohibits a state's passage of any ex post facto law. An ex post facto law is a law passed after the occurrence of an event or commission of an act, which retrospectively changes, in a negative fashion, the legal consequences or relations of such event or act. It only applies to the criminal law. The purpose of the Ex Post Facto Clause is to assure that legislative enactments concerning crimes give fair warning of their effect.

The Ex Post Facto Clause is intended to prohibit: 1) any law that punishes as a crime an act previously committed, which was innocent when done; 2) any law that makes more burdensome the punishment for a crime after its commission; and 3) any law that deprives a defendant of any defense available according to the law at the time when the crime was committed. Beazell v. Ohio, 269 U.S. 167, 169-170 (1925); State v. Muhammad, 145 N.J. 23, 56 (1996); see Miller v. Florida, 482 U.S. 423, 429 (1987) (providing similar description of prohibited types of ex post facto laws, presented in four categories instead of three).

New Jersey Constitution: The New Jersey Constitution, in Article IV, Section VII, paragraph 3, also forbids the enactment of any ex post facto law: "The Legislature shall not pass any . . . ex post facto law. . . ." The New Jersey Supreme Court has declared that the State clause is interpreted in a consistent manner to the federal clause. State v. Fortin, 198 N.J. 619, 626-627 (2009); Doe v. Poritz, 142 N.J. 1, 42-43 n.10 (1995).

2.1.9 States' Rights / Police Powers

Any powers not granted to the federal government by the United States Constitution are instead, pursuant to the Tenth Amendment, reserved to the states, or directly to the people: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Among the powers reserved to the states are the ability to legislate for the general health, safety, and welfare of their residents. This ability is collectively referred to as the states' police powers.

The federal government is not provided with the police powers reserved to the states. However, Congress, pursuant to the Supremacy Clause, Article VI, Clause 2 (see 2.1.1), may still legislate in areas reserved to the states by the Tenth Amendment, so long as its exercise of authority is based upon some enumerated power set forth in the United States Constitution. "Although such congressional enactments obviously curtail or prohibit the States' prerogatives to make legislative choices respecting subjects the States may consider important, the Supremacy Clause permits no other result." Hodel v. Virginia Surface Mining & Reclamation Ass'n, 452 U.S. 264, 290 (1981); see, e.g., Helvering v. Davis, 301 U.S. 619 (1937) (scheme of old age benefits created by Social Security Act is within Congress' enumerated power to spend money in aid of citizens' general welfare under United States Constitution Article I, Section VIII, Clause 1, and therefore not in contravention of police power reserved to states under the Tenth Amendment).

2.2 Particular New Jersey Considerations

Articles IV and V of the New Jersey Constitution contain most of the provisions regarding the structure and functions of the State legislative and executive branches and the requirements for enacting legislation. The summaries that follow address some of the more common legislative considerations that arise from the provisions contained in the New Jersey Constitution.

2.2.1 Single-Object Clause

Article IV, Section VII, paragraph 4 of the New Jersey Constitution states: "To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that object shall be expressed in the title." Thus, legislation enacted in New Jersey, unlike federal legislation, is required to address only one subject.

The provision has two main purposes. First, to prevent frauds upon legislative action by means of uncertain, misleading, or deceptive titles to statutes; the members of the Legislature should be given notice of the subject to which an act relates and the public informed of the kind of legislation under consideration. Second, the provision prevents the legislative practice of "logrolling," whereby a weak or unpopular measure is coupled with an unrelated popular one to facilitate its passage. Cambria v. Soaries, 169 N.J. 1, 11, 18 (2001); State v. Zelinski, 33 N.J. 561, 565 (1960).

All that is required under the Single-Object Clause is that legislation not be so incongruous that it could not, by any fair review, be considered germane to one general subject. The subject may be as comprehensive as the Legislature chooses to make it, provided it constitutes, in the

constitutional sense, a single subject, and not several. New Jersey Ass'n on Correction v. Lan, 80 N.J. 199, 214-215 (1979).

2.2.2 Requirement for Amending Statutes / Repealing Portions of Text

Article IV, Section VII, paragraph 5 of the New Jersey Constitution requires that a bill amending a section of law include the full text of the section, with the amendments indicated. The paragraph states that "No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length."

Helpful Hint: This constitutional requirement means that when dealing with a repealer bill, in which the previously enacted legislation to be repealed contained both supplementary and amendatory sections, the full text of those amendatory sections must be included in the body of the bill, showing, with **[**brackets**]** and underlines, how the repealer will undo what was changed by the previous legislation. The use of a general, singular repealer clause ("P.L.2011, c.123 is repealed.") is not sufficient to pass constitutional muster under the New Jersey Constitution when addressing legislation that included both supplemental and amendatory sections. For further drafting guidance and examples, see ***5.10**.

2.2.3 Special Legislation

Article IV, Section VII, paragraphs 7 through 10 of the New Jersey Constitution address the concept of special legislation. Special legislation is the term used to describe laws that possess a private, special, or local character and are expressly intended to affect one or several named persons, entities, or local governmental units. These types of laws present unique concerns because of the several drafting requirements and restrictions established by the New Jersey Constitution that do not apply to the preparation of legislation generally.

Article IV, Section VII, paragraph 7 provides, "No general law shall embrace any provision of a private, special or local character." Paragraph 8 requires that "No private, special or local law shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given," and provides for the Legislature to establish such added notice requirements through legislation. Paragraph 9 sets forth a list of subjects which the Legislature may not consider through special legislation, leaving such matters to be addressed only through the enactment of general laws; among the topics forbidden for enactment via special legislation: changing venues in civil or criminal causes; changing terms, benefits, or tenure rights for any public officer or employee; and altering tax obligations or exemptions. Finally, paragraph 10 addresses considerations regarding special legislation to regulate the internal affairs of a municipality or county, which must originate with a petition to the Legislature by the appropriate local governing body for the Legislature to take such action.

An enacted law may be deemed by a court to be a form of special legislation, even though not enacted by the Legislature under the constitutional procedures set forth for special legislation. The general basis for the court's determination is whether the law arbitrarily separates some persons, places, or objects from others upon which, but for the law's apparent arbitrariness, it would otherwise operate. The New Jersey Supreme Court has established a three-part test, known as the Vreeland test, to determine whether a law constitutes special legislation.

As established in Vreeland v. Byrne, 72 N.J. 292, 300-301 (1977), the court must first discern the purpose and object of the legislative enactment. Next, it must apply the enactment to the facts of a presented case to determine whether any parties are similarly situated to those embraced within the legislation but who, by the terms of the enactment, are excluded. Finally, the court must decide whether, with respect to this resulting separate classification, it can be said to satisfy the lowest, rational basis standard of court review. Phillips v. Curiale, 128 N.J. 608, 627 (1992). Thus, general legislation which arbitrarily excludes parties who should be included, i.e., the legislation possesses no rational basis for their separate classification, fails the Vreeland test and represents unconstitutionally enacted special legislation.

2.2.4 Unfunded Mandates

Article VIII, Section II, paragraph 5 of the New Jersey Constitution protects counties, municipalities, and school districts from being required by State legislation to undertake additional or expanded activities unless the State provides funding to offset the cost of those activities: "[A]ny . . . law . . . determined in accordance with this paragraph to be an unfunded mandate upon boards of education, counties, or municipalities because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for [its] implementation . . . shall . . . cease to be mandatory in its effect and expire." As the doctrine mandates State funding for the implementation of State policy, it is sometimes referred to as "State mandate-State pay."

The New Jersey Constitution, in that same paragraph, names a Council on Local Mandates to adjudicate complaints of unfunded mandates presented by local governing units. If legislation is determined by this council to be an unfunded mandate, it will no longer be effective and will expire pursuant to the dictates of the constitutional provisions.

The unfunded mandate requirement is applicable to all legislation enacted on or after January 17, 1996. However, there are six express categories of law listed in Article VIII, Section II, paragraph 5 that are not considered unfunded mandates, and therefore do not give rise to actionable objections concerning any lack of State funding. These categories are: 1) mandates required to comply with federal laws or rules to meet eligibility standards for federal entitlements; 2) mandates imposed upon both government and non-government entities in the same or substantially similar circumstances; 3) mandates which repeal, revise, or ease existing mandates, or which reapportion the costs of activities between local governing bodies; 4) mandates stemming from a failure to comply with previously enacted statutes, rules, or regulations; 5) mandates implementing provisions of the New Jersey Constitution; and 6) mandates enacted after a public hearing concerning such mandates, and passed by a three-fourths majority of the members of each House of the Legislature.

CHAPTER 3 BACKGROUND FOR BILL DRAFTING

3.1 Organization of New Jersey Statutory Law

The statutory law of New Jersey is arranged by two methods: chronological and topical.

3.1.1 Chronological Arrangement

Pamphlet Laws: Each enacted law is published in pamphlet form and numbered consecutively during the annual session. At the conclusion of each annual session, the laws are bound together and published in a volume of Pamphlet Laws (P.L.). Each law is referred to as a Chapter Law (c.) because it is considered a chapter in the annual volume. For example, during the two-year term of 2010-2011, P.L.2010, c.6 was the sixth law enacted during the first annual session and P.L.2011, c.6 was the sixth law enacted during the second annual session. The annual volumes of Pamphlet Laws are available in each OLS section, the OLS Library, and the State Library.

Helpful Hint:
As provided by the New Jersey Constitution, each annual session runs until the second Tuesday of January of the following year. Laws are numbered according to the annual session in which they were enacted, not the calendar year. For example, P.L.2009, c.187 was enacted on January 12, 2010.

The bound volumes of Pamphlet Laws are the official source for the text of each enacted law; however, they will not show any subsequent changes to the law. The current official text of a P.L. may be accessed through the computerized New Jersey Statutes database. While other sources may provide the text of New Jersey's statutes, they are unofficial versions. (See *3.1.5.) This distinction is critical in the preparation of legislation to amend an existing statute because the official text must be used in order to ensure that the bill incorporates current and correct statutory language.

Advance Laws: Because there is a time lag between the enactment of a law and its publication in pamphlet form, an interim Advance Law is issued. An Advance Law is simply the enacted bill, complete with any markings applied during the legislative process, and with the approval date, Chapter Law number, and allocation information, as appropriate, above the bill number and reprint information. (Markings include [brackets] to show deletions, underlining to show additions or amendments, and 'superscript numerals' to show the order in which amendments were adopted.) Any such markings are eliminated when the law is published in final form as a Pamphlet Law. The OLS Library has a bound set of Advance Laws, also called "Laws in Bill Form," from 1938 to the present.

Below is an example of the approval date, the Chapter Law number, and allocation information, including a new chapter 16 in Title 2C, as shown on the first page of an Advance Law.

Title 2C.
Chapter 16.
Bias Crimes. (New).
§1 - N.J.S.2C:16-1

P.L. 2001, CHAPTER 443, ***approved January 11, 2002***
Senate Committee Substitute ***(First Reprint)*** for
Senate, No. 1897

3.1.2 Topical Arrangement

Revised Statutes: The laws of New Jersey are classified by subject matter in accordance with the topical arrangement established in the Revised Statutes (R.S.). The Revised Statutes codified, revised, and rearranged the law as of the date of enactment in 1937.

The modern framework for the topical indexing of the Revised Statutes is divided into topics known as *Titles* that are organized alphabetically by subject and numbered from 1 through 58, with Appendix A (discussed below). Each Title is further divided into numbered *chapters* that are in turn subdivided into numbered *sections*. (The use of the term "chapter" should not be confused with the Chapter Laws. See *3.1.1.) This system provides each section of law with a unique reference number. For example, the citation R.S.15:5-6 refers to the 6th section of chapter 5 of Title 15 of the Revised Statutes.

New Jersey Statutes: As new laws have been enacted since 1937, the topical index has been expanded with new Titles. The purpose of a new Title is either to add a new category of law to the array of subject Titles, such as the Income Tax (Title 54A) and the Uniform Commercial Code (Title 12A), or to revise and replace all or part of an existing Title of the Revised Statutes, such as the Titles dealing with Education (Title 18A) and the Criminal Code (Title 2C).

It is important to note that a distinction has been maintained between those sections of law enacted as part of the Revised Statutes in 1937 and the laws that have been added since then. The 16 Titles enacted or revised since 1937 are not part of the Revised Statutes; rather they are referred to as the New Jersey Statutes. Except for Title 59, all Titles of the New Jersey Statutes are designated by number and letter. Each new Title is enacted as a separate Chapter Law, and its official version is found in the edition of the Pamphlet Laws for the year of its enactment.

Appendix A: This appendix, designated as "Emergency and Temporary Acts," follows Title 59 and was included as Appendix A to the Revised Statutes when they were rearranged and recodified in 1937. The explanatory note to Appendix A in the Revised Statutes advises, "The acts contained in this appendix have been compiled without change in wording. They are of such nature and duration that it is not believed desirable to include them in the revision proper."

Originally consisting of eight chapters, Appendix A has been amended and supplemented periodically. For example, chapter 9 was added during World War II and concerns national defense and the emergency powers of the Governor. More recently, laws concerning domestic security have also been added to chapter 9. As with the Revised Statutes and the New Jersey Statutes, the laws in Appendix A are arranged by section and chapter number. The correct form for citing Appendix A is shown in *7.9.3.

Compilation Numbers for Pamphlet Laws: A new general and permanent law that does not amend or add a new category to existing law must be integrated into the topical framework. The Legislative Counsel assigns it a number, known as a compilation number (C.) in the topical arrangement. For example, P.L.2003, c.9 (C.54A:6-30) has been compiled based on its topic into chapter 6 of Title 54A. Put another way, "C.54A:6-30" tells where the Pamphlet Law has been placed in the topical arrangement. For more information concerning compilation numbers, see *4.5 and *5.1.6.

Only those laws that are general and permanent in nature are assigned a compilation number and given a place in the topical arrangement. Laws that are of a temporary, private, special, or local character, or an appropriation are neither assigned compilation numbers nor compiled in the topical arrangement, but can still be found in the published Pamphlet Laws. (See *10.4.)

3.1.3 Official Version of the Statutes

The result of maintaining a distinction between the Revised Statutes and all other laws enacted since 1937 is that the official version of New Jersey laws is in three forms:

1. Revised Statutes;
2. New Jersey Statutes; and
3. Pamphlet Laws.

These three sources are not combined into one official publication; however, the New Jersey Statutes Database does provide an official text which includes and integrates the general and permanent statutes from the three sources, plus Appendix A, but does not include temporary, private, special, local, or appropriation Pamphlet Laws. As discussed above, it is this database which should be used in drafting a bill which amends existing law. (For information about searching the Statutes Database, see *4.2.3.)

3.1.4 Table of Contents to the Laws of New Jersey

The Legislative Counsel's Table of Contents (LCTOC) follows the topical arrangement of the statutes and indicates which statutes have been amended, supplemented, or repealed since 1937. It is available on the OLS computer system and serves as a current guide to the source of the official text of every section of law since 1937.

Some examples from the LCTOC for Titles 4 and 44 illustrate how it works:

Example 1:

R.S. 4:13-2 amended 1966, c.286, s.2.
C. 4:13-2.1 1966, c.286, s.3;
amended 1971, c.324, s.1.

R.S.4:13-2 amended 1966, c.286, s.2.
The R.S. designation indicates that the statute in this entry was enacted as part of the Revised Statutes in 1937. The original text is located in Title 4, chapter 13, section 2 of the Revised Statutes. This section of law was later amended by section 2 of P.L.1966, c.286. The current official text as amended is located at section 2 of chapter 286 of the 1966 volume of the Pamphlet Laws.

C.4:13-2.1 1966, c.286, s.3; amended 1971, c.324, s.1.
This entry is a section of law that was added by section 3 of P.L.1966, c.286. Because it was topically related to the material in R.S.4:13-2, this section was compiled to follow that section, with a compilation number of C.4:13-2.1. This section of law was subsequently amended by section 1 of P.L.1971, c.324 and the current text is found in section 1 of chapter 324 of the 1971 volume of the Pamphlet Laws.

Example 2:

R.S. 44:8-1 to 44:8-31 repealed 1940, c.183, s.5.
C. 44:8-104 1941, c.34, repealed 1997, c.38, s.17.

R.S.44:8-1 to 44:8-31 repealed 1940, c.183, s.5.
This entry shows sections of law enacted as part of the Revised Statutes in 1937 and subsequently repealed by section 5 of P.L.1940, c.183.

C. 44:8-104 1941, c.34, repealed 1997, c.38, s.17.
This entry is a section of law that was added by section 1 of P.L.1941, c.34, and repealed in 1997 by section 17 of P.L.1997, c.38. (Note: As in P.L.1941, c.34, when LCTOC does not indicate the section number, section 1 is implied.)

Tables of public validating acts, temporary and local acts, and temporary and executed acts adopted since the enactment of the Revised Statutes and a list of amendments to the New Jersey Constitution can be found at the end of the LCTOC.

3.1.5 Unofficial Version of the Statutes: New Jersey Statutes Annotated

The New Jersey Statutes Annotated (N.J.S.A.) is an unofficial version of all of the general and permanent laws of New Jersey, arranged topically and published by West Publishing Corporation, a Thomson Reuters business (commonly referred to as "West" or the "green books"). West identifies all sections of law with the prefix N.J.S.A. regardless of their official source. The N.J.S.A. volumes are updated annually with pocket parts or supplemental pamphlets that contain revisions in the laws enacted since the publication of the bound volume. N.J.S.A. is widely used even though it is not an official version of the statutes.

In addition to the text of the statutes, N.J.S.A. also provides annotations of significant court decisions, selected Attorney General opinions, legislative committee statements, cross references to other sections of law, and other reference material.

N.J.S.A. is available in bound volumes in each OLS section and in the OLS and State Libraries. Another unofficial annotated version of the New Jersey Statutes is available through the LexisNexis online research system. Neither the bound volumes, including the pocket parts, nor the online version of N.J.S.A. will be as up-to-date as the New Jersey Statutes database or LCTOC. For this reason and because it is not the official version, N.J.S.A. or LexisNexis should never be used for bill drafting.

3.2 Location and Organization of Federal Statutory Law

Upon enactment, federal bills are compiled in the United States Code (U.S.C.). The Titles of the U.S.C. are organized by subject matter. The number in front of U.S.C. is the Title number, and the number following it is the section number. For example, 42 U.S.C. §9601 is a citation to section 9601 of Title 42 of the United States Code. The § stands for "section" but is no longer used by OLS in drafting. The correct form for citing federal laws is discussed in *7.9.4.

The unofficial version of the federal code is the United States Code Annotated (U.S.C.A.) published by West. It is cited in the same manner as the U.S.C. Hardbound volumes of the U.S.C.A. are available in the OLS and State libraries; the online version is available through LexisNexis. U.S.C.A. contains many annotations of a similar nature to those available in the N.J.S.A.

3.3 State and Federal Administrative Regulations

An administrative agency is typically an agency of the executive branch charged with administering and enforcing a law. Delegation of authority to an agency is constitutionally acceptable as long as the agency is given sufficient guidelines and carries out its duties within the limits of its authorization. The New Jersey Motor Vehicle Commission and the New Jersey Department of Environmental Protection are examples of State administrative agencies. The Internal Revenue Service and the United States Environmental Protection Agency are examples of federal administrative agencies.

Administrative agencies are usually authorized to adopt regulations as necessary to carry out the purposes of the law that the agencies are charged with administering. State administrative agencies must follow the procedural requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) when adopting regulations unless otherwise provided by statute. Regulations proposed and adopted by State administrative agencies are published in the New Jersey Register.

Regulations adopted by State administrative agencies have the force of law and are compiled in the New Jersey Administrative Code (N.J.A.C.). Regulations of federal administrative agencies are compiled in the Code of Federal Regulations (C.F.R.). Both codes are organized by subject matter. The N.J.A.C. and New Jersey Register are available in hard copy in the OLS and State Libraries. The C.F.R. and the Federal Register are available in hard copy in the State Library. Both administrative codes and registers are also available online through LexisNexis.

3.4 Reference, Research, and Drafting Services and Materials

3.4.1 Office of Legislative Services Library

The OLS Library maintains an extensive collection of legal, legislative, and government documents; general research and reference resources; and newspapers and periodicals. The collection includes reference materials of New Jersey's constitutional, legislative, and political history, from colonial times to the present. It also has access to online databases.

In addition to providing general and legislative research services, the OLS Library operates a legislative news clipping service. Articles are distributed daily in packets to OLS and partisan staff and are scanned into an online database that is accessible to OLS, partisan, and district office staff. The database is searchable by subject, keyword, date, newspaper, headline, and journalist name and includes articles from June 1997 to the present. News clippings from 1984 to 1997 are archived on microfilm.

3.4.2 New Jersey State Library

The New Jersey State Library, which is located next door to the State House Annex, has an extensive collection of federal and State documents and publications, general reference materials, periodicals, business resources, online databases, and a law library. The State Library is a selective depository for U.S. documents. The law library also contains the statutes and court decisions of every state. The State Library's web site is www.njstatelib.org.

3.4.3 Office of Legislative Services Intranet

The OLS Intranet site, maintained by the OLS Library, provides OLS, partisan staff, and district offices with access to full text reports, web sites, [redacted] Governors' Executive Orders, Reorganization Plans, Attorney General Formal Opinions, and many other useful resources.

3.4.4 LexisNexis

OLS staff members have access to LexisNexis databases. The databases include state and federal statutes, administrative regulations, and court decisions, as well as a comprehensive collection of law reviews, newspapers, and journals. For questions or training on LexisNexis, contact the OLS Library.

3.4.5 Bills from Prior Sessions

During the preliminary stages of drafting, it may be helpful to research whether the same or similar legislation has been drafted during a previous session. The Legislative Inquiry database on OLS computers contains all bills from the 1988-1989 session to the present. The database can be searched by bill number, sponsor, subject heading, synopsis, and other categories. A hard copy publication known as the Bill Guide provides a list of all bills introduced during a given time frame indexed by subject heading, sponsor, and bill number. The Bill Guide is distributed to each OLS section.

All bills introduced since 1937 and their histories are available on microfilm in the OLS Library; bills introduced since 1838 and their histories are available in the State Library.

3.4.6 Laws and Bills of Other States and Congress

The National Conference of State Legislatures (NCSL) web site (www.ncsl.org) and staff can be very helpful in tracking issues that are developing in other states and providing links to bills in other state legislatures. Most states have web sites that provide access to bills of recent and current sessions. The laws of other states are available through LexisNexis, the OLS library, the State Library, and the OLS Intranet site. Bills pending in the 50 states are accessible through LexisNexis. The Intranet site has links to states' web sites through "OLS Library Resources" under "OLS Bookmarks" by selecting "Top Research Sites for Legislative Staff," the heading of "States," and "State and Local Government on the Net."

The Library of Congress provides information on the Internet about bills in Congress at a site called THOMAS named after Thomas Jefferson. The web site is thomas.loc.gov.

3.4.7 Uniform and Model Acts

The Uniform Law Commission (formerly the National Conference of Commissioners on Uniform State Laws) drafts uniform and model acts. A uniform act is legislation written for the purpose of promoting uniformity among the states on a particular subject. For example, the Uniform Commercial Code was created with the intent of aiding commerce by encouraging uniformity of state business laws. A model act is intended to be used as a guideline for states to adapt to their particular needs.

Helpful Hint:
Sometimes interested parties such as lobbyists will propose legislation which they label "model legislation." These proposed bills should not be confused with the uniform and model acts described above.

3.4.8 New Jersey Law Revision Commission

The New Jersey Law Revision Commission, established by P.L.1985, c.498 (C.1:12A-1 et al.), is authorized to conduct "a continuous revision of the general and permanent statute law of the State" in order to remedy defects, reconcile conflicting provisions, clarify confusing provisions, excise redundant provisions, and develop improvements. The commission is made up of the chairpersons of the Senate and Assembly Judiciary Committees, the Deans of Rutgers School of Law-Newark, Rutgers School of Law-Camden, and Seton Hall Law School, and four attorneys.

The commission meets regularly in its offices in Newark and periodically issues suggested statutory revisions. More information on the work of the Law Revision Commission, including reports and suggested revisions, may be found at its web site, www.lawrev.state.nj.us.

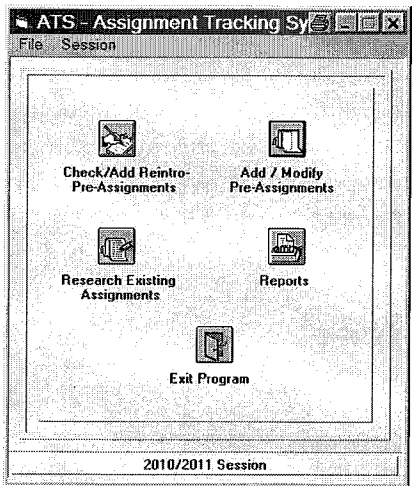
CHAPTER 4 PRELIMINARY DRAFTING CONSIDERATIONS

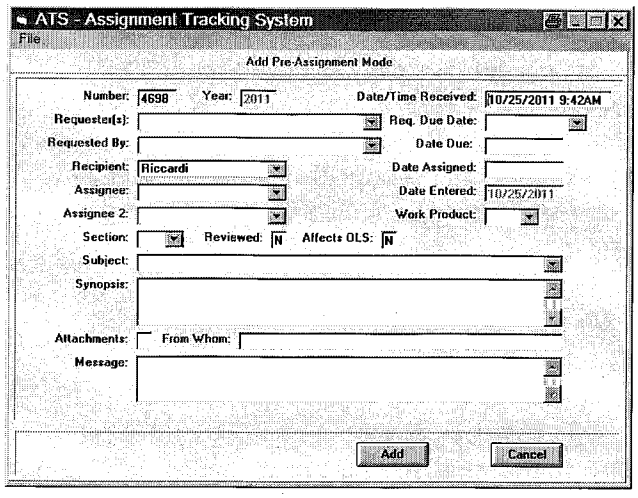
4.1 Workflow

Each drafter should be familiar with the steps involved in bill preparation by OLS, from receipt of a request for a bill draft through delivery to its sponsor. These steps are summarized below.

Bill Request: Bills can be requested directly by the sponsor, by the sponsor's district staff, and by other appropriate persons, such as partisan staff. Requests can be taken by telephone, mail, e-mail, fax, by messenger, or in person. Assignments may be received by the Central Management Unit (CMU) or received directly by a section.

Once a request is taken, it is entered into the CMU Assignment Tracking System. The Assignment Tracking System automatically gives the request a unique assignment number for the current legislative session.





The request is assigned to a CMU section and sent to the Section Chief for assignment to a CMU section professional.

Helpful Hint:
It is very important to check the Assignment Tracking System for duplicate assignments. For assistance in using the system, see the Section Secretary or Section Chief.

Sometimes the request is for a reintroduction of a bill. The term "reintroduction" refers to the introduction of a bill from a previous session or the introduction of a bill currently pending in the other House. CMU maintains a Reintroduction Log to track requests for reintroductions and CMU must be called to find out whether the bill has been requested by another legislator in the same House and to log it into the Reintroduction Log. If it has been previously requested for the same House, inform the requester of the previous request. If uncertain about how to proceed, check with a senior staff member.

Tracking: Bill requests may be tracked through the CMU Assignment Tracking System and the Reintroduction Log, as appropriate.

With respect to tracking the work done on each bill drafting assignment, it is the assignee's responsibility to note each step of the bill preparation process in the assignment file so that anyone reading the assignment file can see what work has been done on the assignment and whether a work product has been given to the requester.

Drafting the Bill: At this point the drafter completes the initial draft, which is subject to revision following substantive and technical review. Once the draft has been approved in the section it is forwarded to the requester, who may ask for additional changes.

Substantive Review: Once a draft of the bill is completed, a second member of the CMU section acts as a substantive reviewer (SR), and assesses whether the work represents a thorough, clear, and accurate response to the request. (See *8.1.1.)

Technical Review: A third member of the CMU section acts as a technical reviewer (TR), and checks the drafter's work for errors, oversights, and deviations from standard form. The technical reviewer checks the accuracy of statutory references, checks the bill draft's title and synopsis, and proofs the draft against current law. Depending on the CMU section, the Section Chief may perform the substantive review and technical review. (See *8.1 and *8.2 for more detail.)

Editing and Revisions: The drafter transfers editing changes to the bill draft by the SR and TR into the electronic document.

Bill Draft to Requester: The drafter sends the draft to the requester for approval. The requester may direct the drafter to make changes to the draft before it is introduced. When the requester is satisfied with the draft, the requester usually asks that introductory copies of the bill be prepared.

Preparing and Delivering Introductory Copies: Secretaries in the CMU section make introductory copies of the bill. (See *1.2.1.) The drafter delivers the bill to the sponsor or the requester, as instructed. It is very important to note the time and manner of delivery in the assignment file.

House Action: The sponsor submits the bill to the Secretary of the Senate or the Clerk of the General Assembly for introduction. The bill is numbered and subsequently introduced to begin the legislative process. (See *1.2.)

4.2 Getting Started

4.2.1 Purpose and Scope of Request

Before drafting a bill, the drafter must determine what the sponsor wants to accomplish:

- What is the issue that needs to be addressed?
- What is to be changed or accomplished by this legislation?
- Who will be affected by the bill?

At the outset, the drafter may wish to speak with the person who made the request to clarify the nature of the request and to ask for the name of a person who can be contacted in case questions arise during the drafting process. The sponsor may prefer that the drafter contact an aide, a member of partisan staff, a lobbyist, a constituent, or another person or entity. The drafter should raise any questions and concerns about the assignment as early as possible during the process. The drafter should review the Administrative Code for pertinent or related regulations. It also may be beneficial to consult with the State agency responsible for administering a program proposed by the bill. Of course, in light of the confidentiality of all drafting requests, the drafter may contact only persons authorized by the sponsor.

Important Note: Under the provisions of section 17 of P.L.1979, c.8 (C.52:11-70), all communications between legislators and OLS staff are confidential. Unless authorized by the legislator, OLS will not disclose to a third party either the nature of an assignment or the name of the legislator requesting the information.

> 52:11-70. Request for assistance, information or advice, confidential.
>
> All requests for legal assistance, information or advice and all information received by the Office of Legislative Services in connection with any request for fiscal, budgetary or research service or for the drafting or redrafting of bills, resolutions or amendments thereof for introduction in the Legislature shall be regarded as confidential and no information in respect thereto shall be given to the public or to any person other than the person or persons making such request or any officer or person duly authorized to have such information, unless and until the person making such request consents thereto or the subject matter thereof shall have been made public in some manner.

As drafting proceeds, the drafter will need to work out the details of the bill, in consultation with the sponsor or the sponsor's designee when necessary. For example:

- If the bill creates a new program, what agency should administer the program? Does the administering agency need rule-making authority? How will the new program be funded? Does the new program or activity generate fees to be applied to its administration?
- Is an appropriation necessary to implement the bill? If so, from what source? Which department/office/agency should receive the funding?

- Does the bill create or change the classification of a criminal offense? If so, what will the new penalties be? Are they consistent with the penalty scheme in the Criminal Code? Will the bill impose mandatory minimum terms or increased fines?
- Does the bill need a civil enforcement and penalty provision?
- When will the bill become effective? To whom or what will the bill apply?
- Is the sponsor's intent for the legislation to apply retroactively?

Frequently, the sponsor does not give explicit instructions, nor can the drafter anticipate every policy question that will arise in the course of drafting the bill. If the instructions are incomplete, the drafter must analyze the sponsor's objective and the various means by which that objective can be accomplished. As the drafting of the legislation proceeds, additional questions may arise and subsequent conferences with the sponsor or the sponsor's designee may be necessary.

Helpful Hint:
A bill request may be accompanied by a draft prepared by a lobbyist, a State agency, or other entity. The person taking the assignment request should ask who prepared the draft and note this information in the assignment file. In such cases, the drafter may need to be particularly careful to ensure that the prepared draft does not have substantive or technical errors, and may need to consult frequently with the person who prepared the draft in order to carry out the requester's intent.

4.2.2 Checking for Other Work on the Subject

The drafter may benefit from previous work on the subject:

- Have bills been introduced on the subject in prior legislative sessions or in the current session?
- Is there a model act or uniform act on the subject? (See *3.4.7.)
- Do any other states have similar legislation or similar enactments? (See *3.4.6.)

The drafter should be sure to check for similar assignments in the Assignment Tracking System, because a colleague may have done research work on a subject that did not lead to draft legislation, or drafted a bill which was never introduced.

4.2.3 Statutory Database

Drafters are strongly advised to check the New Jersey Statutes database, accessed through the Legislative Applications program, at the outset of an assignment. Researching the applicable portions of the statutes database will not only help the drafter to become familiar with the area of law that the assignment deals with, but such research is essential in determining whether, and to what extent, existing law should be amended, repealed, or supplemented.

Helpful Hint:
Never search for references to a specific statute in the New Jersey Statutes database with just the statute section number because your search results might not include all instances of the section. Statutory citations in the database vary in form; there may or may not be a space between the designation "N.J.S.," "R.S.," or "C." and the statute section number. The database, for example, includes citations to both N.J.S.2A:58-1 and N.J.S. 2A:58-1. The drafter must take this variation into consideration and should search using the asterisk as a "wildcard." Searching for "*2A:58-1" will ensure a complete list of all of the statute sections that refer to this particular section of law. For example, if you search for "2A:58-1" the database will give you 103 hits, but searching for "*2A:58-1" gives you 248 hits.

4.3 Determining the Kind of Legislation Needed

4.3.1 Bills

A bill is the vehicle for undertaking formal action such as establishing a new State program, making an appropriation, authorizing or prohibiting an activity, changing the language in an existing statute, or repealing a section of law. (See *Chapter 5.)

4.3.2 Resolutions

Joint Resolutions: The New Jersey Constitution establishes the same general procedural requirements for passage of a joint resolution as for enactment of a bill into law. A joint resolution is considered to have the effect of a law. A joint resolution is often used instead of a bill when the purpose is of a temporary nature, or for the establishment of a study commission, the expression of an opinion, or the issuance of a ceremonial tribute in which both the legislative and executive branches are participants. (See *6.1.1.)

Concurrent Resolutions: A concurrent resolution is effective upon adoption by both Houses. No action by the Governor is required. A concurrent resolution may be used to: establish study commissions composed entirely of legislators or appointees of the presiding officers; petition Congress to take certain actions (including a petition for a Constitutional convention); issue ceremonial proclamations; or adopt rules of procedure for both Houses. No funds may be appropriated in a concurrent resolution. (See *6.1.2.)

A concurrent resolution is also the form used for proposing amendments to the New Jersey Constitution (see *10.1) and for ratifying amendments to the U.S. Constitution.

One-House Resolutions: A Senate or Assembly resolution (also called a "simple resolution") is the format by which one House expresses its policy or opinion, regulates its internal organization or procedures, or establishes a study committee under the sole jurisdiction of that House. A one-House resolution does not require any action by the other House or by the Governor. (See *6.1.3.)

Ceremonial Resolutions and Commendations: Ceremonial resolutions and commendations are the forms by which either or both Houses honor an individual or organization upon a significant occasion or a notable achievement, or pay tribute to the memory of a decedent. Ceremonial resolutions and commendations are drafted by the OLS Office of Public Information.

4.4 Deciding Whether a Bill Amends, Supplements, or Repeals the Law

4.4.1 Amending

If existing statutes deal with the subject covered by the request and the sponsor's objective can be accomplished by omitting existing language or by adding new language to a section of the law, the bill will take the form of an amendment. (See *5.7.1.)

4.4.2 Supplementing

If existing law cannot be amended or repealed to accomplish what is desired, the bill will take the form of a supplement. New sections should fit into the topical arrangement for statutory laws discussed in *3.1.2. A bill may be entirely amendatory, entirely supplementary, or a mixture of the two. (See *5.7.2.)

4.4.3 Repealing

If the sponsor's objective can be accomplished by eliminating a section of law in its entirety, the bill will take the form of a repealer. (See *5.10.)

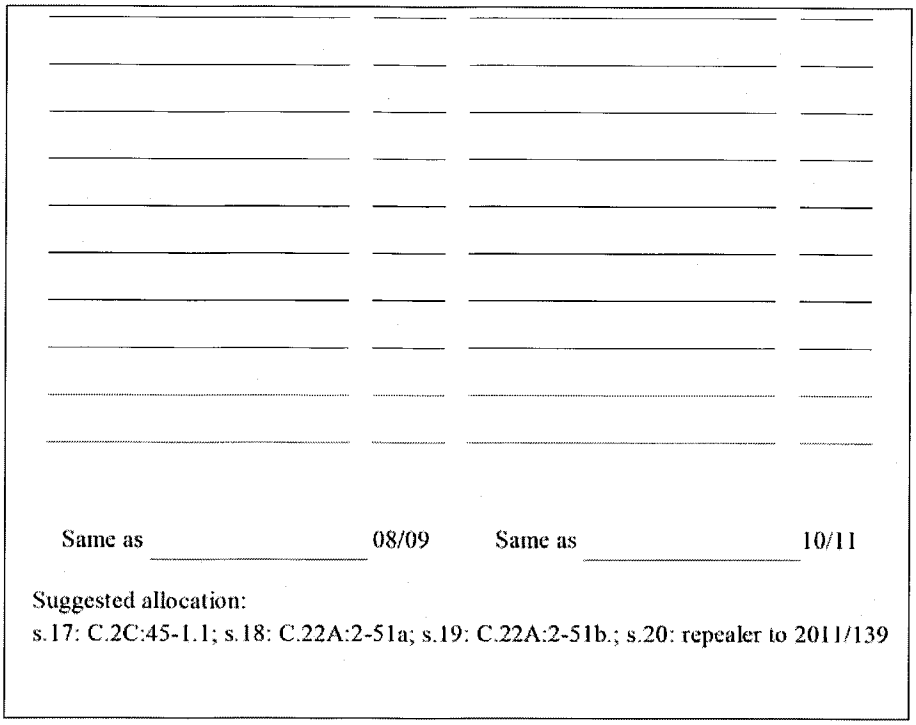
4.5 Allocating Supplementary Provisions Within the Statutory Scheme

Every supplementary section of law, other than those of a temporary or special nature, is assigned a compilation number by the Legislative Counsel upon its enactment. The drafter suggests an allocation for each supplementary section and notes it on the bill fronter. The Legislative Counsel has the responsibility of assigning compilation numbers under R.S.1:3-1 in order to ensure the maintenance of a uniform classification system for the arrangement and numbering of the statutes, as discussed in *3.1.2. (For further information about suggested allocations, see *5.1.6.)

The proper allocation of supplementary material should be one of the first, not one of the last, considerations. A bill should not be drafted and then "plugged in" to the statutes. Rather, the drafter should construct the bill with an initial understanding of the existing statutory scheme and content of the subject at hand. The drafter should take note of the existing definitions,

requirements, penalties, etc. that will apply to the supplementary material. Of course, the supplementary material should be written in a style consistent with that of the existing law.

Each draft of supplementary material must contain suggested allocations as to Title, chapter, and section on the fronter of the OLS copy.



BOTTOM PART OF A BILL FRONTER WITH SUGGESTED ALLOCATIONS

4.6 Structure of a Bill or Resolution

A good preliminary step is to create an outline of the requested draft legislation, based on an analysis of the provisions that will be required in the legislation.

The provisions of bills vary so much in character that it is difficult to establish definite rules for their order except to say that a logical arrangement should be observed. It may be helpful for the drafter to examine recent examples of similar bills or resolutions. When organizing a lengthy bill, break it into several parts. Generally, amendatory sections should appear in order of their compilation number.

4.6.1 Order of Bill Elements

(Note: Not all of these elements will necessarily be needed in a particular bill.)

The usual arrangement of the provisions of a bill, as applicable, is as follows:

(1) Title
(2) Enacting clause
(3) Short title
(4) Legislative findings and declarations
(5) Definitions
(6) New material, if it constitutes the major portion of the bill
(7) Specific amendments to existing law
(8) Enforcement and penalties
(9) Severability or non-severability clause
(10) Rules and regulations clause
(11) Appropriation
(12) Specific repeals
(13) Applicability
(14) Effective date (the effective date and applicability sections may be combined)

4.6.2 Order of Resolution Elements

(1) Title
(2) Preamble ("Whereas" paragraphs)
(3) "Be it resolved" clause
(4) Authentication and distribution provisions
(5) Effective date (if applicable)

5.1 Fronter

The fronter is the first page of a bill. It contains the title, synopsis, signature lines, and other information for bill processing, tracking, and allocation purposes. A fronter must be affixed by a staple in the upper left corner to each bill before introduction. A bill is prepared for introduction by assembling four exact copies, referred to as the House, OLS, Public, and sponsor's copies, on legal size paper (8½" x 14"). (Note: The sponsor's copy does not have a fronter. It is included with the introductory copies for the sponsor's retention and use.) A blue cover, for a Senate bill, or a pink cover, for an Assembly bill, is placed on top of the fronter to the House copy before stapling. The secretary preparing a bill for introduction should write the intended sponsor's name on the upper corner of the cover to assure proper delivery of the introductory copies to that legislator.

After a bill is introduced, it is processed by the Bill Processing Unit (BPU) for inclusion in the OLS Legislative Inquiry database available to drafters and a legislative database available to the public. BPU removes the fronter from the electronic version and replaces it with a new formal fronter containing the House name, bill number, legislative session, date of introduction, list of sponsors, and bill synopsis. A bill that is introduced as special legislation (see *10.4) is required to also have certain exhibits "presented" with the bill.

To create a bill fronter in Word, click the mouse on the "File" menu on the left side of the toolbar. Select "New" from the pop-down menu list, and a window with tabs will appear. Click on the tab labeled "20XX Bill Drafting" (as appropriate for the current legislative session) and then select the type of document to be created. For example, in preparing a bill draft in Word, the document entitled "DraftingShell.dot" would be selected from the list under the "20XX Bill Drafting" tab.

A new window will appear entitled "Create Bill Draft and Fronter Page." Select the type of legislation required (for example, an act, an Assembly resolution, a joint resolution, or a general obligation bond act). Click on the "Amendatory Bill" box if the bill draft will have one or more amendatory sections. This automatically adds the following footer language to the first page of the bill explaining the conventions used to insert or delete language by amendment:

> **EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**
>
> **Matter underlined thus is new matter.**

When the bill draft has an identical counterpart in the current or previous legislative session, indicate that bill number in the "Same As" box. When companion bills for the second House are to be introduced, add an S- or A- in the same as box to alert BPU that there will be identical bills. (For further discussion concerning identical bills see *5.1.5.) Several of the other boxes may be filled in at this time; however, boxes for reviewer drafting numbers are left empty, to be filled in as each review is completed:

- **Typist's initials**
- **Drafter info** (the drafter's section designation and drafting number)
- **SR number** (drafting number of the substantive reviewer) (See *8.1.1.)

- **TR number** (drafting number of the technical reviewer) (See *8.1.2.)
- **BR number** (drafting number of CMU reviewer who performed the ballot question review - only appears in drafting templates containing ballot questions) (See *10.1.2 (constitutional amendments), *10.1.4 (other voter approved legislation), and *10.6.2 (general obligation bond acts).)
- **DR number** (drafter's recommendations for certifications for fiscal note and for review by the Pension and Health Benefits Review Commission and Sales and Use Tax Review Commission) The possible DR values are:

"**F**" certifies for fiscal note only;

"**P**" certifies for Pension and Health Benefits Review Commission (PHBRC) only [redacted]

"**B**" certifies for both fiscal note and PHBRC;

"**S**" certifies for both "Sales and Use Tax Review Commission" [redacted] and fiscal note; and

"**N**" no certification for fiscal note, PHBRC, or Sales and Use Tax Review Commission.

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BPU# _____
XX xxx
SR xxx
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DR x
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Date of Intro. _____
Ref. _____

NOTE TO SPONSOR: Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.

AN ACT
(Insert Synopsis)
PRIME Sponsor _____ /

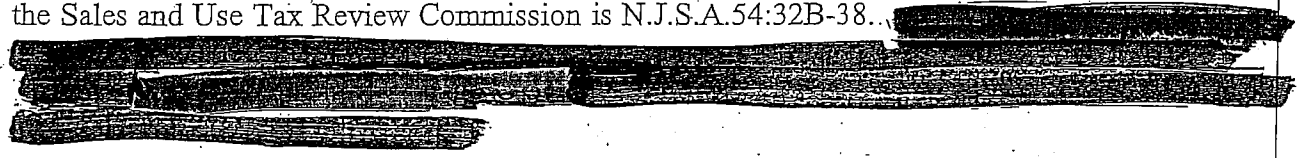
CO-Sponsor	District	CO-Sponsor	District

Same as _____ 08/09 Same as _____ 10/11

Suggested allocation:

BILL FRONTER TEMPLATE BEFORE INFORMATION IS ENTERED

Helpful Hint – Fiscal Notes, PHBRC, and Sales and Use Tax Review Commission:
The determination that a bill is appropriate for a fiscal note is based on the judgment that, pursuant to the directive in N.J.S.A.52:13B-6, a bill "may increase or decrease expenditures or increase or decrease revenues of the State or any political subdivision thereof." A bill that merely appropriates a certain sum or that contains a supplemental appropriation to the budget *does not* get certified for a fiscal note. Also, if the bill permits but does not require agency action, the draft should not certify a bill for a fiscal note. The law requiring certain bills to be certified to the Pension and Health Benefits Review Commission is N.J.S.A.52:9HH-2, and the law applicable to the Sales and Use Tax Review Commission is N.J.S.A.54:32B-38.



If there are doubts as to a bill's appropriateness for fiscal note, pension and health benefits, or sales and use tax certification, check similar legislation from the current and prior sessions to see if any have been determined to meet the requirements for certification as stated in the law. When in doubt, it is better to indicate that a fiscal note is appropriate or that review by the PHBRC or the Sales and Use Tax Review Commission is required.

- **CR number** (indicates which committee the drafter recommends the bill be referred to using the committee's numerical designation that is assigned at the beginning of each two-year legislative term).

The fronter entries for DR and CR are only advisory based on the subject matter and the provisions set forth in the bill. In the case of the DR, the Legislative Budget and Finance Officer reviews all bills and sends notice to the sponsor, committee chairperson, or presiding officer of the House, as appropriate, of the need for a fiscal note or for referral to one of the review commissions. In the case of the CR, the presiding officer of each House is ultimately responsible for directing each bill to an appropriate committee and may refer the bill to a committee other than the one recommended by the drafter.

In Word, when the document information is complete, select "OK." The next window, entitled "Enter AutoSave Information" will automatically insert the drafter's bill drafting number in the "Enter your User ID" box. After the correct directory for storing the document is chosen, select "OK."

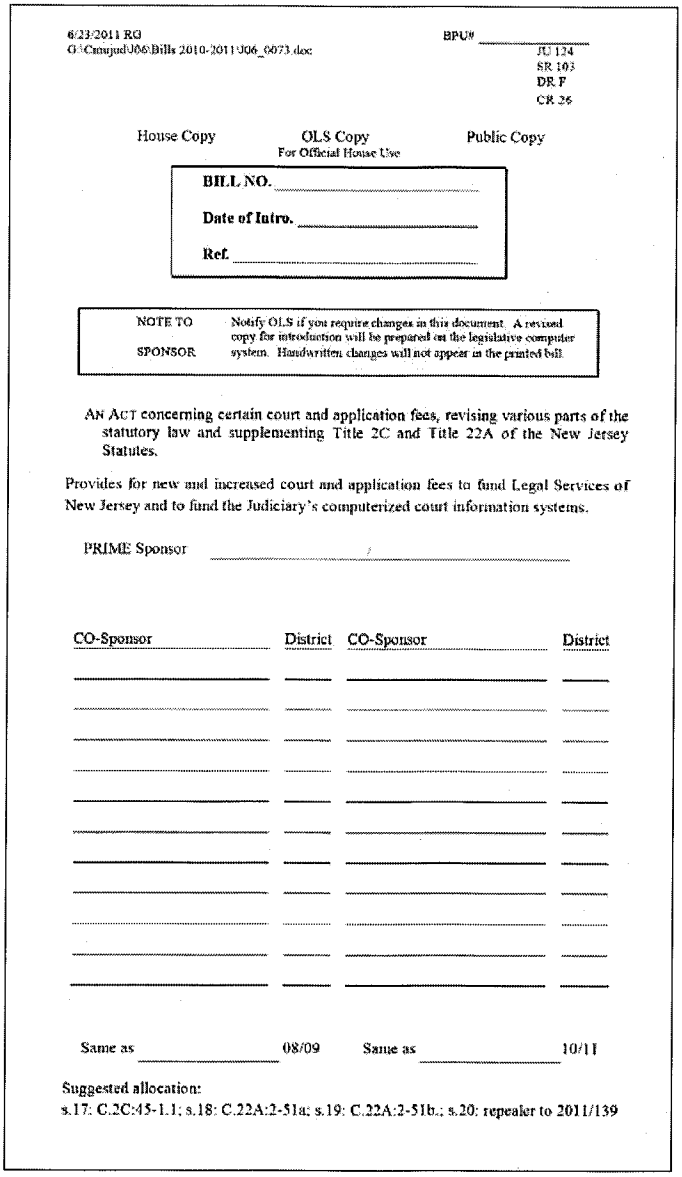
After the above information has been entered, the fronter should contain the following information:

5.1.1 Upper Left-Hand Corner

- Date and typist's initials
- Personal library document ID number

5.1.2 Upper Right-Hand Corner

- **Completed bills library document ID number (BPU number)** (This number will be inserted by a secretary when the completed document is transferred from the drafter's personal library to the CMU section's completed bills library.)
- **Bill drafter's number**
- **SR number** (inserted after completion of the substantive review – see *8.1.1.)
- **TR number** (inserted after completion of the technical review – see *8.1.2.)
- **BR number** (only present when ballot review required, inserted after completion of the ballot review – see *10.1.2 (constitutional amendments), *10.1.4 (other voter approved legislation), and *10.6.2 (general obligation bond acts).)
- **DR** (drafter's recommendations with regard to certifications for a fiscal note and for review by the Pension and Health Benefits Review Commission and Sales and Use Tax Review Commission –
- **CR number** (indicates drafter's recommendation for committee referral based upon the bill's subject matter)



6/23/2011 RG
G:\Cmujud\J06\Bills 2010-2011\J06_0073.doc

BPU# _____
JU 124
SR 103
DR F
CR 26

House Copy OLS Copy Public Copy
For Official House Use

BILL NO. _____
Date of Intro. _____
Ref. _____

NOTE TO SPONSOR: Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.

AN ACT concerning certain court and application fees, revising various parts of the statutory law and supplementing Title 2C and Title 22A of the New Jersey Statutes.

Provides for new and increased court and application fees to fund Legal Services of New Jersey and to fund the Judiciary's computerized court information systems.

PRIME Sponsor _____

CO-Sponsor	District	CO-Sponsor	District

Same as _____ 08/09 Same as _____ 10/11

Suggested allocation:
s.17: C.2C:45-1.1; s.18: C.22A:2-51a; s.19: C.22A:2-51b.; s.20: repealer to 2011/139

BILL FRONTER AFTER INFORMATION IS ENTERED

5.1.3 First Line Above "For Official House Use"

The secretary preparing the introductory copies should circle a different term on each of the three copies to designate where each copy should be sent after introduction (i.e., "House Copy," "OLS Copy," "Public Copy"). The sponsor of the legislation files the introductory copies ("drops the bill") with the Clerk of the General Assembly or the Secretary of the Senate, as appropriate, who transfers the House, OLS, and Public copies to the OLS Bill Processing Unit (BPU) for processing. In the General Assembly, the Clerk assigns the bill a number and transfers the House, OLS, and Public copies to BPU for processing. In the Senate, BPU is responsible for assigning numbers to all legislation. Following the required review work and processing, BPU is responsible for final distribution of the introductory copies to the appropriate House, to CMU, and to OPI (the Office of Public Information, which includes the Bill Room, where the public can retrieve copies of bills).

5.1.4 Under "Note to Sponsor" Box

- Title of bill (See *5.2)
- Synopsis (See *5.13)

The title and synopsis on the fronter must read exactly as they read in the main body of the bill.

5.1.5 Lower Portion of Page - "Same as . . ."

General Information: Complete the "Same as . . ." line when the bill is a reintroduction from the previous legislative session or when there is an identical bill in the other House during the same session. This information allows OLS to easily track reintroductions from session to session, and, in the case of identical bills during the same session, to alert committees when they have pending before them an identical bill from the other House.

With respect to current identical bill draft requests, do not fill in the "Same as" line unless the identical bill currently exists in the other House or is expected to be introduced soon. If the identical bill is expected to be introduced soon, include an S- or A- on the line to alert BPU that an identical companion bill will follow.

Minor Substantive Changes: When a bill draft is derived from another bill that is either currently before the Legislature or is a reintroduction from a previous session and contains only a minor substantive change from that other bill, the drafter adds "w/c" (with changes) after the number of the other bill on the "Same as" line.

Technical Changes: If making technical corrections or changes to a bill that is before the other House or from a previous session, the drafter *should not* indicate "w/c" on the "Same as" line on the fronter. Technical corrections or updates of a section of law to make it current are not indicated by "w/c." A good rule to follow is that, if the new bill could still be merged with the old bill after the changes, then do not indicate "w/c." Any question about whether adding "w/c" is appropriate should be addressed to the Section Chief or to a senior staff member.

Helpful Hint:
Because BPU identifies bills with identical synopses and lists them as identical in Legislative Inquiry, the drafter should avoid using identical synopses for two bills unless they are identical.

5.1.6 Bottom of Page – Suggested Allocation

While developing a bill, the drafter must consider how any new statutory provisions will fit into the existing topical and numerical arrangement of the statutes. A law does not exist in a vacuum. It must be interpreted in the context of all other laws, and its codification should place it in proximity to the laws with which it is substantively related. For example, a law concerning the operation of motor vehicles should be allocated to Title 39 (Motor Vehicles and Traffic Regulation) and not Title 27 (Highways).

The choice of where to allocate a new section of law is not always obvious. Some material might just as logically belong within one Title as another; a bill might contain a general provision which applies to a number of different Titles; or it might consist of a number of sections which could each be assigned to separate Titles. The manner in which the bill is drafted may dictate one allocation over another, even though that allocation may not be the most useful for researchers. It is important to keep in mind the practical effects of a bill's internal construction.

The drafter must recommend an allocation for all of the various non-amendatory sections of the bill in the suggested allocation box on the bill's fronter using the following conventions:

- ***Substantive or Operational Section***: The section should be assigned an allocation in the permanent statutes.

  Suggested allocation:
  ss.2–4: C.2C:26-3.1 to 2C:26-3.3

- ***Private and Local Sections or Acts***: P & L (See *10.4)

  Suggested allocation:
  s.10: P&L

- ***Rules and Regulations Sections***:

  1) If the section contains a standard "boilerplate" rules and regulations clause, the drafter should not provide any designation in the suggested allocation box on the fronter. The designation of a rules and regulations section simply as "APA," sometimes used in the past, is no longer recommended.

  2) If, however, the section directs specific action concerning the rules and regulations to be promulgated, the drafter should suggest an allocation to the permanent statutory law as is done with substantive and operational sections of the bill. (See *5.9.)

  Suggested allocation:
  s.4: C.10:4-24

- ***Temporary and Executed Sections or Acts***: T & E (See *5.7.3.)

  Suggested allocation:
  s.8: T&E

- ***Appropriation Section***: Approp.

  Suggested allocation:
  s.5: Approp.

- ***Repealer Section***: Repealer (See *5.10.)

  Suggested allocation:
  s.7: Repealer

- ***Validating Sections or Acts***: Val. (See *10.5.)

  Suggested allocation:
  s.9: Val.

- ***Effective Date Section:***

  1) If the section contains a simple effective date (immediately, after a certain number of days, or on the first day of a month following enactment), the drafter should not provide any designation in the suggested allocation box on the fronter. The designation of an effective date section simply as "Eff. date" is no longer recommended.

  2) If the effective date is not to be allocated, but presented as a note to a particular section or sections, use the format: "Eff. date and Note to" (see the Helpful Hint below and see *5.7.3):

     Suggested allocation:
     s.6: Eff. date and Note to sections 1 – 5

  3) If the drafter recommends that the effective date be allocated to the permanent statutory law, the drafter should suggest an allocation to the permanent statutory law as is done with the substantive and operational sections of the bill:

     Suggested allocation:
     s.6: C.14:5-7.6

Helpful Hint:
Although notes are not compiled in the New Jersey Statutes Database, the drafter may use a "Note to" designation in the suggested allocation box on the fronter, to cross-reference: (1) other sections in the bill that will be allocated to the permanent statutes; or (2) related existing sections of law. These notes will appear as an aid to researchers in LexisNexis and the N.J.S.A. series.

Example (suggested allocations):

AN ACT concerning driver's licenses, amending various parts of the statutory law, supplementing Title 39 of the Revised Statutes, and making an appropriation.

Suggested allocation:
s.4: C.39:3-10f4; s.15: C.39:3-10f5; s.16: Approp.; s.17: T&E & Note to C.39:3-10f1; s.18: Eff. date & Note to s.1-17 to 2001/390

Example (suggested allocations to multiple titles):

AN ACT concerning health benefits coverage for certain therapies for the treatment of autism and other developmental disabilities and supplementing various parts of the statutory law.

Suggested allocation:
s.1: C.17:48-6hh; s.2: C.17:48A-7ee; s.3: C.17:48E-35.32; s.4: C.17B:26–2.1bb; s.5: C.17B:27-46.1hh; s.6: C.17B:27A-7.15; s.7: C.17B:27A-19.19; s.8: C.26:2J-4.33; s.9: C.52:14-17.29o; s.10: C.52:14-17.46-6a to 2009/64

Assigning Compilation Numbers: Usually, new supplementary sections are allocated within the existing Titles and chapters in the statutory law. When suggesting an allocation between existing sections of law it is preferable to use a decimal rather than a letter (for example when allocating a section between 5:12-144 and 5:12-145, use 5:12-144.1). Less frequently the section may be allocated with a letter (for example, between 13:44-2.1 and 13:44-2.2 use 13:44-2.1a). These letter designations should be used with caution as they can be misread. They may also create confusion with internal subsection references. For example, a suggested allocation of 26:2H-18b can be confused with subsection b. of 26:2H-18.

If a bill is entirely supplementary and independent of any existing law, it may be better to suggest a new chapter within a Title than to squeeze the allocation into an existing chapter by means of a decimal or letter. Occasionally, Legislative Counsel allocates a law to a new chapter and recommends an official name for the new chapter. Legislative Counsel may also create new subdivisions above or below the chapter level, such as subchapters, parts, subparts, subtitles, and articles.

Example (allocating supplementary sections to a new subdivision):

P.L.2011, c.30 added 11 new sections to Title 14A concerning a new type of corporation known as a benefit corporation. The title of the bill supplemented Title 14A. At the time of enactment, there was no chapter 18 in Title 14A. The suggested allocation for the bill provided:

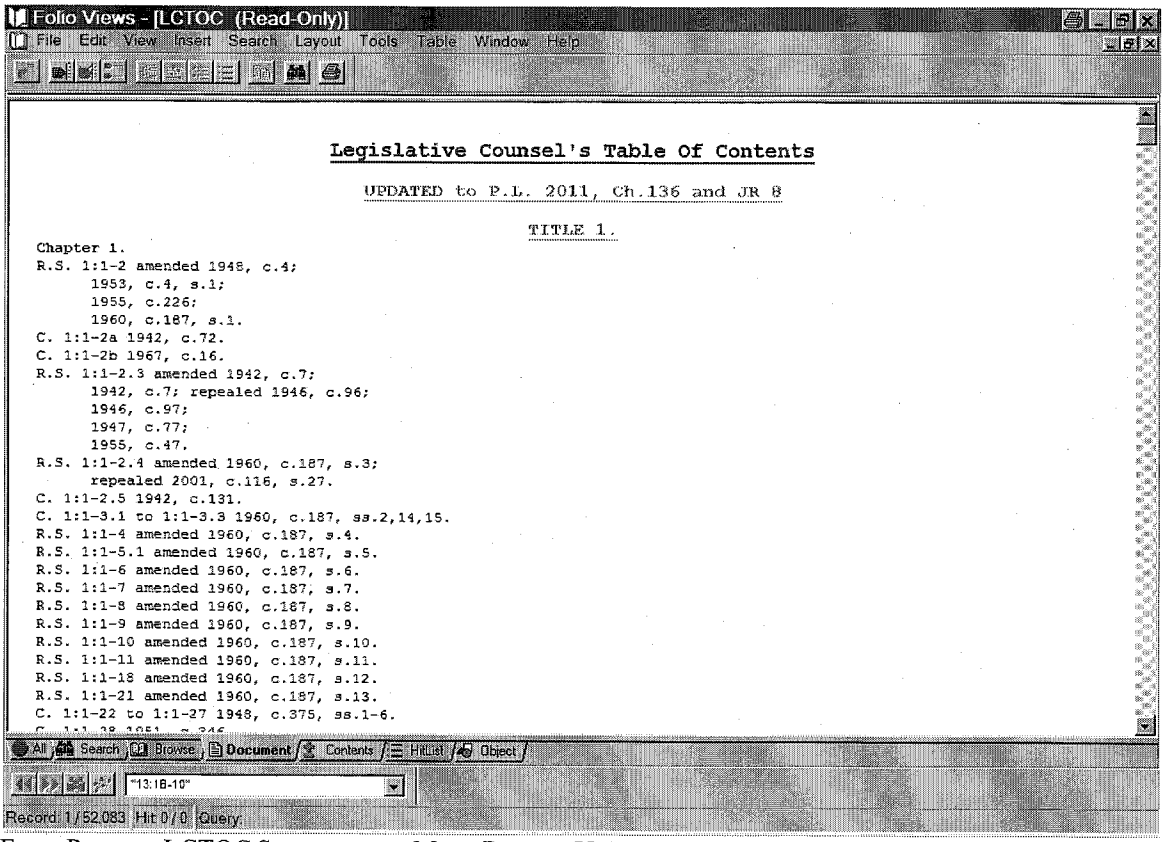
ss.1-11: C.14A:18-1 et seq. to 2010/18

Helpful Hint:
Never indicate a suggested allocation to a repealed section of law. Repealed section numbers should be considered "retired." For example, 1:1-2.4 should never be a suggested allocation because LCTOC shows the following:

R.S. 1:1-2.4 amended 1960, c.187, s.3;
repealed 2001, c.116, s.27.

Indicating Most Recent Pamphlet Law in Suggested Allocation Box: When making suggested allocations on the bill draft indicate the most recent Pamphlet Law and chapter number to which the Legislative Counsel's Table of Contents (LCTOC) has been updated at the point in time when the suggested allocation is made. For example, "to 2011/136" indicates that the LCTOC was updated to P.L.2011, c.136 at the time the drafter checked the LCTOC. The

information about the most recent update to the LCTOC can be found on the first page of the LCTOC directly under the title. (See screenshot below.) The "to . . ." designation is done in order to eliminate confusion that could result if a supplementary section of law, which is enacted after the bill is drafted, has been allocated and compiled at that same suggested number.



FIRST PAGE OF LCTOC SHOWING THE MOST RECENT UPDATES FOR PAMPHLET LAW AND CHAPTER NUMBER

5.2 Title

Each bill draft starts with a title describing the "object" of the bill. If the bill contains an appropriation, or if it amends, repeals, or supplements existing law, then the title must indicate that fact. These requirements arise from Article IV, Section VII, paragraph 4 of the New Jersey Constitution, providing: "[E]very law shall embrace but one object, and that shall be expressed in the title." (See *2.2.1.)

The title of a bill begins with the words **AN ACT** (always in bold small capital letters), followed by the present participle ("ing" form) of the verb, which conveys the thrust of the bill and provides a succinct description of the bill's content.

A title can only characterize the general purpose of a bill; it is certainly not possible or necessary to provide a listing of the many features and qualifications contained within the text. For this reason, the word "certain" or the phrase "in certain cases" is often used as a method for simplifying what would otherwise be a more complex statement. In addition, a title is drafted in broad terms to avoid having to amend it when committee or floor amendments are made to the body of the bill.

Examples (broadly drafted title):

AN ACT concerning certain standards for bill drafting and supplementing P.L.1979, c.8 (C.52:11-54 et seq.).

AN ACT providing for extra vacation days to certain State employees in certain cases and amending N.J.S.11A:6-2.

AN ACT authorizing certain municipalities to impose a wage tax and supplementing Title 40 of the Revised Statutes.

5.2.1 Simple Title

If a bill does not amend or supplement existing law, then use a simple title. A simple title may be used in a bill that commemorates an event, establishes a nonpermanent commission, or otherwise creates a law that does not need to be allocated in the permanent statutes.

Examples (simple title):

AN ACT commemorating the 50th anniversary of the 1947 New Jersey Constitution.

AN ACT establishing the Tattooing and Body Piercing Study Commission.

5.2.2 Amendatory Title

If a bill amends existing law, that fact must be indicated in the title by specific reference to the Revised Statute, New Jersey Statute, or Pamphlet Law being amended. If more than two sections of law are being amended, the title may refer to "various sections" or "various parts" of the statutory law.

Examples (amendments to the Revised Statutes):

AN ACT concerning . . . and amending R.S.48:3-33.

AN ACT . . . and amending R.S.32:14-3 and R.S.32:14-29.

AN ACT . . . and amending R.S.19:32-2 through R.S.19:32-6.

AN ACT . . . and amending various sections of the Revised Statutes.

Examples (amendments to the New Jersey Statutes):

AN ACT . . . and amending N.J.S.18A:9-5.

AN ACT . . . and amending N.J.S.40A:9-168 and N.J.S.40A:9-175.

AN ACT . . . and amending N.J.S.2C:14-1 through N.J.S.2C:14-5.

AN ACT . . . and amending N.J.S.2A:50-22, N.J.S.2A:62-14, and N.J.S.3B:10-3.

AN ACT . . . and amending various sections of the New Jersey Statutes.

Amendments to the Pamphlet Laws: In the case of an amendment to a Pamphlet Law, the title needs only to cite the P.L. number rather than the specific section or sections being amended because the statute section will appear in the body of the bill. If more than two Pamphlet Laws are being amended, the title may refer to "various parts of the statutory law." In the title, list the Pamphlet Laws to be amended in the order in which they appear in the bill.

Examples (amendments to Pamphlet Law):

AN ACT . . . and amending P.L.1985, c.50.

AN ACT . . . and amending P.L.1977, c.10 and P.L.1983, c.41.

AN ACT . . . and amending various parts of the statutory law.

Mixed Amendments: If a bill amends a mixture of sections from the Revised Statutes, the New Jersey Statutes, and the Pamphlet Laws, the sections may be listed separately or, more commonly, may be noted with the general statement that the bill amends (or revises) various parts of the statutory law. The amendatory sections are generally listed in the title in the order in which they appear in the bill.

Examples (mixed amendments):

AN ACT . . . and amending R.S.39:4-14 and P.L.1975, c.250.

AN ACT . . . and amending N.J.S.18A:4-34 and R.S.39:4-98.

AN ACT . . . and revising various parts of the statutory law.

Amendment of a Title of a Law: Because of the constitutional requirement that every law have but one object as expressed in its title, it is sometimes necessary to amend the title of a Pamphlet Law at the same time that the text of the law is amended. This assures that the title will reflect the law as it stands after amendment. If a bill amends the title of a law, then this fact must be noted in the title of the bill. Past practice required that the full title of the law under amendment be repeated in the title of the amendatory bill. This style has been abandoned. The proper form for indicating that a bill amends the title of a law is as follows:

> AN ACT concerning . . . and amending the title and body of P.L.1985, c.50.

5.2.3 Supplementary Title

The specific Title, or Title and chapter, of the Revised Statutes or New Jersey Statutes to be supplemented by a bill are included in the bill's title. If a bill supplements a Pamphlet Law the bill's title will contain the P.L.'s year and chapter number. The compilation number for a P.L. must also be set out parenthetically in the title because it does not appear in the body of a supplementary bill. If a bill both amends and supplements a P.L., it is not necessary to set out the compilation number in the bill's title.

Examples (supplementary title):

> AN ACT . . . and supplementing Title 48 of the Revised Statutes.
>
> AN ACT . . . and supplementing chapter 18 of Title 17B of the New Jersey Statutes.
>
> AN ACT . . . and supplementing P.L.1961, c.40 (C.40:55C-40 et seq.).

Do not supplement a chapter that was not originally part of the Revised Statutes or the New Jersey Statutes. Instead, supplement either an appropriate Pamphlet Law or just a Title. The choice of whether to supplement, in a bill title, a particular Pamphlet Law, chapter of a Title, or a whole Title often depends on which previously enacted definitions are intended to be applicable to the subject matter of the bill draft. Never supplement an individual section of the Revised Statutes, the New Jersey Statutes, or a Pamphlet Law.

Examples (citing Pamphlet Law instead of a chapter):

Incorrect:

AN ACT concerning dispute resolution for common interest community homeowners and supplementing chapter 62A of Title 2A of the New Jersey Statutes.

(Note: This bill title is incorrect because chapter 62A originated as P.L.1963, c.140; a drafter should not supplement a chapter that was not originally a part of the New Jersey Statutes or Revised Statutes. A correct title could either supplement the relevant P.L. or simply refer to the Title of the Revised Statutes or New Jersey Statutes and omit any reference to the particular chapter. Chapter 62A is the "Good Samaritan Act," and has nothing to do with common interest communities.)

Correct:

AN ACT concerning dispute resolution for common interest community homeowners and supplementing P.L.1989, c.9 (C.2A:62A-12 et seq.).

Correct:

AN ACT concerning dispute resolution for common interest community homeowners and supplementing Title 2A of the New Jersey Statutes.

5.2.4 Repealer

The title of a bill must cite the specific part of the law being repealed, except that a general statement of repeal will suffice when the repeal involves several parts of the law. The compilation number of a P.L. being repealed is not included in the title since it will be set forth in the repealer section (see *5.10) in the body of the bill.

Examples (repealer):

AN ACT . . . and repealing Title 54A of the New Jersey Statutes.

AN ACT . . . and repealing R.S.40:155-3.

AN ACT . . . and repealing section 2 of P.L.2002, c.114.

AN ACT . . . and repealing P.L.1944, c.35.

Helpful Hint:
The repeal of a P.L. with only one section and an effective date need not state "repealing section 1 of P.L.2011, c.123," as the repeal of the only substantive or operational section is implied with the repeal of the entire enactment.

AN ACT . . . repealing N.J.S.15A:12-10 and P.L.1984, c.17.

AN ACT . . . and repealing parts of the statutory law.

5.2.5 Appropriation

When a bill makes an appropriation, that fact is indicated in the title, although the amount of the appropriation is not specified. The form is as follows:

> AN ACT concerning motorized bicycles, amending parts of the statutory law, and making an appropriation.

5.2.6 Combination Form

When a bill amends, supplements, and repeals, or any combination thereof, list those objectives in the title in the order in which they occur in the bill, if appropriate, or by groupings of the objectives (i.e., all amendatory sections together, all supplementary sections together, and all repealers together).

Helpful Hint:
A title that provides that the bill is "revising various parts of the statutory law" refers only to sections amending and repealing, but not supplementing. In the case of a bill that amends, repeals, *and* supplements, the title should state, for example, "revising various parts of the statutory law and supplementing Title 3B of the New Jersey Statutes."

Examples (combination form of title):

> AN ACT abolishing the Department of Personnel, the New Jersey Commerce, Economic Growth and Tourism Commission, and various other statutory entities, and amending, supplementing, and repealing various parts of the statutory law.

> AN ACT concerning construction liens, and amending, supplementing, and repealing various sections of P.L.1993, c.318.

> AN ACT concerning instructional programs on the nature of drugs, amending P.L.1987, c.389, and repealing various parts of the statutory law.

> AN ACT concerning bingo licenses, amending P.L.1973, c.324, and repealing section 2 of P.L.1973, c.324.

> AN ACT concerning saltwater fishing, supplementing P.L.1979, c.199 (C.23:2B-1 et seq.), and repealing section 82 of P.L.1979, c.199.

> AN ACT concerning actions for consumer fraud, amending P.L.1971, c.247, and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

> AN ACT concerning the filing of certain State reports and publications with the New Jersey State Library, amending R.S.52:14-25.1 and R.S.52:14-25.2, and supplementing chapter 14 of Title 52 of the Revised Statutes.

5.3 Preamble - "WHEREAS" Clause

"WHEREAS" clauses set out as a preamble to a bill do not become part of the permanent law. Therefore, it is not common practice for a bill to contain a preamble. Instead of "WHEREAS" clauses, introductory material can be placed into a "findings and declarations" section (see *5.6) that is compiled with the permanent law. If a bill does contain a preamble, it is placed after the title of the bill and before the enacting clause (see *5.4). An example of a bill with a preamble can be seen in P.L.1996, c.113. This is an extremely rare practice and should be avoided if possible.

5.4 Enacting Clause

The enacting clause for a bill is prescribed by Article IV, Section VII, paragraph 6 of the New Jersey Constitution and is also set forth in R.S.1:2-1. Each bill is required to contain, following its title and preceding the body, the following enacting clause: "**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*" The word processing templates automatically print the enacting clause as follows:

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

5.5 Formal (Short) Title

When the actual title of a bill may be too general or cumbersome to permit easy identification or reference to the measure, a bill may be endowed with a formal name known as a "short title." By its very nature, a short title should be used only for a bill of substantial length that provides a complete and unified program or policy. It is generally not appropriate to set forth a short title for a bill of one substantive section or a bill that mostly amends existing sections of law.

In a supplementary bill the short title is usually specified in the first section of the bill, although, historically, there are examples of a short title appearing at the end of an act (e.g., the "Optional Municipal Charter Law" title appears at N.J.S.A.40:69A-210). Also, take note that the modern style is to never include the article "the" at the beginning of the short title.

Examples (short titles in supplementary act):

> This act shall be known and may be cited as the "Cigarette Tax Act."
>
> This act shall be known and may be cited as the "Parking Authority Law."
>
> This act shall be known and may be cited as the "Waterfront Commission Act."

In a combination form bill that both amends and supplements, the short title for a supplementary group of sections may appear in the middle of the bill, following several amendatory sections. However, the preferred form is to put the short title at the beginning of the bill, specifying that the short title should be applied only to the appropriate sections.

Examples (short title in combination form act):

> Sections 1 through 6 of this act shall be known as the "Self-Directed Support Services for Persons with Developmental Disabilities Rights Act."
>
> Sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.), as may be amended and supplemented, shall be known and may be cited as the "Brownfield and Contaminated Site Remediation Act." (Note: This short title was added to P.L.1993, c.39 by a later enactment, P.L.1997, c.278 (C.58:10B-1.1).)
>
> Sections 1 through 12 of this act shall be known and may be cited as the "State Planning Act."

Helpful Hint:
Using a person's name as the short title of a bill is not particularly descriptive of the purpose of the legislation and should be avoided. For example, the short title "Michael's Law" (section 1 of P.L.2003, c.315), gives no indication that this amendatory legislation concerns drunk driving offenses. If a sponsor specifically directs the drafter to commemorate a person's name in a bill, then the preferred style is to place the name in the bill title, the bill statement, and the synopsis, without incorporating the name into a short title. Following this form, the short title for "Michael's Law" could have been omitted and the bill title drafted as in the following example:

AN ACT concerning driving while under the influence and designated as Michael's Law, and amending R.S.39:4-50 and R.S.39:4-51.

(See also *Appendix A, page A-1: **S3010 of 2010-2011**.)

The use of a year in the short title should be avoided (e.g., the "Clean Sidewalks Act of 2011") for the obvious reason that there is no certainty about when the bill might be enacted. The inclusion of the year makes the title more cumbersome. Furthermore, the major purpose for placing a year in the title would be to distinguish among several laws with the same name that are enacted in different years (such as, on the federal level, the "Social Security Amendments of 20xx"). This is rarely a consideration in New Jersey. However, if legislation is intended to address a temporary situation, but will be allocated to the permanent statutes, it may be appropriate to place a year in the title.

Example (short title with a year):

1. This act shall be known and may be cited as the "Permit Extension Act of 2008."

(Note: This was enacted in 2008 to address a temporary situation. Moreover, a year was required because of a previous enactment, P.L.1992, c.82, the "Permit Extension Act.")

Short titles appear throughout the statutes with and without quotation marks and with and without capitalization of the first letter of each word. The preferred style is to use quotation marks and to capitalize the first letter of each significant word. When referring to a law with a short title in a bill draft, use the style that appears in the original section of law creating the short title, even if that style was not consistently followed by later enactments referring to that short title. Laws with short titles are listed in the index to the N.J.S.A. series under the entry "Popular Name Laws." The "Popular Name Laws" index also includes informal popular names that have not actually been enacted as short titles. For example, the Faulkner Act is an informal popular name for the Optional Municipal Charter Law, and the Municipal Services Act is an informal popular name for N.J.S.A.40:67-23.2 et seq., requiring municipalities to provide certain services to qualified private communities.

Avoid using the short title when citing to a specific section in an act.

Example (short title in section references):

Incorrect:

1. The board may suspend or revoke a license pursuant to the provisions of section 17 of the "Site Remediation Reform Act," P.L.2009, c. 60 (C.58:10C-17).

Correct:

1. The board may suspend or revoke a license pursuant to the provisions of section 17 of P.L.2009, c. 60 (C.58:10C-17).

5.6 Legislative Findings and Declarations

A statement of legislative findings and declarations may be included as the first or second section of a bill which establishes a new program or in some other way sets forth a policy initiative. Generally, OLS refers to a "findings and declarations" section, even if the section contains only findings or only declarations. This section of a bill offers a narrative of the facts, rationale, or goals underlying the legislation. Legislative findings and declarations are designed to "introduce" a bill and to establish the context within which its provisions are to be interpreted and evaluated by legislators, administrators, the public, the courts, and ultimately, historians.

Helpful Hint:
Unless the sponsor requests a section containing legislative findings and declarations, the bill drafter should not include one if there is little substantive information to convey.

The findings and declarations section frequently provides statutory direction for the executive branch to follow regarding the interpretation and implementation of an act. In addition it is often used to set forth the basis for a defense of an act against a possible legal challenge to its constitutionality or public purpose. For example:

- If a bill is drafted to affect only the City of Newark, a findings and declarations section may be used to establish a rational basis for excluding all other municipalities from the classification of affected municipalities in order to avoid a challenge as unconstitutional special legislation. (See *2.2.3.)

- In N.J.S.A.2A:14-26.1, findings and declarations were used to set forth a rationale for allowing people with hemophilia who were infected with HIV prior to July 13, 1995 to proceed with lawsuits against blood product manufacturers, notwithstanding that the statute of limitations may have passed since they were infected.

In drafting findings and declarations, it is best to be specific and avoid the use of generalizations which might well apply to any program or act of the Legislature. Phrases such as "provide for the public health, safety, and welfare" may be interpreted as granting broad regulatory authority to an executive agency, whatever the remainder of the act may provide.

Findings and declarations may be drafted in paragraph form when there are few findings and declarations. Subsections or other divisions should be used for multiple findings and declarations, as follows:

1. The Legislature finds and declares that:
   a. . . . ;
   b. . . . ;
   c. . . . ; and
   d. . . .

Example (findings and declarations):

2. The Legislature finds and declares that:

a. The ability to diagnose, service and repair a motor vehicle in a timely, reliable and affordable manner is essential to the safety and well-being of consumers in this State.

b. Consumers are entitled to choose among competing repair facilities for the convenient, reliable and affordable repair of their motor vehicles.

c. Increased competition among repair facilities will benefit vehicle owners in this State.

d. Computers of various kinds are commonly being used in motor vehicle systems, such as pollution control, transmission, antilock brakes, electronic and mechanical systems, heating and air-conditioning, sound and steering.

e. The diagnosis, service and repair of these vehicle systems are essential to the safe and proper operation of motor vehicles.

f. In many instances, access codes prevent owners from making, or having made, the necessary diagnosis, service and repair of their motor vehicles in a timely, convenient, reliable and affordable manner.

g. Vehicle owners in this State should have the right:

(1) to obtain all information necessary to provide for the diagnosis, service and repair of their vehicles;

(2) to choose between original parts and aftermarket parts when repairing their motor vehicles; and

(3) to make, or have made, repairs necessary to keep their vehicles in reasonably good and serviceable condition during the expected vehicle life.

h. The limitation of access to vehicle repair information regarding who can repair motor vehicles and what parts may be used to repair those vehicles limits consumer choice and thus limits competition.

(For an example of a bill with a findings and declarations section, see *Appendix A, page A-5: **A352 of 2012-2013**.)

The text of a findings and declaration section that has been placed in the bill should be kept in mind when drafting other legislative materials concerning the bill (sponsor, committee, and floor statements) which may be used to convey legislative intent, so as to avoid inconsistencies.

5.7 Amendatory, Supplementary, and Temporary and Executed Sections

An amendatory section of a bill adds or deletes language to an existing section of law. (See *5.7.1.) A supplementary section of a bill creates a new section of law. (See *5.7.2.) A bill may be entirely amendatory, entirely supplementary, or a mixture of both. A bill (or an individual section of the bill) may supplement a Title, chapter, or Article of the Revised Statutes or the New Jersey Statutes, or it may supplement the Pamphlet Law (e.g., P.L.2012, c.123).

Sometimes it is obvious as to whether a section of a bill should be drafted as an amendment or a supplement to existing law. If the purpose of a bill can be met by adding or deleting language (whether just one word, a sentence, or a paragraph) in an existing section of law, then the section is clearly amendatory. On the other hand, if the language being drafted deals with a subject that is not addressed by any existing law, then that section is supplementary in nature.

However, a situation may present itself in which language could be added to an existing section of law or could just as readily stand alone as a new supplementary section. The bill drafter's judgment and experience decide the appropriate form.

In some cases the legislator's purpose can be accomplished by adding similar language to many sections of law (e.g., increasing the powers of municipal governing bodies could be accomplished by amending nine different statutes to deal with each specific form of municipal government). When the statutes to be amended are easily determined, the best practice is to amend each individual statute. It is permissible, however, to accomplish the same purpose by drafting one supplementary section beginning with, "Notwithstanding any law, rule, or regulation to the contrary . . ." when the exact statutes that should be amended are not easily determined, or when the draft has to be completed very quickly.

5.7.1 Amendatory

Each section proposing to amend existing law must contain the complete, official text of the section to be amended. Any material intended to be omitted is enclosed in bold **[**brackets**]**, and new material is inserted with underlining. When bracketed and underlined material appear together, the drafter should bracket out the old material first.

Example (using brackets and underlining in an amendatory section):

> 5. Section 1 of P.L.1961, c.22 (C.40A:4-55.2) is amended to read as follows:
>
> 1. Any municipality may adopt **[**ordinances**]** a resolution by a three-quarters vote of the authorized membership of the municipal council authorizing special emergency appropriations to cover the cost of extraordinary expenses for the repair or reconstruction of streets, roads or bridges damaged by snow, ice, frost, or floods.
>
> (cf: P.L.1961, c.22, s.1)

The first indented number "5" in the example above refers to the section number of the bill. The second indented number "1" refers to the section number of the original law being amended.

(For an example of a complete amendatory bill see *Appendix A, page A-9: **A3852 of 2010-2011**.)

"cf" (Compared From): When drafting an amendatory section, a citation to the version of the law used by the drafter should be noted at the end of that section. This citation, referred to as a "cf" (compared from), is not an official part of the section language, but informs the reader of the version of law used when the bill was drafted.

- If the section has never been amended, the compilation number and the "cf" for an amendatory section will be the same.
- When the section has been amended previously, the "cf" following the new amendatory section will not match the compilation number at the beginning of that section. The "cf" is referring to the amended version of the law while the compilation number refers to the initial enactment.

Example ("cf" matches compilation number because section was not previously amended):

1. N.J.S.40A:7-15 is amended to read as follows:

40A:7-15. The governing body of the municipality to which the land is annexed shall **[**forthwith**]** cause the annexed land to be plotted upon the official map or maps of the municipality within 60 days of annexation.
(cf: N.J.S.40A:7-15)

Example ("cf" does not match compilation number because section was previously amended):

1. R.S.39:3-21 is amended to read as follows:

39:3-21. The applicant for registration for a motorcycle shall pay to the commission for each registration a fee of **[**$10.00**]** $25.
(cf: P.L.2003, c.13, s.101)

Helpful Hint:
To determine the correct "cf" for a section of law, the drafter cannot rely on the information displayed at the end of a section in the statutory database. The statutory database may be referencing a section of a Pamphlet Law that enacted an entire Title or a new chapter to an existing Title of the New Jersey Statutes. For example, the listing at the end of 40A:7-15 in the statutory database is "L.1979, c.181, s.2, eff. Aug. 29, 1979," but the correct cf for this section of law *is not* cf: P.L.1979, c.181, s.2.

To find the correct "cf," the drafter should consult the Legislative Counsel's Table of Contents (LCTOC). (See *3.1.4.) Although it is generally possible to determine every statute's source and subsequent amendments using LCTOC, some statutes that have never been amended are not "searchable" within the Legislative Counsel's Table of Contents. For example, a search for "40A:7-15" in LCTOC does not produce any results.

Upon checking the Pamphlet Law, it is evident that N.J.S.40A:7-15 was part of a revision to Title 40 of the Revised Statutes, enacted as P.L.1979, c.181. Section 1 of that P.L. contained chapter 6 of Title 40A of the New Jersey Statutes and section 2 contained chapter 7 of that Title. N.J.S.40A:7-15 is not listed (and so is not searchable) as a single entry in LCTOC because it has never been amended. It is implicitly referenced within the LCTOC note, "Chapter 7. Added by P.L.1979, c.181, s.2, effective August 29, 1979." The proper cf is therefore the type of statute (N.J.S.) plus its designation within the 1979 Pamphlet Law (cf: 40A:7-15), not the P.L. under which it was enacted.

Official Headnotes and Editor Headnotes: Some statutes in the statutory database contain an official headnote (e.g., N.J.S.A.2A:4A-28). Official headnotes generally appear in laws drafted by the New Jersey Law Revision Commission and national bodies producing uniform or model laws.

This official headnote should not be confused with headnotes written by an editor and appearing in the statutory database and the N.J.S.A. series. The "editor headnote," although usually identical to an official headnote, is not part of the text of the official law and is never included when drafting an amendatory section. Within the statutory database an editor headnote appears as a bold red typeface phrase following the compilation number, usually without a period. An official headnote, when present in the statutory database, appears below the editor headnote and follows the section number, and it ends with a period.

Example (official headnote below the editor headnote):

> 2A:4A-29. Use of juvenile's testimony at referral hearing
>
> 10. Use of juvenile's testimony at referral hearing. No testimony of a juvenile at a hearing pursuant to section 7 of P.L.1982, c.77 (C.2A:4A-26) or section 8 of P.L.1982, c.77 (C.2A:4A-27) shall be admissible for any purpose in any hearing to determine delinquency or guilt of any offense.

Example (editor headnote with no official headnote following):

> 48:2-29.39. Designation of Statewide, nonprofit energy assistance organization.
>
> 2. The Board of Public Utilities shall designate an established Statewide nonprofit energy assistance organization representing the State's major electric and gas utilities and human service nonprofit groups to receive supplemental funding from unclaimed property held by the State's electric and gas utilities that is transferred to the State in accordance with the requirements of R.S.46:30B-74.

Amending the Title of a Law: In the body of the bill, an amendment of a title of a law should include the "compare from" (cf: . . .) for the title. Note that a compilation number (C.) after the title is not necessary because the title is not compiled. The amendment to a title of an existing law appears as follows:

> 1. The title of P.L.2007, c.346 is amended to read as follows:
>
> AN ACT allowing tax credits to certain businesses for certain capital investments in [urban] transit hubs, supplementing Title 34 of the Revised Statutes.
>
> (cf: P.L.2007, c.346, title)

5.7.2 Supplementary

A supplementary bill creates a new section of law. The language in the body of a supplementary bill appears as plain text without any [bracket] or underline designations. (See *Appendix A, page A-13: **A2813 of 2010-2011** for an example of a complete supplementary bill.)

Example (bill with only supplementary sections):

> AN ACT concerning consumer checking accounts and supplementing P.L.1991, c.210 (C.17:16N-1 et seq.).
>
> BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:
>
> 1. Notwithstanding the provisions of subsections c. and d. of section 3 of P.L.1991, c.210 (C.17:16N-3) to the contrary, every New Jersey Consumer Checking Account shall provide for two free cash automatic teller machine withdrawals per periodic cycle, regardless of whether those withdrawals are made from an automatic teller machine of the depository institution holding the account.
>
> 2. This act shall take effect on the first day of the second month next following the date of enactment.

When a bill contains supplementary and amendatory sections, the designation "(New section)" is inserted after the section number and before the text of the supplementary section. This parenthetic designation is not used if the bill is completely supplementary with no amendatory sections since it is unnecessary to distinguish between amendatory and supplementary sections in that case. The parenthetic designation is used before the text of a temporary and executed (T&E) section (see *5.7.3) and a rules and regulations section (see *5.9). It is not used before the text of repealer (see *5.10), appropriation, or effective date (see *5.11) sections in bills with amendatory sections.

Example (bill with amendatory and supplementary sections):

AN ACT concerning statutory interpretation, amending R.S.1:1-5, and supplementing Title 1 of the Revised Statutes.

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

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

1:1-5. The classification and arrangement of the several sections of the Revised Statutes and the New Jersey Statutes have been made for the purpose of convenience, reference and orderly arrangement, and therefore no implication or presumption of a legislative construction is to be drawn therefrom.
(cf: R.S.1:1-5)

2. (New section) The preamble to any bill or joint resolution enacted into law shall not be considered when interpreting that law if contradicted by the plain language of any operative section of that law.

3. This act shall take effect immediately.

(For an example of a complete bill with amendatory and supplementary sections, see *Appendix A, page A-1: **S3010 of 2010-2011**.)

5.7.3 Temporary and Executed (T&E)

Some sections need not be compiled with the permanent statutes. In those cases (for example, a section of law that establishes a commission or task force of limited duration, or directs a government entity to produce a nonrecurring report), the suggested allocation should be T & E and the title need not indicate any allocation.

Sections that are clearly temporary in nature should always be designated as T & E. However, there also may be sections where the choice of designation is not so obvious. In making the T & E determination, the drafter may find it useful to refer to the index of temporary and executed laws that appears at the end of the LCTOC. The index may contain an example of a prior enactment that is similar.

In making the final decision whether to allocate a section to T & E, the drafter should consider the following questions:

- Is the section likely to be amended and made permanent?
- Will the section be significant enough that allocation is preferable?

(For an example of a complete T & E bill, see *Appendix A, page A-17: **A914 of 2010-2011**.)

"Note to"a Section: Because T & E sections are usually not published in the N.J.S.A. volumes, it may be difficult for legal researchers to find these sections. Thus, the drafter may wish to recommend that a T & E section be noted in connection with an allocated section of law. The recommendation is written as "Note to s. . . ." in the suggested allocation box on a bill's fronter. (See *5.1.6.)

For instance, a section may be designated as a "note to" when it names part of a highway. The official designations of highways set out in N.J.S.A.27:6-1 are not amended by these honorary designations. P.L.2009, c.126 named the bridge carrying Highway No. 109 over the Cape May Canal between the City of Cape May and Lower Township as the "Cape May County Veterans Memorial Bridge." The enactment was allocated by Legislative Counsel as "T & E & Note to 27:6-1." In the New Jersey Statutes Annotated, the comments to N.J.S.A.27:6-1 recognize the bridge's new designation under the heading "2009 Legislation."

T & E Section Requiring Definitions: The drafter should be aware that any terms defined in the permanent law will not apply to a T & E section where those terms are used. If necessary, the required definitions should be included in the T & E section.

Example (definitions in a T & E section):

The section below creates the Legislative Underground Storage Tank Remediation Task Force. The terms "underground storage tank" and "remediation" are defined in the statutes and should also be defined in the T & E section if the drafter wants to impart the same meaning in the T & E section.

> 40. a. There is established a Legislative Underground Storage Tank Remediation Task Force.
>
> . . . .
>
> c. As used in this section, "remediation" shall have the same meaning as in section 23 of P.L.1993, c.139 (C.58:10B-1) and "underground storage tank" shall have the same meaning as in section 2 of P.L.1986, c.102 (C.58:10A-22).

5.8 Severability and Non-Severability Clauses

A severability clause expresses the intent of the Legislature to preserve the remaining sections of a law if one or more of its provisions are declared unconstitutional by the courts. It is not necessary to include a severability clause in each bill because general law, N.J.S.A.1:1-10, already expresses that intent. That section of law provides that if one part of the law is declared by a court to be unconstitutional, invalid, or inoperative, the remaining parts of the law are not invalidated. When a severability clause does appear in the statutes, it is usually a part of a uniform or model law or interstate compact. (See *10.7.)

A non-severability clause creates a legal dependency between sections of a bill. This clause indicates the intent of the Legislature to have all or a designated part of a law deemed invalid if the courts declare a specific section of that law unconstitutional.

When the drafter has a special reason for including a severability or non-severability clause, it is usually placed immediately following the last substantive section of the bill. The following statutory example combines both a severability and non-severability clause within the same section of law:

Example (combined severability/non-severability clause):

> 17:30E-24. Severability
>
> The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of this act, except that the provisions of section 25 shall not be severable from the provisions of sections 13 to 31, and if any of the provisions of section 25 shall be held to be unconstitutional, the commissioner shall establish a plan for the providing of automobile insurance pursuant to P.L.1970, c.215 (C.17:29D-1).

5.9 Rules and Regulations Clause (APA Clause)

Because the executive branch is responsible for the implementation of bills passed by the Legislature and signed into law by the Governor, it may be appropriate for a drafter to include in the bill's text a section or subsection giving an executive branch agency or department the authority to adopt and promulgate rules and regulations to implement a bill's provisions.

However, most State departments and agencies possess residual or general regulatory authority by virtue of their individual enabling statutes, so it is usually not necessary to include a general authorization of regulatory action in a bill. If, however, such an authorization is included, it should in most cases specifically state that the department or agency adopt the rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

An authorization of regulatory action should be included in a bill if there is a question as to the existing regulatory authority of the department or agency, or if the Legislature is seeking to limit or direct the use of the department or agency's regulatory authority. For example, the Legislature may wish to require a certain aspect of the bill to be addressed by regulation, to require regulations to be proposed within a particular time period, to require or prohibit the charging of fees or the hiring of employees, etc.

Examples (general authorization to adopt rules and regulations):

5. The Commissioner of Human Services shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any rules and regulations as the commissioner deems necessary to carry out the provisions of this act.

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.

Examples (authorization limiting or directing regulatory authority):

Specifies a time period for adoption of rules:
The Commissioner of Health shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and within 90 days following the date of enactment of this act, rules and regulations to effectuate sections 8 through 10 of this act, and, within 180 days following that enactment date, rules and regulations to effectuate sections 1 through 7 of this act.

Provides specific instructions for rule making:
The Commissioner of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to implement this act. Notwithstanding any other provision of law granting the Department of Environmental Protection the power to establish fees to be charged for department services, the department shall not charge fees for the filing of applications submitted pursuant to section 10 of this act.

Provides specific instructions for rule making:
The Commissioner of Community Affairs shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to establish procedures and standards of eligibility for grants of housing assistance to be provided under this act. It is the intent of the Legislature that the income standards contained in those rules and regulations shall conform as nearly as practicable to the income standards established from time to time by the United States Department of Housing and Urban Development to determine eligibility for low and moderate income housing constructed with federal assistance.

If the drafter specifies particular rules and regulations that the agency or department is required to promulgate, the provision that grants a commissioner, department, or other State entity the power to adopt and promulgate administrative rules and regulations should be included as a subsection within the section of the bill requiring those rules and regulations. When more than one section of a bill will require administrative rules and regulations, the adoption and promulgation power is granted in a separate section, which is usually placed before the repealer (see *5.10), appropriation, and effective date (see *5.11) sections, as appropriate.

Guidelines and Emergency or Temporary Regulations: A drafter may encounter situations where a requester prefers to grant authority to an administrative agency or department to issue permanent guidelines without mandating that they follow the particular requirements and procedures spelled out in the "Administrative Procedure Act." This may be the case especially if the requested rules or regulations need to be implemented quickly because certain of the provisions in the APA make the rule making process time consuming and not usually well suited for quick action.

Example (guidelines):

> 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.
>
> 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.

Example (emergency rules notwithstanding APA):

> 33. a. Within 270 days after the date of enactment of this act, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Environmental Protection, after consultation with the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation, shall, immediately upon filing proper notice with the Office of Administrative Law, adopt the rules and regulations prepared by the department pursuant to section 34 of this act and any other rules and regulations necessary to establish the Highlands permitting review program established pursuant to section 35 of this act.
>
> b. The rules and regulations adopted pursuant to subsection a. of this section shall be in effect for a period not to exceed one year after the date of the filing. These rules and

regulations shall thereafter be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) after consultation with the council, the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation.

5.10 Repealer

The style for repealing laws has changed over the years. A modern repealer section is typically drafted in the following manner: "Section 5 of P.L.1983, c.111 (C.40A:4-35.1) is repealed." The use of the word, "hereby" in a repealer, as in "R.S.40:20-3 is hereby repealed," is considered redundant and no longer used. A repealer is drafted as a separate section, not as a subsection to a section. It is generally placed just before the section containing the effective date (see *5.11).

(For an example of a simple repealer bill, see *Appendix A, page A-27: **A2784 of 2010-2011**.)

If multiple sections are repealed, they are generally listed in order by compilation number, going from lowest to highest. Other methods of organizing the repealer sections may be appropriate as well, such as organization by the three forms of law: Revised Statutes, New Jersey Statutes, and Pamphlet Laws. (For an example, see *Appendix A, page A-29: **A333 of 2010-2011**.)

Example (repeal of multiple consecutive sections):

1. R.S.5:1-1 through R.S.5:1-4 are repealed.

Example (repeal of multiple laws):

1. The following sections are repealed:
R.S.40:20-3;
Section 39 of P.L.1972, c.154 (C.40:41A-39);
Section 53 of P.L.1972, c.154 (C.40:41A-53); and
Section 74 of P.L.1972, c.154 (C.40:41A-74).

Repeal of an Entire P.L.: When repealing an entire P.L., the drafter may repeal the entire law including unallocated sections. For example, if sections 1 through 5 of a law are allocated, section 6 is an appropriation, section 7 is the effective date, and the drafter wants to repeal the unallocated sections, the repealer section would read:

> Sections 1 through 7 of P.L.1993, c.57 (C.32:34-1 through C.32:34-5) are repealed.

Helpful Hint:
The drafter should provide the range of sections in the compilation number to be repealed, rather than using the term "et seq."

However, if the drafter does not wish to repeal the unallocated sections, the repealer would read:

> Sections 1 through 5 of P.L.1993, c.57 (C.32:34-1 through C.32:34-5) are repealed.

When repealing a P.L. that was not compiled consecutively, the drafter should be specific as to which sections are being repealed:

Example (repeal of entire P.L. that has compilation numbers out of sequence):

> P.L.1947, c.340 (C.30:11-3.1 and C.30:11-6 through C.30:11-9) is repealed.

If the drafter intends to repeal a P.L. that includes amendatory and supplementary sections, it is incorrect and contrary to constitutional principles (see *2.2.2) to repeal the entire P.L. using a single repealer section because it would be unclear how that repeal would affect the amendatory sections. Instead, a bill to repeal an amendatory and supplementary act would need to undo the changes to the existing law made by the P.L. being repealed by amending those sections, and by repealing the supplementary sections.

Example (repeal of entire law with amendatory and supplementary sections):

Incorrect repealer:

AN ACT concerning benefits for family temporary disability leave and repealing P.L.2008, c.17 (C.43:21-39.1 et al.).

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

1. P.L.2008, c.17 (C.43:21-39.1 et al.) is repealed.

2. This act shall take effect immediately.

The above example is incorrect because P.L.2008, c.17 amended various sections of the statutory law in addition to adding new sections to the law. In the above example, it is unclear what is being repealed and what happens to those sections of law that were amended by P.L.2008, c.17.

Correct repealer:

AN ACT concerning benefits for family temporary disability leave, amending P.L.1948, c.110, and repealing sections 10 through 13 of P.L.2008, c.17.

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

1. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to read as follows: . . .

2. Section 4 of P.L.1948, c.110 (C.43:21-28) is amended to read as follows: . . .

3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to read as follows: . . .

4. Sections 10 through 13 of P.L.2008, c.17 (C.43:21-39.1 through C.43:21-39.4) are repealed.

5. This act shall take effect immediately.

The statutes that were amended by P.L.2008, c.17 would need to be amended again to remove any language added or deleted by the enactment. For example, section 3 of P.L.2008, c.17 amended section 5 of P.L.1948, c.110 (C.43:21-29) to add new language concerning family temporary disability. To properly repeal all of P.L.2008, c.17, section 3 (and any other amendatory sections) would need to be "undone."

The following is an excerpt of the 2008 enactment:

> 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to read as follows:
>
> 5. Compensable disability. [Disability] In the case of the disability of a covered individual, disability shall be compensable subject to the limitations of this act [, where a] if the disability is the result of the covered individual [suffers any] suffering an accident or sickness not arising out of and in the course of the individual's employment or if so arising not compensable under the workers' compensation law.
> (cf: P.L.1980, c.90, s.13)

The bill would need to "undo" the added language as follows:

> 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to read as follows:
>
> 5. Compensable disability. [In the case of the disability of a covered individual, disability] Disability shall be compensable subject to the limitations of this act [if the disability is the result of the], where a covered individual [suffering an] suffers any accident or sickness not arising out of and in the course of the individual's employment or if so arising not compensable under the workers' compensation law.
> (cf: P.L.2008, c.17, s.3)

Helpful Hint:
When repealing an entire P.L., the drafter must verify that every section in the P.L. is included in the compilation number or numbers encompassing the intended scope of the repeal.
Also, if there are amendatory sections in the P.L., those sections must be amended individually, and cannot be included in the repealer.

Transitional Provisions: For the sake of clarity, such as when repealing a tax, it is permissible to place the repealer section before a section setting forth a transitional provision. (A transitional provision would set out rules to apply during the interval of time between the last collection date for the tax and the reporting date for those receipts). Transitional provisions are generally placed in a separate section of the bill for clarity, although a transitional provision may appear in the effective date section as a delayed effective or operative date. (See *5.11.2 and *5.11.8.) (For an example of a very detailed transitional provision, refer to N.J.S.A.54:32B-5, concerning sales taxation.)

Example (tax law with repeal language before the transitional provision):

1. Sections 1 and 2 of P.L.2003, c.114 (C.54:32D-1 and 54:32D-2) and sections 3 through 7 of P.L.2003, c.114 (C.40:48F-1 through 40:48F-5) are repealed.

2. Notwithstanding the repeal of P.L.2003, c.114 (C.54:32D-1 and 54:32D-2, and C.40:48F-1 through 40:48F-5), the repeal shall not affect any obligation, lien or duty to pay taxes, interest or penalties which have accrued or may accrue by virtue of any taxes imposed pursuant to the provisions of P.L.2003, c.114 (C.54:32D-1 and 54:32D-2 and C.40:48F-1 through 40:48F-5) or which may be imposed with respect to any redetermination, correction, recomputation or deficiency assessment; and provided that all taxes and returns which would have been due and payable for the tax period ending prior to the enactment of this act shall be due and payable as if the laws were in effect; and provided that these repeals shall not affect the legal authority of the State to audit records and assess and collect taxes due or which may be due, together with such interest and penalties as have accrued or would have accrued thereon under the provisions of the law repealed; and provided that the repeal by section 1 of this act shall not affect any determination of, or affect any proceeding for, the enforcement thereof.

5.11 Effective Date

An effective date is the date on which a provision of a law takes effect. Until that date, the bill (or designated provision within) has no force whatsoever for any purpose.

N.J.S.A.1:2-3 provides that legislation shall become effective on the fourth day of July following its enactment "unless otherwise specially provided for in such act." Notwithstanding the default July fourth date, it is standard practice to include an effective date section in every bill draft.

An effective date can be immediate, retroactive, prospective, or a combination of all three. The choice of an effective date and, in some cases, an operative date (see *5.11.8), entails the consideration of a number of practical issues such as:

- Does the act concern a situation which requires or allows for immediate implementation? (See *5.11.1, Immediate Effective Date.)
- Does proper implementation of the act require that certain administrative actions, such as promulgation of rules and regulations, be taken in advance of the effective date? (See *5.11.2, Delayed Effective Date, and *5.11.8, Operative Date.)

- Should the effective date be delayed so that affected parties will have an opportunity to become informed of its provisions before they are implemented? (See *5.11.2, Delayed Effective Date.)
- Does the act concern a situation which requires exact implementation beginning on a date certain? (See *5.11.3, Date Certain Effective Date.)
- Is all or part of the act intended to be retroactive? (See *5.11.4, Retroactive Effective Date.)
- Is the act's implementation contingent on the occurrence of some other governmental action or external event? (See *5.11.5, Linked Effective Date, and *5.11.7, Effective Dates for Interstate Compacts and Agreements.)
- Should the various parts of the act have different effective dates? (See *5.11.6, Mixed Effective Date.)
- Should the act be implemented on one date for certain parties or situations, while delayed and implemented on a later date with respect to others? (See *5.11.8, Operative Date.)
- Is the act intended to be effective for only a measured period of time and then expire? (See *5.11.9, Expiration Date.)

5.11.1 Immediate Effective Date

If an act is to take effect immediately upon enactment, the effective date should read: "This act shall take effect immediately." An immediate effective date is often used in bills that do not require the use of any new resources or administrative action by the implementing governmental entity or affected private parties. If such resources or actions are integral to the implementation of the law, but presently lacking due to the immediate effective date, compliance issues may arise with respect to the administration and enforcement of that new law. When the bill requires the adoption of rules or regulations, or some other action that prevents the law's implementation until some time in the future, it is preferred to use separate effective and operate dates or a mixed effective date that provides for the law to be effective immediately but remain inoperative until a certain number of days after enactment. (See *5.11.6, Mixed Effective Date, and *5.11.8, Operative Date.)

5.11.2 Delayed Effective Date

There are a number of options available with respect to drafting a delayed effective date. The act could take effect a specified number of days after enactment, such as 30, 60, or 90 days.

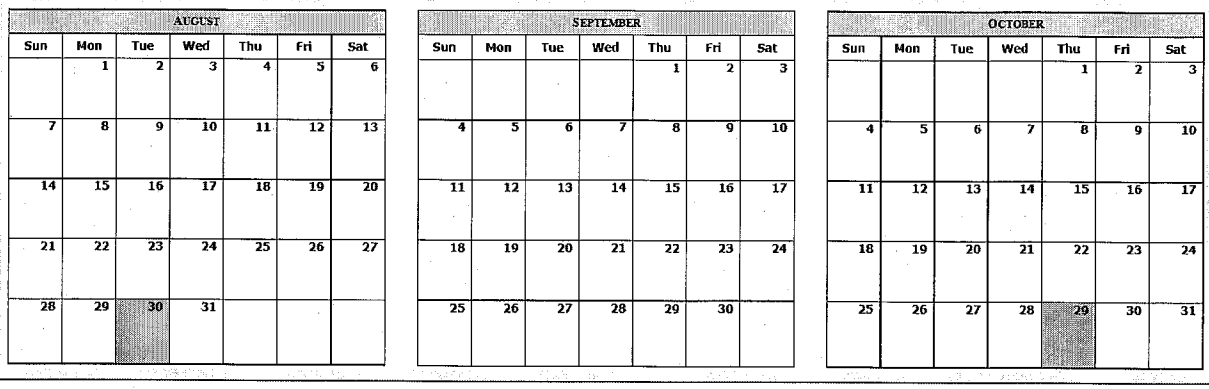
The day of signing is not included in the calculation of days. Thus, if the drafter wants the bill to take effect 60 days after it is enacted, the effective date would provide that the act shall take effect on the 61st day after the date of enactment. One drawback to this approach is that it can result in a law taking effect at an administratively awkward time such as the middle of a week, on a holiday, or on the next to last day of the month. It is therefore usually more convenient for the effective date to be designated as the first day of a month.

The generally accepted rule is that a law with a delayed effective date takes effect as of 12:01 a.m. of its effective day. (The specific time of day is certainly of importance with regard to such matters as tax laws or criminal penalties.)

Example (delayed effective date):

This act shall take effect on the 60th day after the date of enactment.

Helpful Hint:
The day of signing is not included in the calculation of days. If the bill is signed on August 30th, then 60 days after signing would be October 29 (1 day in August plus 30 days in September plus 29 days in October).



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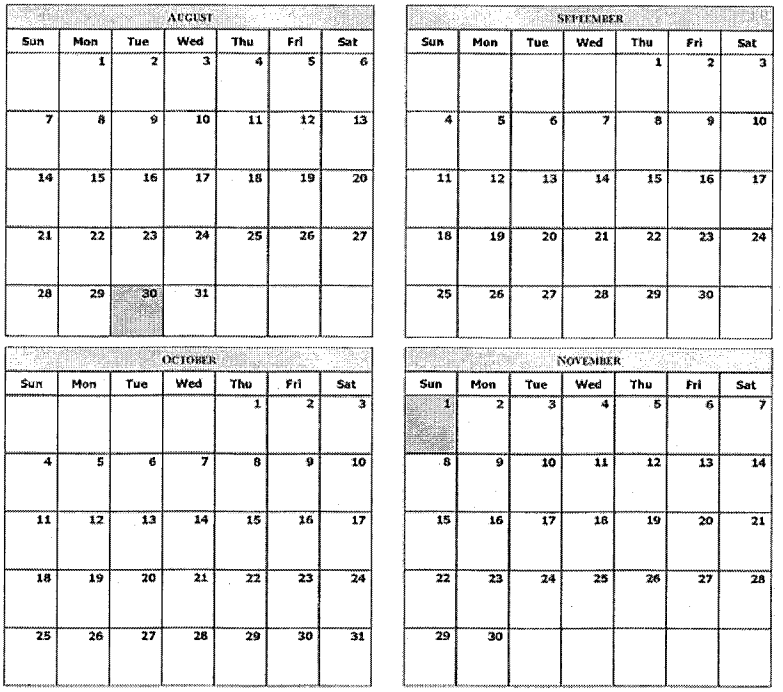
Example (delayed effective date):

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

(Note: Using the phrase "the first day of the third month" ensures that **at least** 60 days will pass before the act takes effect.)

Helpful Hint:
If the bill is signed on August 30th, then the first day of the third month after enactment would be November 1 (September and October and then the first day of the next month, November).



AUGUST

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SEPTEMBER

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OCTOBER

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NOVEMBER

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29	30					

Delayed Effective Date Permitting Advance Administrative Action:

Example:

This act shall take effect on the first day of the ninth month next following enactment, except the commissioner may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

5.11.3 Date Certain Effective Date

Sometimes it may be necessary to specify that an act takes effect on a date certain. Of course, there is no guarantee at the time of the drafting that the bill will be enacted by the date contained in the effective date section. It is the accepted legal interpretation that if an act is enacted after the date specified in the effective date section, then the law is effective immediately upon enactment. For example, if a bill states that it will be effective on January 1, 2011, but it is not signed until March 1, 2011, then March 1 is considered the effective date. There is no retroactivity unless explicitly stated.

Examples (date certain effective date):

This act shall take effect on January 1, 2012.

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

5.11.4 Retroactive Effective Date

If a law is designed to be applied retroactively to a date certain, the effective date section is written in the following manner: "This act shall take effect immediately and shall be retroactive to July 1, 2011."

***Caution*:** Certain types of laws cannot be applied retroactively. A drafter should be aware that there are federal and State constitutional grounds as well as other legal principles that may impede the retroactive application of legislation. Questions about whether a retroactive effective date is permissible and appropriate should be addressed to the Section Chief or to a senior staff member.

5.11.5 Linked Effective Date

A linked effective date is when the effective date of one act is contingent on the enactment or effective date of another act or the occurrence of some other event. The preferred drafting style is not to link the effective dates of bills because it is not certain that both will be enacted. When the linking of effective dates is unavoidable, the effective date section should be similar to the following examples:

Examples (linked effective date):

This act shall take effect upon the enactment into law of P.L. , c. (C.) (pending before the Legislature as Senate Bill No. 626 of 2009).

This act shall take effect upon the enactment of the "Kinship Legal Guardianship Notification Act," pending before the Legislature as Senate Bill No. 1602 or Assembly Bill No. 208 of 2004.

This act shall take effect upon the dissolution or merger of the federal Amtrak corporation.

This act shall take effect immediately, but shall remain inoperative until the approval by the voters of a constitutional amendment authorizing the increase in the annual income limitation to receive the annual $250 property tax deduction provided for herein.

5.11.6 Mixed Effective Date

Sometimes it is intended that the various sections of a law take effect at different times. However, a drafter should not draft a mixed effective date in which an individual subpart (e.g., subsection or paragraph) of a bill is singled out to take effect on a different date.

Examples (mixed effective dates):

Sections 1 through 5 of this act shall take effect immediately and sections 6 through 10 shall take effect on the 45th day after the date of enactment.

Sections 23 and 28 of this act shall take effect immediately and the remainder of this act shall take effect on October 22, 2013.

This act shall take effect immediately, and section 1 shall be retroactive to January 1, 2012, and sections 2 and 3 shall be retroactive to January 1, 2011.

Sections 22 and 23 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 22.

This act shall take effect July 1, 2013; implementation of the assessment and distribution shall take place 30 days following federal approval of any necessary State plan amendments.

Helpful Hints:

(1) If the effective date section contains a mixed effective date, the drafter must be certain to refer to the correct effective date in the body of the bill. A generic reference to "on the effective date" will be confusing. Use the phrase, "on the date of enactment of this act" rather than "on the effective date of this act" in the body of a bill.

(2) A mixed effective date is the standard form for the effective date of a bond act. The provisions regarding submission to the voters become effective at once; the authority to sell bonds is effective only upon voter approval. (See *10.6.)

Example (mixed and linked effective date):

> Sections 8 and 9 shall take effect immediately and the remainder of this act shall take effect upon voter approval of this act at the general election and the repeal or amendment of the federal "Professional and Amateur Sports Protection Act" (28 U.S.C. s.3701 et seq.) to permit sports wagering in New Jersey.

5.11.7 Effective Date for Interstate Compacts and Agreements

Effective dates for interstate compacts and agreements are often linked to the action of another state or congressional approval. (See *10.7.1.)

Example (effective date for interstate agreement):

> This act shall take effect upon the enactment of substantially similar legislation by the State of New York, unless the State of New York has enacted such legislation prior to the date of enactment of this act, in which case this act shall take effect immediately.

5.11.8 Operative Date

An operative date is a subcategory of the effective date. It specifies the date on which an effective provision of law is to be implemented or made applicable to a given situation. For most bills, the operative date and the effective date are the same, so there is no need to specify an operative date.

Sometimes it is appropriate to distinguish between an operative date and an effective date, for example, if a department needs the immediate authority to develop regulations that are not to be imposed until a later date. The preferred form is to have the law take effect immediately and for it to remain inoperative for a specified time or until a certain action is taken. The drafter should be aware that the second and third examples below create a risk that the law may remain inoperative indefinitely should the executive agency fail to adopt regulations. Therefore, the first example is preferred.

Example (negative operative date to allow for the adoption of rules and regulations):

> *Preferred:*
> This act shall take effect immediately, but shall remain inoperative for 180 days following the date of enactment.
>
> *Avoid:*
> This act shall take effect immediately, except that section 2 shall remain inoperative until the rules and regulations adopted pursuant to section 3 have become effective.

Avoid:
This act shall take effect immediately but shall remain inoperative until the promulgation of an energy rating code pursuant to section 1 of this act.

The operative date can be written in the positive or the negative.

Examples (positive operative date):

This act shall take effect immediately and be operative as of January 1, 2013.

This act shall take effect immediately and shall be applicable to sales and exchanges of residences occurring on or after July 1, 2012.

This act shall take effect immediately and shall be first applicable to the 2013-2014 school year.

Example (negative operative date):

This act shall take effect immediately but shall be inoperative until the first day of the sixth month following the date of enactment.

N.J.S.A.1:6-17 provides that special legislation (see ***10.4**) affecting the internal affairs of a municipality or county does not become operative until approval by the local voters, unless otherwise provided in the special law.

Example (special legislation operative date):

This act shall take effect immediately but shall remain inoperative until approval by the voters of the Town of Boonton pursuant to law.

Like the linked effective date discussed in ***5.11.5**, a linked operative date is when the operative date of one act is contingent on the operative date or effective date of another act or the occurrence of some other event. The preferred drafting style is not to link the operative dates of bills because it is not certain that both will be enacted.

Example (linked operative date):

This act shall take effect immediately but remain inoperative until the date of enactment of P.L.2010, c. (pending before the Legislature as Assembly Bill No. 20 or Senate Bill No. 20 of 2010).

5.11.9 Expiration Date

An expiration date, also referred to as a sunset provision, is the date on which the provisions of a law expire and are thereafter no longer in effect. Most laws are intended to be of a continuing or permanent nature and do not contain an expiration date. An expiration date is provided only when all or part of an act is designed to be in existence for a temporary period of time (although the length of the temporary period can be years). Typical acts of this nature include those that create study commissions, establish demonstration programs or pilot programs, or provide benefits or services or impose fees for a limited period of time.

Helpful Hint:
The drafter should not amend a permanent and general section of law for a temporary period. Instead, the drafter should provide the substance of the change in a supplementary section of limited duration.

If an expiration date is required, it is usually placed in the same section of a bill as the effective date.

Examples (expiration date):

> This act shall take effect immediately and shall expire one year thereafter.
>
> This act shall take effect on the 60th day after the date of enactment and shall expire on the 180th day after the effective date.
> This act shall take effect immediately and shall expire upon submission of the commission's report to the Legislature.
>
> This act shall take effect immediately, and section 4 shall expire on the 180th day thereafter.

5.12 Bill Statement (Sponsor's Statement)

The bill statement, also called the sponsor's statement, provides legislators, legislative staff, lobbyists, and the interested public with a concise summary of the subject, purpose, and major provisions of the bill. The statement should be as short as possible and explain how the bill amends, supplements, or repeals current law, with a summary of the current law if considered necessary. Any appropriation should be identified, and relevant fiscal or background information may be included.

The Senate and General Assembly rules require that each bill contain, under the caption "Statement" at the end of the bill, a brief explanation of the object and effect of the bill. Under the Senate rules, the statement should concisely explain the object, localities, entities, or persons it will affect. Under the Assembly rules, the statement should summarize the contents of legislation and the localities or persons it will affect, and should not exceed 450 words in length.

Beyond these general requirements, the drafter should recognize first that the statement is the sponsor's and can reflect the sponsor's individual policy objective in introducing the bill. This policy perspective may well be stated with different emphasis or style than it would be in a committee statement, where the policy perspective is that of the legislative committee as directed by the chair. It is not appropriate, however, to create a policy objective for the sponsor if it has not been supplied.

Examples (sponsor's policy objective in statement):

- This bill would provide that under certain circumstances juvenile records would be automatically expunged if the juvenile was adjudicated delinquent for an act which, if committed by an adult, would constitute engaging in prostitution. It is the view of the sponsor that because many juveniles adjudicated delinquent for engaging in prostitution have been exploited or coerced into this activity, the automatic expungement of juvenile records may be appropriate.

- This bill is modeled on Rule 68 of the Federal Rules of Civil Procedure concerning offers of judgment. Although New Jersey also has Rules of Court concerning offers of judgment, R.4:58-1 through R.4:58-3, in the sponsor's view these State rules are cumbersome and disproportionately favor plaintiffs.

References to or citations of current law, whether State or federal, should be made in the bill statement according to the formal method of citation described in *7.9. The drafter should not use the informal N.J.S.A. If the specific State or federal statute has an official short title or common name, it should be used in the statement in lieu of (or at least in addition to) the R.S., N.J.S., P.L., or U.S.C. reference, especially when the statutory citation may be found in the body of the bill. The short title or common name is more informative and its use is more in keeping with the plain language style of a sponsor's statement.

5.13 Synopsis

Below the bill title on the fronter (see *5.1) and following the sponsor's statement, the bill must contain a synopsis no longer than 35 words. The synopsis is identical on both the fronter and the last page of the bill.

The purpose of the synopsis is to permit ready identification of the bill and inform the reader of the overall purpose of the bill. The synopsis is not a mini-essay on the bill's contents or a summary of the sponsor's statement. The synopsis should contain only the information necessary to distinguish one bill's general subject matter from another but with enough substance so that an informed committee reference can be made.

Helpful Hint:
The drafter should avoid using a synopsis that is identical to another bill's synopsis if the bills are not substantively identical. When the bill is processed by BPU, bills with identical synopses are identified and listed as identical in Legislative Inquiry. If bills are not identical, use a different synopsis to avoid this problem.

The synopsis is used in the compilation of various bill lists, such as the list of bills proposed for introduction, the committee reference list, the bills listed for consideration on the Senate or General Assembly board list, and committee agendas. It is also used by the OLS Legislative Information and Bill Room to identify bills in response to inquiries from legislators and the public.

Helpful Hint:
Whenever possible, the synopsis should include key words or phrases having to do with the subject matter of the bill so that it can be easily located through an electronic search.

The synopsis must be succinct. The 35-word limit is a maximum, not a goal. Eliminating even a few words on each synopsis can save time in typing, proofreading, and printing bill lists. Further, the synopsis should state only the general nature of the bill. The more specific the synopsis, the more likely it will need revision if the bill is amended. A synopsis must also indicate the amount of an appropriation if the bill provides one.

The following are guidelines for writing a succinct synopsis:

- Begin with a verb: prohibits, permits, appropriates, requires, establishes, etc.
- If the bill has a short title, a synopsis may simply state the short title:

  "Liability Insurance Disclosure Act."

  However, if the short title does not sufficiently describe the nature of the bill, add a brief description:

  "Healthy Workplace Act"; makes it an unlawful employment practice for an employer to subject an employee to abusive conduct or to permit an abusive work environment.

- Include the amount of any appropriation:
  - Appropriates $25 million to DEP for recycling grants.
  - Establishes day care programs for disabled veterans; appropriates $5 million.
  - "Veterans' Training Program"; appropriates $3 million.

- Note a dollar amount as $5 million, not $5,000,000.00; $25, not $25.00; $14,700, not $14,700.00.

- Omit articles: a, an, the.

- Do not describe provisions of the bill in detail.

- If the bill's intent is accomplished by simply changing a definition, include language that identifies the subject matter to provide guidance to the reader and for an informed committee reference:

  Preferred:
  Clarifies definition of "retailer" for business income tax purposes.

  Avoid:
  Amends P.L.1998, c.34 to clarify the definition of retailer.

- Eliminate unnecessary words, replace long words with short words, or rewrite to reduce the number of words:

  Preferred:
  Appropriates $740,000 to DOLWD for vocational rehabilitation.

  Avoid:
  Appropriates $740,000 to the Department of Labor and Workforce Development to supplement the funding of its Vocational Rehabilitation Program so that operating levels can be maintained in light of higher program costs.

  Preferred:
  Permits purchase of temporary service in PFRS.

  Avoid:
  Permits members of PFRS to purchase credit for temporary service by agreeing, within one year of the effective date of the act, to make the required contributions.

- Use acronyms if commonly understood, such as: DEP, OMB, DOT. (See *Appendix C, page C-15: **Abbreviations and Acronyms for Synopses and Statements.**)

CHAPTER 6 DRAFTING A RESOLUTION

6.1 Determining the Type of Resolution Needed

6.1.1 Joint Resolutions

The New Jersey Constitution establishes the same general procedural requirements for passage of a joint resolution as for enactment of a bill into law. A joint resolution is considered to have the effect of a law. Funds may be appropriated only in a bill, and not in a joint resolution. If, for example, a study commission is established by a joint resolution, any funding of the commission's work must be done through the enactment of a bill.

A joint resolution is often used instead of a bill when the purpose is: (1) of a temporary nature; (2) for the establishment of a study commission in which both the legislative and executive branches are participants (see *10.3 for more information and examples); (3) for the expression of an opinion or the issuance of a ceremonial tribute in which both the legislative and executive branches are participants; and (4) for amending a rule of evidence.

(For examples of joint resolution, see *Appendix: A, page A-31: **AJR11 of 2010-2011** (designating a ceremonial day, week, or month requiring executive branch participation); and *Appendix A, page A-35: **AJR19 of 2010-2011** (amending a rule of evidence).)

6.1.2 Concurrent Resolutions

A concurrent resolution is effective upon adoption by both Houses. No action by the Governor is required. The procedural requirements of a concurrent resolution are not described in the New Jersey Constitution and have evolved through custom and House rules. In parliamentary terms, a concurrent resolution is more difficult to pass than a one-House resolution since it is subject to committee review and floor action in both Houses rather than one. On the other hand, it does represent a more broadly based and higher order of legislative action than a one-House resolution. No funds may be appropriated in a concurrent resolution. A concurrent resolution expires at the end of the two-year legislative term in which it is adopted.

A concurrent resolution may be used to: (1) establish study commissions composed entirely of legislators or appointees of the presiding officers (see *10.3); (2) petition Congress to take certain actions (including a petition for a constitutional convention); (3) issue ceremonial proclamations; (4) declare that rules or regulations promulgated by an executive branch agency are not consistent with legislative intent (see *10.8); or (5) adopt rules of procedure for both Houses. A concurrent resolution is also the form used for proposing amendments to the New Jersey Constitution and for ratifying amendments to the U.S. Constitution (see *10.1).

(For examples of concurrent resolutions, see *Appendix A, page A-39: **SCR149 of 2010-2011** (petitioning Congress for a constitutional convention); *Appendix A, page A-45: **ACR120 of 2010-2011** (adopting or amending Joint Rules); and *Appendix A, page A-49: **SCR33 of 2010-2011** (petitioning Congress).)

6.1.3 One-House Resolutions

A Senate or Assembly resolution (also called a "simple resolution") is the format by which one House: (1) expresses its policy or opinion; (2) regulates its internal organization or procedures; or (3) establishes a study committee under the sole jurisdiction of that House.

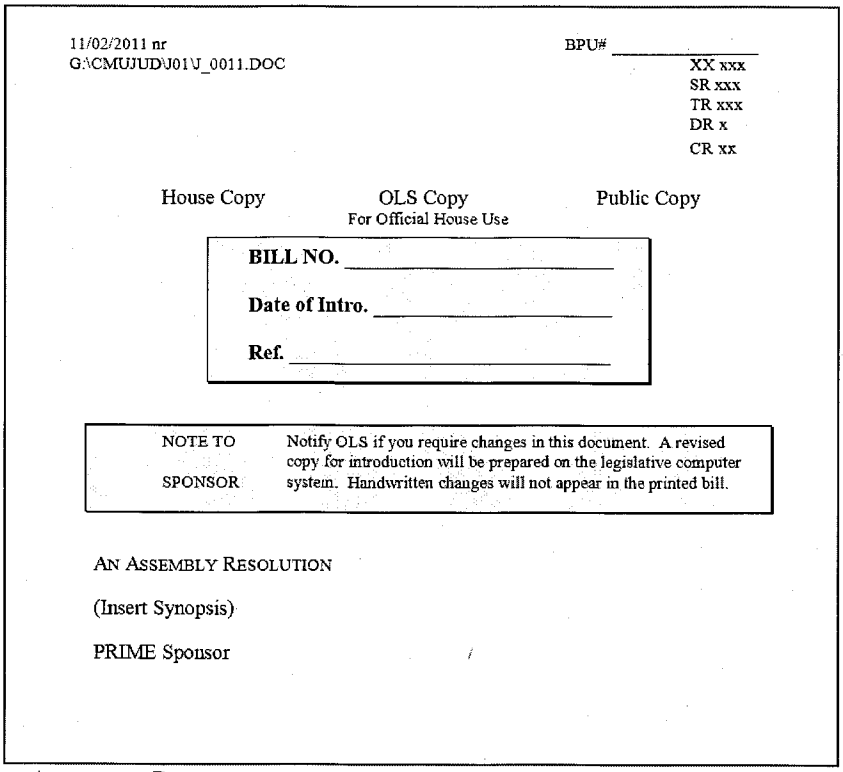
A one-House resolution does not require any action by the other House or by the Governor. The advantage of this format is that it can gain final approval more quickly than a measure which must pass both Houses. Like a concurrent resolution, a simple resolution expires at the end of the two-year legislative term in which it is adopted.

(For examples of one-House Resolutions see *Appendix A, page A-53: **SR16 of 2010-2011** (establishing internal House organization or procedures); and *Appendix A, page A-57: **SR48 of 2010-2011** (expressing the House's opinion or policy).)

6.2 Fronter

Resolutions, whether one-House, concurrent, or joint, are presented for introduction in the same form and with the same number of copies as bills. (See *1.2.1.)

To create a fronter for a resolution, select the appropriate resolution form template from within the word processing software provided by OLS and follow the general instructions set forth in *5.1.



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BPU# _____
XX xxx
SR xxx
TR xxx
DR x
CR xx

House Copy OLS Copy Public Copy
For Official House Use

BILL NO. _____

Date of Intro. _____

Ref. _____

NOTE TO SPONSOR: Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.

AN ASSEMBLY RESOLUTION

(Insert Synopsis)

PRIME Sponsor

ASSEMBLY RESOLUTION FRONTER BEFORE INFORMATION IS ENTERED

6.2.1 Upper Left-Hand Corner

- Date and typist's initials
- Personal library document ID number

6.2.2 Upper Right-Hand Corner

- **Completed bills library document ID number** (inserted by a secretary when the completed document is transferred from the drafter's personal library to the CMU section's completed bills library.)
- **Bill drafter's number**
- **SR number** (inserted after completion of the substantive review—see *8.1.1.)
- **TR number** (inserted after completion of the technical review—see *8.1.2.)
- **BR number** (only present when ballot review required, inserted after completion of the ballot review – see *10.1.2 (constitutional amendments), *10.1.4 (other voter approved legislation), and *10.6.2 (general obligation bond acts).)
- **DR** (indicates drafter's recommendation with regard to fiscal note, pension and health benefits, and sales and use tax review certifications—see *5.1.)
- **CR number** (indicates drafter's recommendation for committee referral—see *5.1.)

6.2.3 First Line Above "For Official House Use"

The secretary preparing the introductory copies should circle a different term on each of the three copies to designate where each copy should be sent after introduction. The sponsor of the resolution files the introductory copies ("drops the resolution") with the Clerk of the General Assembly or the Secretary of the Senate, as appropriate. In the General Assembly, the Clerk assigns the resolution a number and transfers the House, OLS, and Public copies to BPU for processing. In the Senate, BPU is responsible for assigning numbers to all Senate resolutions. Following any necessary review work and processing, BPU is responsible for final distribution of the introductory copies to the appropriate House, to CMU, and to OPI (the Office of Public Information, which includes the Bill Room).

6.2.4 Under "Note to Sponsor" Box

- Title of resolution (see *6.3)
- Synopsis (see *6.10)

The title and synopsis on the fronter must read exactly as they read in the main body of the resolution.

6.2.5 Lower Portion of Page – "Same as . . ."

Complete the "Same as . . ." line if the resolution is a reintroduction from the previous legislative session or there is an identical resolution in the other House during the same session. With regard to current identical resolution draft requests, do not fill in the "Same as" line unless the identical resolution currently exists in the other House or is expected to be introduced soon. (See *5.1.5.)

6.2.6 Bottom of Page – Suggested Allocation

Resolutions that express the will of one or both Houses do not require a suggested allocation. Sometimes a resolution will be allocated to the Rules of a particular House or to the Joint Rules. A concurrent resolution adding a new part to the Constitution does require a suggested allocation. A joint resolution requiring observance of an annual occurrence should be compiled with the permanent statutes and requires a suggested allocation.

When a resolution establishes a commission or task force of limited duration, the suggested allocation should be "T&E" to indicate that the resolution is "temporary and executed." A resolution that is "T&E" does not get compiled with the permanent statutes.

(See *5.1.6 for an explanation of abbreviations used for suggested allocations.)

6.3 Title

The title of a resolution begins with the words **A(N) (SENATE, ASSEMBLY, JOINT, CONCURRENT) RESOLUTION** (always in small caps), followed by the present participle ("ing" form) of the verb, which conveys the thrust of the resolution and provides a succinct description of the resolution's purpose. When the purpose of a resolution is to petition another branch of government to act, it is recommended that the drafter add the words "respectfully" before the present participle in the title (see the first example below).

Examples (resolution titles):

A SENATE RESOLUTION respectfully urging . . .

AN ASSEMBLY RESOLUTION memorializing . . .

A CONCURRENT RESOLUTION establishing . . .

A CONCURRENT RESOLUTION proposing to amend the Constitution . . .

A JOINT RESOLUTION establishing . . .

A JOINT RESOLUTION declaring . . .

6.4 Preamble – "WHEREAS" Clauses

Except for a concurrent resolution either proposing an amendment to the New Jersey Constitution (see *10.1) or exercising legislative regulatory oversight (see *10.8), a resolution often contains a preamble with one or more "WHEREAS" clauses. The preamble contains information similar to that contained in the findings and declarations section of a bill; however, the WHEREAS clauses are never enacted as a section of law. The final WHEREAS clause ends with "now, therefore," leading into the "BE IT RESOLVED" enacting clause.

Example (Assembly Resolution preamble):

AN ASSEMBLY RESOLUTION urging New Jersey's cable television operators to offer rate discounts to senior citizens.

WHEREAS, Subsequent to the ending of federal price controls over most cable rates in 1999, there has been a continued escalation of the rates charged by cable television operators for their services which has made it more and more difficult for senior citizens living on fixed incomes to afford cable television service; and

WHEREAS, Given the high cost of cable television service for senior citizens living on fixed incomes in this State, and the critical importance to senior citizens' health, safety and welfare of retaining access to essential news and information services, cable television service operators should give serious consideration to offering a reduced or special rate for all senior citizens age 65 and over in order to provide them with continuing access to cable television services; and

WHEREAS, It is altogether fitting and proper for this House, and in the public interest, to urge the cable television industry to offer reduced or special subscription rates to all senior citizens age 65 and over in this State; now, therefore,

BE IT RESOLVED *by the General Assembly of the State of New Jersey:*

6.5 Enacting Clause - BE IT RESOLVED

The enacting clause for each form of resolution is not prescribed by the New Jersey Constitution but has necessarily evolved from the form of the resolution itself and has become standardized over long and consistent usage. This is automatically generated by the template.

- The enacting clause for a one-House Senate resolution is "**BE IT RESOLVED** *by the Senate of the State of New Jersey:*"
- The enacting clause for a one-House Assembly resolution is "**BE IT RESOLVED** by *the General Assembly of the State of New Jersey:*"

- The enacting clause for a concurrent resolution introduced in the Senate is "**BE IT RESOLVED** *by the Senate of the State of New Jersey (the General Assembly concurring):*"
- The enacting clause for a concurrent resolution introduced in the General Assembly is "**BE IT RESOLVED** *by the General Assembly of the State of New Jersey (the Senate concurring):*"
- The enacting clause for a joint resolution is "**BE IT RESOLVED** *by the Senate and General Assembly of the State of New Jersey:*" (The Senate is always mentioned first, even if it is an Assembly joint resolution.)

6.6 Substantive Section

The substantive section (or sections) of a resolution follows the enacting clause as the first numbered section of a resolution. In one-House or concurrent resolutions expressing the will of the Legislature that another entity take a specific action, the substantive language is usually expressed in a single section. If one or both Houses recommend that more than one action be taken by the entity addressed by the resolution, then multiple substantive sections should be drafted as necessary.

Example (title and single substantive section):

> **A CONCURRENT RESOLUTION** respectfully urging the New Jersey Supreme Court to establish Internet profiles for New Jersey attorneys.
>
> . . . .
>
> 1. The New Jersey Supreme Court is urged to collect and maintain information concerning all attorneys licensed in the State for the purpose of creating an Internet profile of each attorney.

Example (title and multiple substantive sections):

> **A SENATE RESOLUTION** urging the State Board of Education to adopt core curriculum content standards that name our Founding Fathers, to require every school district to teach students about the Pilgrims and the brutal treatment of members of our United States Armed Forces as prisoners of war, and to require every school district to display a portrait of George Washington.
>
> . . . .
>
> 1. The Legislature strongly urges the State Board of Education not to adopt the proposed core curriculum content standards for social studies as proposed in January, 2002. Alternatively, the Legislature urges the board to adopt a version of the standards that specifically names the Founding Fathers and requires every child in this State to learn about the Founding Fathers' contributions to the freedoms we all enjoy in the United States of America today. . . .

2. The Legislature further urges the State Board of Education to require every school district in the State to display prominently in a school within the school district a portrait of George Washington in order to promote patriotism and to remind the students of the historical significance of the first president of the United States. . . .

Helpful Hint:
When drafting a substantive section memorializing the federal government, another state, the other House of the Legislature, or a co-equal branch of government to take a specific action, the drafter should avoid using inflammatory language. Since the entity receiving the resolution is under no obligation to do what has been asked of it, the resolution is more likely to receive serious consideration if respectful language is used. When in doubt, talk to senior staff.

6.7 Authentication and Distribution

When a resolution is prepared expressing the will of one or both Houses, or memorializing the other House or another entity to take a specific action, an authentication and distribution section is included following the substantive section (or sections) of the resolution. Within the authentication and distribution section the entities who will be receiving copies of the resolution are identified as well as the specific officials who will be signing and attesting to copies of the resolution.

Examples (authentication and distribution section):

Duly authenticated copies of this Senate resolution, signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to the Speaker of the General Assembly.

Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the Governor and to Mr. Carter Roberts, President and Chief Executive Officer of the World Wildlife Fund.

Duly authenticated copies of this concurrent resolution, signed by the Speaker of the General Assembly and the President of the Senate and attested by the Clerk of the General Assembly and the Secretary of the Senate, shall be transmitted to the President and Vice President of the United States, the Majority and Minority Leader of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and to every member of Congress elected from this State.

6.8 Effective Date

A joint resolution should always contain an effective date section. Resolutions that create a public body, such as a task force or study commission, or that enact sections of law, in the case of certain joint resolutions, will have an effective date section similar to that found in a bill. (See *5.11.)

Certain types of resolutions do not require effective date sections, such as a one-House or concurrent resolution requesting that another entity take a specific action recommended in the resolution. These types of resolutions generally contain instructions for the distribution of the resolution to the appropriate entities and may or may not have a separate effective date section. When there is no separate effective date section the authentication and distribution section implies an immediate effective date.

Example (implied immediate effective date):

A SENATE RESOLUTION urging the State Board of Education not to adopt the revised core curriculum content standards for social studies until they have been reviewed by American historians for anti-Free World propaganda.

. . . .

2. Duly authenticated copies of this resolution signed by the President of the Senate and attested by the Secretary thereof shall be transmitted to each member of the State Board of Education.

Example (joint resolution with effective date section):

A JOINT RESOLUTION urging the State Board of Education to adopt core curriculum content standards that name our Founding Fathers, to require every school district to teach students about the Pilgrims and the brutal treatment of members of our United States Armed Forces, and to require every school district to display a portrait of George Washington.

. . . .

4. Duly authenticated copies of this joint resolution signed by the President of the Senate and the Speaker of the General Assembly and attested by the Secretary of the Senate and the Clerk of the General Assembly shall be transmitted to each member of the State Board of Education.

5. This joint resolution shall take effect immediately.

Example (joint resolution with effective and expiration dates):

> A JOINT RESOLUTION creating the "Smart Freight Railroad Study Commission."
>
> . . . .
>
> 6. This joint resolution shall take effect immediately and shall expire 30 days after the commission submits its final report as prescribed in section 3 of this joint resolution.

6.9 Statement

The Senate and General Assembly rules require that each resolution contain, at the end of the resolution under the caption "Statement," a brief explanation of the object and effect of the resolution. The same considerations apply as when drafting a sponsor's statement for a bill. (See *5.12.)

Beyond these general requirements, the drafter should recognize first that the statement can reflect the sponsor's individual policy objective in introducing the resolution. This policy perspective, which is individual by its nature, may well be stated with different emphasis or style than the same policy would be stated in a committee statement, in which the policy perspective is that of the legislative committee.

Example (statement):

> This joint resolution designates March of each year as Women's History Month in New Jersey in recognition of the many accomplishments of American women and their contributions to the history of this nation and State.

Example (statement):

> This Assembly resolution requests the Commissioner of Transportation to designate a current employee of the Department of Transportation as the "Next Gen Liaison" to serve as a central focal point for referrals of interested parties to the New Jersey Aviation Research and Technology Park and to undertake other relevant functions related to the Next Generation Air Transportation System. The Federal Aviation Administration (FAA) is in the process of implementing the Next Generation ("NextGen") Air Transportation System, which involves the ongoing, wide-ranging transformation of the United States' national airspace system and represents an evolution from a ground-based system of air traffic control to a satellite-based system of air traffic management. The New Jersey Aviation Research and Technology Park in Egg Harbor Township is being developed to provide a central location for partners in academia, industry, and other State and federal governmental agencies to work on NextGen under a Memorandum of Agreement. The "NextGen Liaison" would be able to provide a single focal point in State Government for parties interested in NextGen matters.

6.10 Synopsis

The synopsis of a resolution appears both on the fronter and following the sponsor's statement. The synopsis serves as a guide to the resolution's general subject matter and should be drafted following the same guidelines as for a bill synopsis. (See *5.13.) The following are examples of types of phrases that are commonly used, depending on the purpose of the resolution:

- Designates May 2nd of each year as . . .
- Establishes joint legislative commission to . . .
- Expresses sympathy for victims of . . .
- Memorializes Congress to . . .
- Requests AG and BPU to file amicus briefs . . .
- Proposes constitutional amendment . . .
- Provides for special session of Legislature to . . .
- Urges State Board of Education to . . .

6.11 Amending an Adopted or Enacted Resolution

Resolutions that have been adopted to establish a commission, task force, or other public body and joint resolutions that enact sections of law sometimes need to be amended. A typical purpose for an amendment would be to increase the membership of a commission or board established by a resolution. When amending an adopted resolution, use the same type of resolution. A permissible exception to this rule is when amending a section of law enacted by a joint resolution. In that case the section of law may be amended by a joint resolution or by a bill.

For example, JR 2 of 1991 enacted N.J.S.A.52:9DD-1 et seq., creating the Commission on Racism, Racial Violence and Religious Violence. Section 1 of that joint resolution was subsequently amended by section 55 of P.L.1994, c.58 and by section 94 of P.L.2005, c.155. When amending a joint resolution, the following form of citation is used: "Section 1 of P.L.1991, J.R.2 (C.52:9DD-1) is amended to read as follows: . . ."

Example (amending a joint resolution):

94. Section 1 of P.L.1991, J.R.2 (C.52:9DD-1) is amended to read as follows:

1. There is created a 21-member Commission on Racism, Racial Violence, and Religious Violence to by appointed as follows: two shall be members of the Senate appointed by the President thereof, who shall not be of the same political party; two shall be members of the General Assembly appointed by the Speaker thereof, who shall not be of the same political party; the Attorney General or his designee; the Public **[**Defender**]** Advocate or his designee; and 15 public members to be appointed by the Governor. The public members shall be representative of the ethnic, racial, and religious diversity of the State's population and shall include representatives from the following groups: the National Association for the Advancement of Colored People, the Puerto Rican Congress, the Anti-Defamation League of **[**B'Nai B'Rith**]** B'nai B'rith, the New Jersey Black Issues Convention, the New Jersey Chapter of the National Rainbow Coalition, and the American Civil Liberties Union.

(cf: P.L.1994, c.58, s.55)

CHAPTER 7 GUIDELINES ON PREFERRED STYLE AND USAGE

This chapter contains principles of style and usage to which the drafter should generally adhere. It also attempts to address some of the more common style and usage issues that drafters encounter. The chapter does not set out every rule of style and usage or list all of the errors that should be avoided in drafting bills. For answers to a specific style or usage question not addressed in this chapter, the drafter should consult with a senior staff member.

As an authority for basic rules of writing, the Office of Legislative Services uses "A Concise Guide to Style," which is included in the current edition of *Webster's II New College Dictionary*. This dictionary is also the authority for spelling and hyphenation of words.

7.1 Special Cases in Applying Style and Usage Guidelines

7.1.1 Updating Existing Statutory Language

Generally, when amending an existing law, it is not necessary or advisable to change existing language simply because it violates current style and usage preferences unless the existing structure or language is so archaic or complicated that it offends modern standards.

Bills that amend all occurrences of language that violate current style and usage guidelines are typically the appropriate vehicles for updating the statutes. However, if making significant revisions to a large section, or sections, of law, a drafter may consider updating the language to reflect current preferences.

There are exceptions to the recommendation that existing language not be updated to reflect current style and usage preferences. When feasible, drafters should make the following changes when amending existing statutory language:

- Use the correct names of State departments and agencies (see *7.6.4); and
- Use the preferred terms for referring to vulnerable populations (see *7.7.10).

7.1.2 Correcting Technical Errors in Bills

It is not necessary to amend a bill to correct or insert technical language, references, or citations. Pursuant to N.J.S.A.1:3-1, the Legislative Counsel, with the concurrence of the Attorney General, is authorized to correct any error or omission in legal reference, text, punctuation, spelling, grammar, or form that does not affect the substance of the text of the bill. Legislative Counsel may not, however, make corrections to a bill's title.

If the drafter has questions about whether or not it is necessary to correct language, references, or citations, please consult the Section Chief or CMU. Notify the Legislative Counsel's office of technical changes that should be made to a bill that is in the second House.

7.2 Sections, Paragraphs, Subparagraphs, and Subsubparagraphs

7.2.1 Subdividing

- Avoid lengthy sections, paragraphs, and subparagraphs.

- Sections should be subdivided as follows:

  1. (Section number)
  a. (Subsection letter)
  b.
  (1) (Paragraph number)
  (2)
  (a) (Subparagraph letter)
  (b)
  (i) (Subsubparagraph number)
  (ii)

- Every effort should be made to avoid subdividing sections at a level below the paragraph (i.e., avoid subparagraphs and subsubparagraphs).

- A subdivision designation can never stand alone (i.e., do not use the designation (a) without following with (b)). The purpose of subdividing is to set forth two or more parallel sentences or phrases.

- When amending a section of law that is subdivided according to a scheme other than the one presented above, follow the scheme in the existing law.

- The text of each section should begin with a capital letter. The first letter of the first word of text in any subsection, paragraph, subparagraph, or subsubparagraph should follow normal capitalization rules. Capitalize the letter if it is the beginning of a complete sentence, but do not capitalize the first letter, other than in accordance with normal capitalization rules, if the subdivision only contains a sentence fragment.

Example (follow normal capitalization rules for subdivisions):

10. Any specialty fertilizer labeled for use on turf and intended for use by consumers shall:

a. contain no more than 0.7 pounds of water-soluble nitrogen and no more than 0.9 pounds of total nitrogen at least 20 percent of which shall consist of slow release nitrogen per 1,000 square feet when applied pursuant to the instructions on the container; and

b. contain no phosphorus.

c. Nothing in this section shall apply to fertilizer derived from processed sewage wastewater solids or manipulated animal or vegetable manure.

7.2.2 Adding or Deleting Subdivisions

When adding or deleting subdivisions to or from existing statutes, the usual practice is not to renumber or reletter the existing subdivisions. (*Note:* In some rare circumstances, it may be appropriate to reletter or renumber the subdivisions if the subdivisions are not referenced elsewhere in the statutes. If in doubt about whether or not to reletter or renumber subdivisions, please consult the Section Chief or CMU.)

- If you are adding a subdivision to a group of subdivisions in an existing statute, add it at the end.

Example (adding subdivision):

> 1. A person is guilty of aggravated arson, a crime of the second degree, if the person starts a fire or causes an explosion, whether on the person's own property or on another person's property:
>
> a. with the purpose of destroying a building or structure; **[**or**]**
>
> b. with the purpose of collecting insurance for the destruction or damage to such property under circumstances which recklessly place any other person in danger of death or bodily injury ; or
>
> c. with the purpose of destroying or damaging a structure in order to exempt the structure, completely or partially, from the provisions of any State, county, or local zoning, planning, or building law, regulation, ordinance, or enactment under circumstances which recklessly place any other person in danger of death or bodily injury.

- If you are deleting a subdivision, retain the number or letter of the subdivision because the subdivision may be referenced in the statutes, regulations, or court cases. Bracket out the language of the subdivision and insert the following phrase: (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill) (*Note:* (1) there is no period within the parentheses at the end of either parenthetical statement; (2) there is no period outside of the last parentheses; and (3) the entire phrase, including all spaces, is underlined).

Example (deleting subdivisions):

> b. **[**The director shall be named as an additional insured under each insurance policy required under subsection a. of this section and each policy shall provide that the issuer give the director at least 10 days' written notice of its intention to cancel or not renew the policy.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

When enacted into law, this amendment became:

> 6. a. A towing company shall maintain liability insurance which meets or exceeds the requirements of this section, or such other amounts as the director may determine by regulation, including in the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least $750,000 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of or injury to persons and damage to property for each accident or occurrence in the amount of at least $1,000,000 single limit.
>
> b. (Deleted by amendment, P.L.2009, c.39)
>
> c. Nothing in this section shall preclude a State agency or political subdivision, or the independent authorities or instrumentalities thereof, from requiring additional or higher liability insurance coverage or amounts with respect to contracts for towing and storage services awarded under the authority of such agency, subdivision, authority or instrumentality.

- When adding or deleting subdivisions, the drafter should ensure that punctuation (comma, semicolon, period) and conjunctions (and, or, nor) are added or deleted as necessary such that the entire section and its subdivisions flow appropriately.

Example (maintaining correct subdivision punctuation):

> (3) is serving any statutorily mandated parole ineligibility, or any parole ineligibility imposed by the court pursuant to subsection b. of N.J.S. 2C:43-6 or section 6 of P.L.2007, c.49 (C.2C:43-6.5); or
>
> (4) [has previously completed a program of intensive supervision established pursuant to the Rules Governing the Courts of the State of New Jersey; or] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)
>
> (5) has previously been convicted of a crime of the first degree, or of any offense in any other jurisdiction which, if committed in New Jersey, would constitute a crime of the first degree and the inmate was released from incarceration on the first degree offense within five years of the commission of the offense for which the inmate is applying for intensive supervision.

7.3 Definitions

7.3.1 Generally

A word or phrase should be defined in a bill in the following circumstances:

- If the word or phrase has more than one meaning and the intended meaning is not apparent from the context;
- If the word or phrase is intended to have a more specific meaning than its generally recognized meaning;
- If the word or phrase carries a meaning that is unique for the purpose of the bill;
- To avoid the frequent repetition of a lengthy or complex phrase; or
- To define a technical word or phrase.

It is not necessary to define a word or phrase if the word or phrase is used in accordance with its ordinary and unambiguous dictionary meaning, or if the word or phrase is defined in Title 1 of the Revised Statutes (applicable to all laws) or in the Title, chapter, or law which the bill supplements or amends, as long as the existing definition is suitable for the purpose of the new bill.

7.3.2 Writing Definitions

- *Use the form:*
  "Word" means...

  not
  "Word" shall mean...
- Use a period, rather than a semi-colon, at the end of each definition.
- Arrange the definition section in alphabetical order. In new bill drafts, the definitions should not be lettered or numbered. Arranging the definitions without lettering or numbering will permit the addition of any subsequent definition in the proper alphabetical sequence without the need for relettering or renumbering each existing definition.
- Limit the definition to the meaning of the term, and do not include substantive language that serves other purposes. Substantive provisions belong in the operational sections of the bill.
- Do not use more than one word or phrase to denote the same meaning. For example, do not write "member or participant means." Use either "member" or "participant," but not both.

- Avoid illogical, confusing, or deceptive definitions, such as defining the term "municipality" to include the State. In this example, the drafter could opt for a more general term, such as "governmental unit."

- A definitions section in a new bill draft should be included as the first section of the draft (unless the bill includes a short title or a legislative findings and declarations section which would appear before the definitions, see *4.6.1). However, if a definition applies to only one section of a bill, or to a few sections in close proximity to one another, place the definition within the section in which the term is first used rather than in the general definition section at the beginning of the bill.

Example (definitions):

> 1. As used in this act:
> "Fund" means the Consumer Fraud Education Fund created pursuant to section 5 of this act.
> "Pecuniary injury" shall include, but not be limited to: loss or encumbrance of a primary residence, principal employment, or source of income; loss of property set aside for retirement or for personal or family care and maintenance; loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or person with a disability.

- Use the term "includes" or phrase "includes but need not be limited to" only if the intent is to provide a partial definition that may be expanded by an administering agency or a court. *Note:* The term "means" sets forth a complete definition for a term, but phrases such as "shall be deemed to include" or "means and includes" allow for an expansion beyond the definition included in the text.

Example (allowing expansion beyond definition in text):

> a. As used in this section, "municipal solid waste" means solid waste of the type generated by a household or sold waste generated by a commercial, industrial, or institutional entity that is essentially the same as waste generated by a household. Municipal solid waste may include, but need not be limited to, food and yard waste, paper, clothing, appliances, consumer product packaging, and office supplies.

- To the greatest extent possible, define a word or phrase in a manner consistent with the definition of the word or phrase that already exists in another related statute. Incorporating the existing definition by cross-reference is one way to accomplish consistency. An alternative method is to supplement an existing Title, chapter, or law, in which case the definition already provided in the Title, chapter, or law would apply to the supplementary bill.

Example (definitions with cross references):

> "Lender" means a banking institution as defined in section 1 of P.L.1948, c.67 (C.17:9A-1), a federally chartered savings bank, and an association as defined in section 5 of P.L. 1963, c.144 (C.17:12B-5).
>
> "Controlled substance" means any substance so classified under subsection (6) of section 102 of the "Controlled Substances Act" (21 U.S.C. s.802), and includes all substances listed on Schedules I through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1 et seq.) as they may be revised from time to time.
>
> "Emergency medical transportation" means the prehospital or interhospital transportation of an acutely ill or injured patient by a dedicated emergency medical service helicopter response unit operated, maintained, and piloted by the Division of State Police in the Department of Law and Public Safety, pursuant to regulations adopted by the commissioner under chapter 40 of Title 8 of the New Jersey Administrative Code.

Note: when referencing the Administrative Code, as above, the drafter should not refer to a specific section of the code since the section designations in the code may be changed.

7.4 Chapter, Title, Act, and Article

7.4.1 Chapter and Title

- "Title" refers to a Title of the Revised Statutes or New Jersey Statutes, and "chapter" refers to a chapter of such a Title, not to a chapter of the Pamphlet Laws. "Title" when used in this manner should always be capitalized.
- If referring to the title of a particular bill, do not capitalize the first letter in the word "title."
- "An Act" refers to the bill being drafted.
- "Article" may refer to an article in a chapter of the Revised Statutes or New Jersey Statutes or to an article in an Act so subdivided, but it is not commonly used because the titles of articles do not show up in the New Jersey Statutes database.

7.4.2 "This act"

When drafting a bill that includes only supplementary sections, it is acceptable to use the phrase "this act" to refer internally to the bill draft.

However, if a bill draft includes amendatory sections, the drafter should not refer to "this act" as it will not be clear whether "this act" refers to the original law or its subsequent amendment. When drafting an amendatory bill use the form: "pursuant to P.L. , c. (C.)" to make internal reference. If the drafter intends to refer to the current bill, the drafter should also use the phrase "pending before the Legislature," rather than the more redundant "now before the Legislature" or "now pending before the Legislature."

Example (amendatory bill – avoid reference to "this act"):

> "Eligible generator" means a developer of a new, natural gas fired, combined-cycle electric power generating facility with a net summer output rating of 100 megawatts or larger, that is physically located within the State of New Jersey, and that commences construction after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

Example (amendatory bill - change reference to "this act" to original law):

> 12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to [this act] P.L.1999, c.23 (C.48:3-49 et al.), the board shall permit each electric public utility and gas public utility to recover some [or] but not all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

Example (supplementary bill may refer internally to "this act"):

> b. In the event that the average cost per license plate as certified by the chief administrator and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $25 application fee established in section 2 of this act in two consecutive fiscal years, the chief administrator may discontinue the issuance of the Gold Star Parent license plates.
>
> (*Note:* this example came from P.L.2011, c.17 which included only supplementary sections.)

7.5 Parenthetical Insertions in Bills

7.5.1 Parentheses, Citations, and References

Use parentheses in references and citations and around material that will be removed if the legislation is enacted. The use of parentheses in these cases indicates that the parenthetical material is an aid in reading the bill or in locating the law in unofficial publications, or in the legal editing of the law. These parenthetical insertions do not have the same legal status as the substantive text of a bill.

- (New section)
- P.L.2003, c.292 (C.52:27D-454.1)

Helpful Hint:
The drafter should include the compilation number every time a reference is made to the pamphlet law, even in instances where the P.L. is repeated several times within one section of a bill draft.

- (cf: P.L.2003, c.59, s.4)
- (pending before the Legislature as Senate Bill No. 200 of 2011)
- (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

Helpful Hint:
When a citation contains an abbreviation that requires a period inside parentheses, and the citation falls at the end of a sentence or at the end of a title, two periods are used, one marking the end of the abbreviation inside the parentheses, and one marking the end of the sentence or title outside the parentheses.

Example: The penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

7.5.2 Formulas

Use parentheses to enclose a sum, product, or other expression considered or treated as a collective entity in a mathematical operation.

Example (formula):

15. a. Each school district's and county vocational school district's State aid for transportation shall consist of base aid (BA) and an incentive factor (IF) determined as follows:

BA = (BA1 x IF) + BA2
where
BA1 = CP1 x P1+CD1 x P1 x D1;
BA2 = CP2 xP2 + CD2 x P2 x D2;

7.5.3 Explanatory or Qualifying Remarks

In a bill, do not use parentheses to mark off explanatory or qualifying material. Instead, use commas or put explanatory or qualifying material in a separate sentence.

7.6 Grammar and Style

7.6.1 Singular and Plural Construction

Use the singular instead of the plural whenever possible. N.J.S.A.1:1-2 provides that in New Jersey law the use of the singular construction is deemed to include the plural. Thus, it is not necessary to cover all contingencies by using both singular and plural references.

- *Preferred*: A defendant in a criminal action is presumed innocent until proven guilty.
- *Avoid*: Defendants in criminal actions are presumed innocent until proven guilty.

- *Preferred*: The governing body of a municipality may enact an ordinance regulating the burning of leaves.
- *Avoid*: The governing body of a municipality may enact an ordinance or ordinances regulating the burning of leaves.
- *Avoid*: Governing bodies of municipalities may enact ordinances regulating the burning of leaves.

Helpful Hint:
Items in a series linked by "and" are considered to be plural ("a., b., and c. are required"); items in a series linked by "or" are considered to be singular ("a., b., or c. is required").

7.6.2 Gender

N.J.S.A.1:1-2 provides that the use of the masculine gender is deemed to include the feminine gender. Because this statute governs the interpretation of the general and permanent statutory law of the State, there is no danger that the use of the words "he" and "his" in existing law will result in discrimination. Consequently, a bill proposing to amend existing law needs no amendment for purposes of gender neutralization and amendatory bills should be drafted in a manner consistent with the law being amended. If a legislator has a strong desire to make these changes, however, they may be made. Consult the Section Chief or CMU if you have questions in this regard.

A bill proposing to supplement existing law, however, should be written in gender neutral language. Do not use "he or she" or "his or her." Instead, use neutral words such as "person," "individual," "candidate," "applicant," etc. In rare cases, however, where the use of neutral words

is particularly cumbersome, the drafter should use the masculine "he" or "his" rather than "he or she" or "his and her."

Example (use of gender neutral language in drafting):

> i. Nothing in this act is intended to exempt any person from liability the person would otherwise have under applicable law.

Example (acceptable use of masculine gender in drafting):

> (a) A law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority or because of his status as a law enforcement officer; or

7.6.3 Capitalization

Generally, standard rules of capitalization are followed in bill drafts and statements. The following examples may be deviations from standard usage:

- Capitalize "State" or "Statewide" when referring to New Jersey. This rule also applies to the terms "in-State" and "out-of-State." Do not capitalize "state" or "statewide" when referring to other states.

- Capitalize "State" when referring to specific names of states. Example: "State of Delaware"; "State of New York."

- Capitalize Legislature, Senate, General Assembly, Governor, Constitution, Supreme Court, and House when referring to New Jersey.

- Do not capitalize "federal" unless it is part of the proper title of a federal agency or other specific proper noun. Example: "applicable federal law"; "Federal Bureau of Investigation"; "Federal Water Pollution Control Act Amendments of 1972."

- Capitalize "Congress" as in "with the consent of Congress."

- Do not capitalize "congressional" unless it is part of the title of a proper noun. Example: "congressional district"; "Congressional Medal of Honor."

- Do not capitalize "executive branch," "legislative branch," or "judicial branch" unless they are part of a proper name.

- When citing the New Jersey Constitution, capitalize "Article" and "Section," but not "paragraph." Example: "Article IV, Section VII, paragraph 8 of the New Jersey Constitution provides . . . ."

- Do not capitalize "members," as in "members of the Senate."

- Do not capitalize "rules," as in "rules of the General Assembly."

- Capitalize "Rules" in "Rules of Court."

- Capitalize the proper names of municipalities, counties, and other political subdivisions. Consult the Local Government Section of OLS if you are in doubt about the proper way to refer to a political subdivision.

Examples (capitalization of counties):

counties of Essex, Hudson, and Union
Essex, Hudson, or Union counties

- Capitalize the proper names of particular buildings, mountains, parks, and bodies of water.

Examples (capitalization of places):

Atlantic Ocean
Passaic River

- In both the bill and the sponsor's statement, capitalize the proper names of State departments and agencies and the actual titles of State officials. Do not capitalize general references to positions or agencies.

Examples (capitalization of State officers and agencies):

Commissioner of Education
the commissioner

Department of Education
the department

- Capitalize "Title" when referring to a Title of the New Jersey Statutes or Revised Statutes. Example: no State tax offense defined in Title 54 of the Revised Statutes.

- Do not capitalize "title" when referring to the title of a bill.

7.6.4 Proper Titles of Officers, Agencies, and Acts

Use the proper title of governmental officers, agencies, and acts. If in doubt, check the statute, reorganization plan, or other enabling law authorizing the office, agency, or act.

Examples (proper names of officers, agencies, and acts):

"Administrative **Procedure** Act" (*Note:* Procedure not Procedures)

Commissioner of **Banking and** Insurance

Department of **Health** (*Note:* formerly the Department of Health and Senior Services)

Department of Labor **and Workforce Development**

Department of **the** Treasury

New Jersey Department of Military and Veterans' Affairs

New Jersey Motor Vehicle Commission and Chief Administrator of the Motor Vehicle Commission (*Note:* formerly the Division of Motor Vehicles and the Director of the Division of Motor Vehicles)

"**Senator Byron M. Baer** Open Public Meetings Act"

State **Uniform Tax** Procedure Law (*Note:* formerly State Tax Uniform Procedure Law)

Victims of Crime Compensation **Office** (*Note:* formerly the Victims of Crime Compensation Board and the Victims of Crime Compensation Agency)

7.6.5 Underlining

In bills, underlining is used to designate words to be inserted by amendment and in the titles of court cases. Do not use underlining for other purposes.

7.6.6 Quotation Marks

Do not overuse quotation marks. Generally, in drafting legislation, quotation marks are used only to enclose titles or texts of acts, laws, or funds referred to or incorporated by reference, or to enclose defined words or phrases.

Helpful Hint:
A period or comma should be placed inside closing quotation marks whether it belongs logically to the quoted matter or to the whole sentence. A semicolon should be placed outside closing quotation marks.

Examples (quotation marks and punctuation):

Period inside quotation marks and semicolon outside quotation marks:
The word "oath" includes "affirmation"; and the word "sworn" includes "affirmed."

Comma inside quotation marks:
a. By enactment of the "Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.).

Quotation marks should generally be used around the short titles of laws and of funds named and created by statute. However, the drafter should use the style that appears in the original section of law creating the short title or fund, even if that style was not consistently followed by later enactments referring to that short title. In other words, if the original section of law used quotation marks around the short title or named fund, the drafter should use quotation marks; if the original section did not use quotation marks, the drafter should not put quotation marks around the short title or named fund. (See *5.5.)

Example (quotation marks and short titles):

> 3. The State Board of Agriculture shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to provide for the buying and selling of agricultural or horticultural products.

Example (quotation marks and named funds):

13. a. There is established the "False Claims Prosecution Fund" as a non-lapsing revolving fund in the Department of the Treasury.

Quotation marks are also used around words defined in a definitions section. (See *7.3.)

Example (quotation marks in definitions):

"Child" means a person less than 18 years old.

"Electronic means" includes, but is not limited to, the Internet, which shall have the meaning set forth in N.J.S.2C:24-4.

7.6.7 Commas

In general, consult "A Concise Guide to Style" in *Webster's II New College Dictionary* for guidance in the use of commas.

Use a comma to separate a conjunction (and, or, nor) from the preceding item in a series of three or more, unless doing so would cause confusion or ambiguity.

Examples (commas):

In addition to any other fine, fee, or assessment imposed, a person convicted of a crime shall be assessed $75 for each conviction.

The custodian shall keep records of all transactions and make them available for inspection at reasonable intervals by a parent, guardian, or legal representative of the minor.

7.6.8 Hyphens

Hyphenation should generally follow the rules spelled out in *Webster's II New College Dictionary.*

- A hyphen should be used to join the elements of compound adjectives (e.g., "same-sex marriage," "one-way streets," "12-month period").

- Hyphenate "out-of-State" and "in-State." (*Note:* the word "State" is capitalized if the state being referenced is New Jersey; if the state referenced is any other state the word "state" is not capitalized (see *7.6.3)).

7.6.9 Words, Figures, and Symbols

An Arabic number is used for a number of 10 or more, except when the number is the first word of a sentence. Arabic numbers are also used for section or paragraph numbers, amounts of money, times of day, and certain authorized abbreviations or citations. Words are used for the numbers one through nine, and when the number is the first word of a sentence.

Examples (Arabic numbers):

The registered order shall be requested within 20 days.

In addition to any other penalty, fine, or charge imposed pursuant to law, a person convicted of an act of domestic violence, as that term is defined by subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19), shall be subject to a surcharge in the amount of $100 payable to the Treasurer of the State of New Jersey.

No permit shall be issued so as to permit horse racing at any place, track, or enclosure except on Mondays through Fridays between the hours of 12 noon and 1 a.m. the following day.

Examples (numbers written in word form):

Of the members of the commission, two shall be appointed for terms of four years and two for terms of five years.

Eleven members shall be elected by the board of directors.

Avoid using the % symbol except in formulas and tables although there may be situations where the % symbol should be used to conform to the existing statutory language. Generally, the word percent or percentage should be used instead.

Examples (percentage):

Preferred: In no fiscal year shall the amount of moneys expended pursuant to this subsection exceed 10 percent of the total amount of moneys appropriated in that fiscal year to the "Airport Safety Fund."

Avoid: In no fiscal year shall the amount of moneys expended pursuant to this subsection exceed 10% of the total amount of moneys appropriated in that fiscal year to the "Airport Safety Fund."

Whole dollar amounts of money should be written without a decimal point and cents designation ($25 not $25.00; $1,500,000 not $1,500,000.00).

Refrain from using the section symbol (§) in bill drafting. The computerized system does not recognize this character when sections of the law are entered into the database. When citing U.S.C. or other sections of law in which the section symbol would normally be placed, use "s." to indicate the noted section and "ss." to indicate more than one section.

Preferred: 45 U.S.C. s.3456 (*Note:* there is a space after the initial number and the U.S.C. but there is no space after s. before the section number)

Avoid: 45 U.S.C. §3456

7.6.10 Abbreviations and Acronyms

Abbreviations should be avoided in the text of bills and resolutions except in referring to statute citations and times of day (a.m. and p.m.). Approved abbreviations should be used in synopses. (See *Appendix C, page C-15: **Abbreviations and Acronyms for Synopses and Statements**.)

Acronyms should likewise be used sparingly in bill drafting and, when used, must be defined. Drafters may use acronyms when drafting **WHEREAS** clauses for resolutions, but the acronym must be set out explicitly (e.g., Environmental Protection Agency (EPA)) upon its first appearance in the resolution.

Example (use of acronyms in a resolution):

> **WHEREAS,** In March 2008, the New Jersey Motor Vehicle Commission entered into a contract with Parsons Commercial Technology Group to manage the State's Central Inspection Facilities (CIFs) and Private Inspection Facilities (PIFs) which are operated by local motor vehicle repair shops; and
>
> **WHEREAS,** As part of this new contract, the PIFs are required to replace certain of their existing inspection equipment with new equipment in order to continue to conduct and provide private motor vehicle inspections;

7.6.11 Tense

Use the present tense.

Preferred: A person who drives recklessly . . .

Avoid: A person who shall drive recklessly . . .

Preferred: If a consumer reports a nonconformity . . .

Avoid: If a consumer reported a nonconformity . . .

7.6.12 Active Voice

Use the active voice.

Preferred: The director shall review and approve or disapprove each application.

Avoid: Every application shall be reviewed by the director.

The active voice is more direct and less subject to misinterpretation than the passive voice. The passive voice is sometimes appropriate if the actor is unknown, but in the case of a bill, it is important to identify the person or entity responsible for each action.

7.6.13 Action Verbs

Use action verbs instead of weak or linking verbs in combination with nouns and prepositional phrases.

Preferred:	*Avoid*:
consider	give consideration to
recognize	give recognition to
know	have knowledge of
need	have need of
determine	in the determination of
applies	is applicable
depends on	is dependent on
attends	is in attendance at
appoint	make an appointment of
apply	make an application
pay	make payment
provide for	make provision for

7.6.14 Articles

Begin statements with the articles "a" and "an." Consistent use of the articles results in smoother writing and more precise expression.

Preferred: A person who violates . . .

Avoid: Any person who violates . . .

Avoid: Each person who violates . . .

Avoid: All persons who violate . . .

7.6.15 Pronouns

Do not overuse pronouns. Use a pronoun only if its antecedent is unmistakable and be sure that when using a pronoun it agrees with its antecedent in number, gender, and person.

Items in a series linked by "and" are considered to be plural ("a," "b," and "c") and require a plural pronoun. Items in a series linked by "or" or "nor" are considered to be singular ("a," "b," or "c") and require a singular pronoun. When "or" or "nor" joins a singular noun and a plural noun, a pronoun should agree in number with the nearer noun.

7.6.16 Apostrophes

The drafter should be aware that there are two methods to show possession when drafting bills (e.g., the commissioner's responsibilities or the responsibilities of the commissioner). Although both forms are appropriate in bill drafting, there may be situations where one format is preferred to improve the draft's clarity and succinctness.

Example (possessives):

Preferred: The change shall be noted on the website of the facility from which the inmate has been transferred.

Avoid: The change shall be noted on the facility's website from which the inmate has been transferred.

***Note:* the first example is preferred because it states more clearly the drafter's intent addressing inmate transfers from facilities.**

Preferred: The Office of Legislative Services shall add the name and address of the applicant to the printer's mailing list of members of the Legislature.

Avoid: The Office of Legislative Services shall add the name and address of the applicant to the mailing list of members of the Legislature of the printer.

***Note:* the first example is preferred example because it improves clarity and succinctness.**

- To show joint possession, make only the last word in a series possessive. Example: "Kulesh and Kubert's Law"
- Use an apostrophe in temporal phrases used as an adjective. Example: "10 days' notice," "five years' experience"
- Workers' compensation, *not* worker's compensation
- Department of Military and Veterans' Affairs (not Veterans Affairs)

7.7 Word Usage in Drafting

7.7.1 "And/Or"

Do not use the expression "and/or." The correct technique to express two items in the alternative or together is as follows: "A person who violates the provisions of this act shall be liable to a fine of $250, or six months' imprisonment, or both."

7.7.2 "Such," "Said," and "Same"

The use of "such" and "said" as in "such person" or "said board" should be avoided. Less stilted and archaic alternatives (if one is needed at all) are: the, that, those, it, and them.

Do not use the word "same" as a pronoun in outmoded expressions such as "The taxpayer shall enclose a copy of the same." Instead use "a copy of the document" or "a copy of it."

7.7.3 "Shall," "May," and "Must"

It is important in using "shall" and "may" to preserve the distinction between mandatory and permissive directives.

- "Shall" is mandatory and normally implies that to accomplish the purpose of the provision someone must act. "Shall" is used to impose a duty, direction, or command.
- "May" is permissive and confers a right, privilege, or power. Normally, the use of "may" implies discretion or permission.
- Use "may" when giving an officer or agency the option of acting or not acting.
- Use "shall" when imposing a duty to act. When imposing a duty not to act, use "shall not."

There has also been confusion in the use of "shall" in conveying future meaning. Since statutes are generally prospective in application, those unfamiliar with drafting often incorrectly use future tense in writing proposed statutory text. A statute speaks as of the time it is being read, however, not merely as of the time it was enacted. In addition, present tense is more readily understood and presents more forceful admonitions. Hence, use "it is unlawful" or "if a member resigns" not "it shall be unlawful" or "if a member shall resign."

The imperative "must" is rarely used in drafting to state a condition precedent to a right, such as "A person must comply with the following conditions to be eligible to obtain a license . . . ." This use of "must" should be avoided in drafting legislation. Use "shall" to state a condition precedent to a right.

7.7.4 "Nor"

Do not use "nor" in the same clause with any negative except "neither"; use "or" instead.

Preferred: Upon conviction a person shall be fined not less than $5 or more than $10.

Avoid: Upon conviction a person shall be fined not less than $5 nor more than $10.

7.7.5 "If," "When," "Where," and "Whenever"

- The word "where" denotes place only.
- If the application of a provision of an act is limited by the single occurrence of a condition that may never occur, use "if" to introduce the condition.

Example (if):

If the suspect resists arrest, the officer may use force to subdue the suspect.

If the condition may occur more than once with respect to the object to which it applies, use "whenever."

Example (whenever):

Whenever the officer receives a call, the officer shall note the time in the report.

- If the condition is certain to occur, use "when."

Example (when):

> When the defendant seeks to admit evidence for any purpose, the defendant shall apply for an order of the court before the trial or preliminary hearing.

7.7.6 "Affect" and "Effect"

- "Affect" used as a verb means to influence or to have an influence on.

Examples (affect -- verb):

> "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system that affects interstate, intrastate, or foreign commerce.

- "Affect" used as a noun means feeling or emotion as distinguished from cognition.

Example (affect -- noun):

> The traumatized orphan showed little affect in interacting with other children.

- "Effect" used as a verb means to bring about.

Example (effect -- verb):

> An individual adjudged a disorderly person shall be placed on probation on condition that the individual is admitted to a State or county mental hospital to receive medical and other care and treatment designed to effect a cure.

- "Effect" used as a noun means a result or the way in which something acts on or influences an object.

Example (effect -- noun):

> The effect of a merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations.

7.7.7 "Biannual" and "Biennial"

- "Biannual" means occurring twice each year.

- "Biennial" means occurring every second year or lasting for two years.

7.7.8 "Aid" and "Aide"

- "Aide" means a person who assists someone else.

- "Aid" is both a verb which means to help or assist and a noun meaning assistance.

7.7.9 "Therefor" and "Therefore"

- "Therefor" means for or in return for.

Example (therefor):

If the court finds that disclosure would be harmful to the juvenile, the reasons therefor shall be stated on the record.

- "Therefore" means for that reason, consequently, hence, or because of.

Example (therefore):

The Legislature, therefore, declares that it is in the public interest to establish a tenant protection program.

7.7.10 Describing Vulnerable Populations

Use person-first language to describe vulnerable populations. Do not use the terms "mental retardation" or "mentally retarded." Pursuant to P.L.2010, c.50, these terms have been replaced with the terms "intellectual disability" and "intellectually disabled."

Preferred:	*Avoid:*
Person with a developmental disability	Developmentally disabled person
Person with an intellectual disability	Intellectually disabled person
Person with mental illness	Mentally ill person

7.8 Miscellaneous

7.8.1 Exceptions

Use an exception when it will contribute to brevity and directness.

Preferred: Each municipality except a city of the first class shall . . .

Avoid: The following classes of municipality shall . . .

Avoid stating an exception with the words "provided that" or "provided, however." Instead, use "except," "but," or "however," or state the exception in a new sentence.

Generally, the drafter should carve out exceptions to existing law by amending the text in all impacted sections. When this is impractical or otherwise undesirable, the drafter should use the following format to provide a blanket exception to existing law:

Notwithstanding any law, rule, or regulation to the contrary . . .

7.8.2 Directness

Express ideas positively; avoid convoluted expressions.

Preferred: The director shall appoint an assistant qualified under Civil Service.

Avoid: No person shall be appointed by the director as an assistant unless the person is qualified pursuant to Civil Service regulations.

7.8.3 Synonyms

In drafting legislation, it is preferable to use short, simple words. Use of synonyms should always be avoided. Use the same word, if the same meaning is intended. The creative writing rule of varying terminology to provide more reader appeal is not applicable in bill drafting.

7.8.4 Redundancies

Avoid pairs of words that have the same effect or one of which includes the other, such as:

and/or
any and all
authorized and empowered
by and with
desire and require
each and all
each and every
final and conclusive
from and after
full and complete
full force and effect
null and void
order and direct
over and above
sole and exclusive
type and kind
unless and until

7.9 Reference and Citation to State and Federal Constitutions, Statutes, Regulations, and Court Decisions

7.9.1 State Statutes

Generally, there are no spaces between letters and numbers in State citations; however, in the case of "P.L. , c. " there is a space after the comma.

Helpful Hint:
It is important that a reference to a Pamphlet Law that has yet to be adopted be properly spaced and punctuated. The correct format is: "P.L." [four spaces for insertion of year] "," [one space] "c. " [four spaces: three spaces for insertion of chapter number plus an additional space] "(C.[eight spaces])" [space] "(pending before the Legislature as this bill)." Do not type the period character (".") to indicate spaces. The reference should appear as follows:

P.L. , c. (C.) (pending before the Legislature as this bill)

CHAPTER 7 GUIDELINES ON PREFERRED STYLE AND USAGE

Each reference to existing legislation in bills and statements should use and refer to the official text of the statutes. It is not appropriate for a drafter to refer to the annotated version of the statutes (N.J.S.A.) in either the bill or the sponsor's statement. (See *3.1.5)

The Revised Statutes and the New Jersey Statutes are referred to and cited in proposed legislation as "Revised Statutes" and "New Jersey Statutes," as the case may be, without reference to the title of the bill under which the statute was enacted or to its date of approval. When citing to an R.S. or an N.J.S., the drafter must indicate the Title, chapter, and section of the statute.

Examples (reference to R.S. or N.J.S.):

R.S.52:36-4

N.J.S.2C:11-3

In any bill referring to a statute not enacted as part of the Revised Statutes or the New Jersey Statutes, the reference should be to the chapter number and year of the Pamphlet Laws.

Example (reference to P.L.):

P.L.2010, c.51

When it is necessary to refer to a section, use the section number found in the Pamphlet Laws.

Example (reference to P.L. with section number):

section 3 of P.L.2010, c.51

Additionally, the "C" number or compilation number assigned to the section is included parenthetically as an aid in locating the law in unofficial publications.

Example (reference to P.L. with section and compilation numbers):

section 3 of P.L.2010, c.51 (C.52:27I-21)

In the case of the few sections "added to the Revised Statutes" by number by subsequent legislation, the chapter number and year of the Pamphlet Laws in which this legislation is found should be given in addition to the number so designated in order that the legislation may be identified.

Example (reference to section added to the Revised Statutes):

R.S.54:51A-1, P.L.1983, c.45

7.9.2 "Et seq." and "Et al."

The abbreviations "et seq." and "et al." are used in citations to indicate series or groups of statutory sections. "Et seq." means "and the following ones," and is used to indicate a consecutive series of statutes. "Et al." means "and others," and is used to indicate that statutory sections were not compiled consecutively.

Example (et seq.):

P.L.2010, c.65 created the "Interdistrict Public School Choice Program Act."

The sections of the bill were compiled as sections 1 – 11 to C.18A:36B-14 to 18A:36B-24.

Because the sections were all compiled consecutively, reference to the bill is: P.L.2010, c.65 (C.18A:36B-14 et seq.).

Example (et al. – sections in P.L. not compiled consecutively):

P.L.2010, c.122 created the "Anti-Bullying Bill of Rights Act."

The sections of the bill were compiled as follows: section 1 to C.18A:37-13.2; section 2 to C.18A:37-13.1; section 16 to C.18A:37-15.3; sections 17 - 27, 29, 30 to C.18A:37-20 to 18A:37-32; and section 28 to C.18A:3B-68.

Because the sections were not all compiled in order, reference to the bill is: P.L.2010, c.122 (C.18A:37-13.1 et al.).

7.9.3 Models for State Constitution, Laws, and Regulations

- New Jersey Constitution:
  N.J. Const. (1947), Art. IV, Sec. VII, par. 2

- Revised Statutes:
  R.S.30:4-140

- New Jersey Statutes:
  N.J.S.2C:4-8

- Consecutive sections of Revised Statutes or New Jersey Statutes:
  R.S.40:3-3 through R.S.40:3-6

- Multiple non-consecutive sections of Revised Statutes or New Jersey Statutes:
  N.J.S.14A:4-1, N.J.S.14A:4-2, and N.J.S.14A:4-4

- Pamphlet Laws:
  P.L.2010, c.112, s.6 (C.58:10A-66)
  section 6 of P.L.2010, c.112 (C.58:10A-66)

- Short titles:
  "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)

- Appendix A:
  section 54 of P.L.2002, c.34 (C.App.A:9-78)

- Administrative Code:
  Drafters should generally avoid citing to a particular section of the New Jersey Administrative Code as the code is subject to revision in which specific references may change. The preferred approach is for a drafter to make a general reference to regulations promulgated by the department or agency.

Examples (Administrative Code References):

. . . pursuant to regulations adopted by the commissioner under chapter 40 of Title 8 of the New Jersey Administrative Code .

. . . pursuant to the eligibility requirements for community release programs provided under the administrative code.

However, if there is a particular instance where a specific reference to the code must be made, the drafter should follow these models:

N.J.A.C.12:56-3.1

N.J.A.C.18:35-10.1 et seq.

7.9.4 Models for Federal Constitution, Laws, and Regulations

- United States Constitution:
  U.S. Const., Art. II, Sec. 2

- Constitutional amendments:
  U.S. Const., Amend. XVI

- United States Code: It is not usually necessary for a drafter to refer to the Public Law (Pub.L.) for a particular reference in the United States Code. Reference to the Title and section is sufficient using the following models:

  section 3304 of the federal Internal Revenue Code (26 U.S.C. s.3304)

  "Migrant and Seasonal Agricultural Worker Protection Act" (29 U.S.C. s.1801 et seq.)
  Note: there is a space between the initial number and "U.S.C." in the citation

There may be times, however, when it is necessary to reference the Pub.L. The following are intended solely as examples of instances where reference to the Pub.L is called for, and are not intended to serve as an exhaustive list:

"American Recovery and Reinvestment Act of 2009," Pub.L.111-5.
Note: in this example, the text of the act was not compiled in one place in the code and as such should be referred to by the Public Law if the drafter intends to refer to the act as a whole.

"Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193.
Note: in this example, State legislation was drafted before the federal act was codified, so reference had to be to the Public Law.

- Executive Agency Order or Directive:
  the Federal Energy Regulatory Commission's Order No. 888 of 1996

- Code of Federal Regulations:
  12 C.F.R. s.228.12
  Note: this is the preferred drafting style if referring to a specific section.

  Section 73.658 (j)(i) of Title 47, Code of Federal Regulations

7.9.5 Models for Citing Court Decisions

State court decisions:

- Cermak v. Hertz Corp., 53 N.J. Super. 455 (App. Div. 1958)

- Buckeye Union Casualty Co. v. Illinois Nat'l Ins. Co., 206 N.E.2d 209 (Oh. Sup. Ct. 1965)

- Harvey v. Board of Chosen Freeholders, 30 N.J. 381, 391-393 (1959)

- State v. Duva, 192 N.J. Super. 418 (Law Div. 1983)

- Karcher v. Kean, 97 N.J. 483 (1984)

Federal court decisions:

- District Court:
  American Trucking Ass'ns v. Whitman, 136 F. Supp.2d 343 (D.N.J. 2001)

- Circuit Court of Appeals:
  Heald v. Engler, 342 F.3d 517 (6th Cir. 2003)

- Supreme Court:
  Tennessee v. Lane, 541 U.S. 509 (2004)

For additional guidance on citing court decisions, see *Appendix C, page C-9: **Guidelines for Legal Citation**.

CHAPTER 8 REVIEW OF WORK PRODUCTS

8.1 Types of Review

8.1.1 Substantive Review

Every work product, except bills for reintroduction and pre-filing, must be reviewed for substance and approved by a section professional other than the drafter prior to its delivery to the requester. The purpose of this review is to assess whether the work represents an appropriate, thorough, clear, effective, and accurate response to the request. The substantive review is then followed by a technical review. (See *8.1.2.)

The Section Chief is responsible for assuring the completion of the substantive review and for making final determinations regarding any differences of opinion between the reviewer and the original assignee.

For a bill, resolution, or amendment, the substantive reviewer's bill drafting number should be displayed directly under the bill drafter's number, next to the "SR" designation. On a bill or resolution the number will be entered on the fronter (see *5.1), and on amendments the number will be entered on the upper right-hand corner of the first page.

Ballot Review: After a bill or resolution that includes a public question has been substantively and technically reviewed in a CMU section, a substantive review will also be conducted by the Director or an Assistant Director of CMU prior to introduction or, if the public question is amended, prior to it being reported by a committee. The purpose of the review is to ensure that the question and its interpretive statement are written in a clear and understandable manner that offers the average reader fair notice of the provisions of the matter being considered. The bill drafting number of the Director or the Assistant Director who does the ballot review should be displayed next to the "BR" designation. (See *10.1.2 (constitutional amendments), *10.1.4 (other voter approved legislation), and *10.6.2 (general obligation bond acts) for further discussion.)

8.1.2 Technical Review

Each bill, resolution, and amendment should be prepared and reviewed in compliance with the technical and stylistic standards specified in the Constitution, the statutes, the rules of the Houses, and the directives of OLS. These standards ensure that substantive objectives of legislation are communicated in a manner that is clear and that preserves the integrity and uniformity of statutory law. They should be considered and incorporated during the initial drafting process; a measure should not be drafted in a vacuum and then technically adjusted after the fact. The purpose of a review is to double-check the technical aspects of the original work, not to redraft a measure that was prepared without regard to these standards (except perhaps in the case of a bill drafted outside of OLS). In other words, it is the responsibility of every bill drafter to attend to the technical aspects of bill drafting and not to leave these matters to a technical reviewer.

Every draft of a bill, resolution, or amendment must be technically reviewed for form, except for pre-filed bills for which the technical review is delayed. Unless impractical (or in the case of a bill returned to a section after introduction), this review should be conducted before the

draft is delivered to the requester, or in the case of committee amendments, before the amendments are submitted with the committee report. (See Chapter 9 concerning committee action.)

The Section Chief is responsible for assuring the completion of the technical review and for making final determinations regarding any differences of opinion between the reviewer and the drafter. Questions of proper style, form, and compliance with the standards should be discussed first with the Section Chief and then with the Legislative Counsel, if this manual does not provide ready guidance.

The technical reviewer's bill drafting number should be displayed next to the "TR" designation. On a bill or resolution the number will be entered on the fronter (see *5.1), and on amendments the number will be entered on the upper right-hand corner of the first page.

Helpful Hint:
To avoid confusion in the processing of bills, resolutions, or amendments by BPU, be certain that the legislation is in its final form prior to the technical reviewer's bill drafting number being electronically entered on the legislation.

8.2 Details for Technical Review of Bills and Resolutions

The following subsections are designed as a checklist to assist reviewers in conducting a technical review of a bill or resolution. This is not an exhaustive checklist. For a more detailed discussion of the various topics, the reviewer should consult the appropriate chapters of this manual.

Helpful Hint:
The following non-exhaustive checklist is also available in the form of a consolidated document in *Appendix C, page C-33, entitled **TECHNICAL REVIEW CHECKLIST FOR BILLS AND RESOLUTIONS.**

8.2.1 Fronter

- Is the drafter's personal library document I.D. # in the top left-hand corner?

- In the upper right-hand corner, are the section and number of the bill drafter and the substantive and technical reviewers inserted under the line for the completed bill or resolution library document I.D. #? Is the number of the reviewer who conducted the ballot review (BR) included, if appropriate? Is the drafter's recommendation (DR) with regard to certification for a fiscal note, the Sales and Use Tax Review Commission, or the Pension and Health Benefits Review Commission included, as appropriate? Is the drafter's suggested committee reference number (CR) included? (See *5.1.)

- If the measure is a reintroduction of a bill or resolution from the previous two-year session, or if it is identical to a bill or resolution pending in the opposite House, is the number of the other bill or resolution indicated at the bottom of the fronter next to "Same as . . ."? (See *5.1.5.)

- If the bill or resolution contains supplementary sections, is the suggested allocation or "T & E" (temporary and executed) notation indicated in the appropriate space at the bottom of the fronter? (See *5.1.6.)

8.2.2 Title

- Does the title express the general purpose of the legislation?

- Is the present participle ("ing" form) of the verb used to convey the general purpose?

- If the bill or resolution amends the title of an existing law, does the title so indicate?

- Does the title contain the proper citation to the source law? (See *5.2 and *7.9.)

- If the bill supplements a Pamphlet Law, but does not also amend that same law, does the title contain the compilation number of the P.L. being supplemented? (See *5.2.3.)

- If the bill appropriates money, does the title so indicate? (See *5.2.5 or *10.2.1 if applicable.)

- If the bill repeals existing law, does the title so indicate? (See *5.2.4.)

- Is the title on the first page identical to the title on the fronter?

- Are all necessary items included in the title?

8.2.3 Enacting and "BE IT RESOLVED" Clauses

- In the case of a bill, does it contain the enacting clause? (See *5.4.)

- In the case of a joint resolution, is it resolved by the "Senate and General Assembly" in that order (even if it is an Assembly joint resolution)? (See *6.5.)

- In the case of a concurrent resolution, is it resolved by the House of origin (with the concurrence of the other House)? (See *6.5.)

- In the case of a one-House resolution, is it resolved by that House only? (See *6.5.)

8.2.4 Sections

- Are the sections numbered sequentially?
- If the bill or resolution includes sections which are organized into subsections, paragraphs, subparagraphs, etc., are the subdivisions lettered or numbered in the proper form and in a consistent manner throughout the measure? (See *7.2.1.)

8.2.5 Text

- Does the text meet proper standards of grammar, spelling, punctuation, and style? (See Chapter 7.)
- Is the language clear and concise?

8.2.6 Cross-referenced Laws

- Is a cross-referenced law properly cited? (See *7.9.)
- Has a cross-referenced law been repealed?
- Does a cross-referenced law, as most recently amended, serve the intended purpose for which it is referenced?

Helpful Hint:
Be alert to technically unusual citations. For example, in the following list of citations, N.J.S.2C:11-3, R.S.2C:11-4, and section 1 of P.L.1997, c.111 (C.2C:11-5.1), one of the cites must be incorrect, because N.J.S. and R.S. cites do not occur in the same Title.

8.2.7 Official Titles, Names, and Definitions

- Is an agency referenced by its official name, proper department, and proper capitalization as designated in the enabling statute, transfer act, reorganization plan, administrative regulation, or executive order by which it was established or reorganized? (See *7.6.4.)
- Is a State official referenced by the proper title (e.g., commissioner versus director versus executive director)?
- Is a municipality or county cited by its official name?
- Is the use of a word or phrase consistent with the existing definition of that word or phrase in the law being amended or supplemented? (See *7.3.)
- If a law is referenced by its short title, has the short title been amended and is the title cited properly? (See *5.5 and *7.6.6.)

Helpful Hint:
As part of a technical review place a check or "ok" over each title, name, or defined word to indicate that it has been reviewed.

8.2.8 Amendatory Sections

- Does the title of the bill or resolution contain an appropriate reference to the law being amended? (See *5.2.2.)
- Is the source of the section being amended properly cited? (See *7.9.)
- Is the most recent version of the section used and is it cited at the end of the amendatory section, for example "(cf: P.L.2005, c.110, s.1)"? (See *5.7.1.)
- Does an amendment to this section of law suffice, or does it necessitate an amendment to any other section of law?
- Is new language, including necessary punctuation, underlined? (See *5.7.1.)
- Is new language inserted immediately after the deletion of existing language and is as much existing language and punctuation as practical saved? (See *5.7.1.)
- Are the numbering and lettering of existing subdivisions retained so as not to affect cross-references to the subdivisions which may be contained in other laws? (See *7.2.2.)
- Does the amendment so alter the scope of the law as to require that the title or short title of the underlying act be amended? (See *5.2.2 and *5.5.)
- Does the first page of the amendatory bill (not the fronter) include the footer that explains how to read an amendatory section? (See *5.1.)

8.2.9 Supplementary Sections

- If appropriate, does the bill's title contain a reference to the Pamphlet Law or chapter or Title of the Revised Statutes or New Jersey Statutes that is being supplemented? (See *5.2.3.)
- Does the supplementary material so alter the scope of the law as to require that the title or short title of the law be amended? (See *5.2.2 and *5.5.)
- If the bill is both supplementary and amendatory, is each supplemental section identified as "(New section)"? (See *5.7.2.)
- Does the bill draft contain an unnecessary severability clause? (See *5.8.)
- If the bill contains a non-severability clause, are the correct sections linked through that clause? (See *5.8.)

8.2.10 Effective Date

- Does the bill or joint resolution have an effective date? (See *5.11 (bills) and *6.8 (joint resolutions).)
- Does the context of a concurrent or one-House resolution require an effective date? (See *6.8.)
- If different sections of the bill are to take effect at different times, are the section references correct and the directions clear? (See *5.11.6 (mixed effective date) and *5.11.8 (operative date).)
- If the bill becomes effective upon the enactment of other legislation, are the dependency and sequence of enactments clearly stated? (See *5.11.5.)
- If the effective date involves retroactivity does it interact with existing law coherently? (See *5.11.4.)

8.2.11 Sponsor's Statement

- Is there a sponsor's statement? (See *5.12 (bills) and *6.9 (resolutions).)
- Does the statement accurately summarize the main provisions of the bill or resolution?

8.2.12 Synopsis

- Is there a synopsis? (See *5.13 (bills) and *6.10 (resolutions).)
- Is the synopsis at the end of the bill or resolution identical to the synopsis on the fronter?
- Does the synopsis begin with a verb in the present tense ("prohibits," "permits," "establishes," etc.)?
- Is the synopsis as succinct as possible and not longer than 35 words? (Do not use articles (a, an, the); use recommended abbreviations and acronyms.) (See *Appendix C, page C-15: **Abbreviations and Acronyms for Synopses and Statements**.)
- Does the synopsis specify the amount of any appropriation?

8.3 Details for Technical Review of Committee and Floor Amendments, and Conditional Vetoes

Generally, the technical review of amendments requires consideration of the same matters as the review of bills and resolutions. In the case of a committee substitute, the review is conducted in a manner identical to the review of a new bill, with additional attention given to the listing of the order of the bills being substituted and to the order of the sponsors and co-sponsors. (See *9.5.6.)

The following non-exhaustive checklist supplements the list for the technical review of bills and resolutions, and should additionally be consulted when drafting or reviewing committee amendments, floor amendments, and amendments proposed in a Governor's conditional veto.

Helpful Hint:
The following non-exhaustive checklist is also available in the form of a consolidated document in *Appendix C, page C-39, entitled **TECHNICAL REVIEW CHECKLIST FOR COMMITTEE AND FLOOR AMENDMENTS, AND CONDITIONAL VETOES.**

8.3.1 Title

- Do the amendments require a change in the title of the bill or resolution? (See *9.5.1.)
- Do the amendments amend or supplement a section of law not referenced in the title? (See *9.5.1.)
- Do the amendments delete a section of the bill referenced in the title, thus rendering that reference unnecessary?

8.3.2 Sections

- If sections or subdivisions of sections are deleted or inserted, have they been renumbered or relettered accordingly? (See *7.2.1 and *9.5.1.)
- If sections have been renumbered, are there internal references to sections in the bill that must be changed (including the effective date, which sometimes lists specific sections with special effective dates)?
- Are the sections being amended (whether amendatory or supplementary) set forth in their entirety?
- Are the appropriate instructions used, such as: "REPLACE SECTION # TO READ"; "OMIT SECTION # IN ITS ENTIRETY"; "INSERT NEW SECTION # TO READ"? (See *9.5.1.)

Helpful Hint:
"REPLACE SECTION # TO READ" is used for amendments to existing sections of a bill. Use "INSERT NEW SECTION # TO READ" for amendments that are adding new sections to a bill.

- Do superscript numbers enclose any changes that are being made by amendment and are the correct superscript numbers used? (See *9.5.1.)

8.3.3 Cross-references

- Are cross-references in the original bill or resolution affected by changes in definitions, titles, names, etc., in the amendments?

- Are all definitions, titles, names, etc., consistent with those in the original bill?

8.3.4 Amendatory Sections

- Has a section of law in the original bill or resolution been amended since it was drafted, requiring amendments to insert the current text of the law? (See *9.5.3.)

8.3.5 Supplementary Sections

- If the amendments add a new supplementary section, is there a suggested allocation for the section in the top left corner of the first page of the amendments? (See *9.5.1.)

8.3.6 Committee or Floor Statement

- If the amendments are reported by a committee, is the committee statement based on the content of the bill as amended? (See *9.1.)

- Does the committee statement outline the amendments adopted by the committee in the form that is appropriate to the House? (See *9.3.6.)

- For a floor amendment, is the floor statement included after the amendment in the same document? (See *9.6.3.)

8.3.7 Synopsis

- Do the amendments so alter the nature of the bill or resolution, or change the amount of an appropriation, as to require that a new synopsis be provided at the end of the amendments? (See *9.5.1.)

8.3.8 Instructions to Technical Reviewer

- If the amendments make the bill identical to a bill or resolution of the other House for the purpose of a merger, is there a notice to that effect at the top left corner of the first page of the amendments?

CHAPTER 9 DRAFTING FOR COMMITTEE AND FLOOR ACTION

After a bill or resolution is introduced, it may be changed at various points in the legislative process, either in committee or on the floor of either House or as the result of action taken by the Governor. Committee amendments and committee substitutes are the responsibility of the committee aide. Requests for floor amendments or floor substitutes are general assignments which may be assigned to any appropriate OLS professional for drafting. Amendments and substitutes may be offered with or without the prime sponsor's prior knowledge or approval, although they are very often done either at the request, or at least with the concurrence, of the prime sponsor.

Occasionally, a drafter is confronted with two or more requests to prepare amendments or substitutes for the same bill. Given confidentiality constraints, the drafter should not reveal the existence of the multiple requests, even when they conflict with each other.

A committee aide is responsible for preparing a committee statement summarizing any bill or resolution released (or "reported," to use the official term) from a committee. This summary includes a description of the changes to the legislation, if any, made by the committee either by a committee amendment or a committee substitute. The committee statement is a separate document from the committee amendment or committee substitute.

The drafter of a floor amendment or floor substitute also prepares a floor statement, which, unlike a committee statement, is placed at the end of the text of the floor amendment or floor substitute.

9.1 Committee Statement

Purpose: The purpose of a standing reference committee is to provide a forum for the detailed investigation of the merits of a bill or resolution. (See *1.1.1.) The committee statement constitutes a public record of the committee's action on the legislation.

Thus, it should, above all, be accurate, informative, and readable. A careful balance must be struck between accuracy and plain language and between being informative and succinct. In drafting a committee statement, the committee aide should avoid reciting verbatim at length the formal legal language in the body of the bill; yet, in using a plain language approach, the committee aide should be careful not to color the true meaning of the words in the legislation. Unless the committee aide is directed otherwise by the committee, the committee statement should be strictly a factual and objective summary of the bill's provisions and the committee's changes, if any, and generally should not include subjective conclusions, arguments, or persuasive material often found in a sponsor's statement.

It may be useful to think about what a committee statement is not. It is not a bill or resolution, a sponsor's statement, a legislative history, a newspaper article, or a legal opinion. It may contain elements of all of the above, but it has its own purposes and requirements.

Who Reads a Committee Statement: The Legislature is the most important audience for a committee statement. The committee statement functions not only as a record of the committee's action, but also as a means of understanding the substance of the legislation without closely reading every word of what might be a lengthy and technical document. Committee statements become part of the legislative history compiled by the State Library.

Committee aides may find it helpful to read, adapt, update, and use committee statements written in prior legislative terms for bills and resolutions that have been reintroduced in the current term. Also, the committee statement to legislation approved by one House is always helpful to the committee aide when it is considered by a committee in the other House.

Committee statements are processed by the Bill Processing Unit (BPU) and distributed upon request by the Bill Room to legislators, staff, lobbyists, the press, and the general public. Committee statements are also placed online at the Legislature's official Internet website, www.njleg.state.nj.us.

Committee Statement's Relationship to Legislative Intent: While not binding on a court when interpreting a statute, a committee statement may be used by a judge to ascertain the Legislature's intent with regard to a specific law. The court will look first at the plain language of the law, and then, if necessary, to other sources, such as a committee statement, when the plain language is not clear. Indeed, courts have used the rationale set forth in committee statements to inform court decisions. See, e.g., Short v. Short, 372 N.J. Super. 333, 337 (App. Div. 2004), certif. den., 182 N.J. 429 (2005).

9.2 Drafting the Statement

9.2.1 Overall Form

The form that the committee statement takes depends upon the committee's action. The most basic type of committee statement is for a bill that was not amended or substituted by the committee. (For an example, see *Appendix A, page A-59: **S466 of 2010-2011**.) If the committee adopts amendments, the committee statement must reflect this action. (For an example, see *Appendix A, page A-61: **statement to A1692 of 2010-2011**.) Likewise, if the committee adopts a substitute, that action must instead be reflected in the committee statement. (For an example, see *Appendix A, page A-63: **S80 (SCS) of 2010-2011**.)

9.2.2 Citations

When referring in a committee statement to a specific State or federal statute, use the R.S., N.J.S., P.L., or U.S.C. citation form, as the case may be. (See *7.9.) Avoid the use of N.J.S.A. or U.S.C.A. But if the specific State or federal statute has an official short title or common name, use it in lieu of (or at least in addition to) citing to the R.S., N.J.S., P.L., or U.S.C. reference, especially when the statutory citation may be found in the body of the bill. The short title or common name is more informative and its use is more in keeping with the plain language style of a committee statement.

A committee statement's first citation to a court case should include the full legal citation form for court cases. (See *7.9.5 and *Appendix C, page C-9: **Guidelines for Legal Citation**.)

9.2.3 Style Issues

As much as possible, a committee statement should be consistent in the verb tense used. In the interest of brevity and efficiency, it is permissible to use appropriate abbreviations and acronyms, once defined initially, but their overuse should be avoided. Use approved abbreviations and acronyms when applicable. (See *Appendix C, page C-15: **Abbreviations and Acronyms for Synopses and Statements**.)

9.3 Statement Content

In writing a committee statement, it is helpful to remember that the committee statement is the committee's document. It is also a good idea to be familiar with the rules of both Houses on committee statements.

Minimum Requirements: A committee statement that includes the following items will meet the minimum requirements of the Senate and General Assembly rules and accepted practice:

- Date of the committee meeting (see *9.3.1);
- A sentence stating the motion by which the bill was reported (i.e., released) (see *9.3.2);
- A summary of the bill's provisions as reported by the committee (see *9.3.3);
- An explanation of the way in which the bill changes current law (see *9.3.4);
- A summary of the provisions of any law being repealed by the bill, if applicable (see *9.3.5);
- A summary of any amendments adopted by the committee, if applicable (see *9.3.6);
- A summary of fiscal information, if applicable (see *9.3.7);
- A pre-file paragraph concerning the technical review of a pre-filed bill, if applicable (see *9.3.8); and
- A minority statement by a member who dissented from the committee's action, if applicable (see *9.3.9).

In addition, the committee aide may wish to consider two optional provisions:

- If the statement is for a committee substitute, a comparison of the substitute with the bill it is replacing (see *9.3.10); and
- A statement of the committee's understanding of its action, if requested (see *9.3.11).

9.3.1 Date of the Committee Meeting

The date of the committee meeting shown on the statement is always the day the meeting is actually conducted. Committee meetings usually occur the same day as the regularly scheduled session or quorum days of a particular House (see *1.1.1). If a committee meets on a day other than a session or quorum, it can only officially report its activities at the next scheduled session or quorum. This does not change the date displayed on the committee statement.

9.3.2 Motion by Which the Bill was Reported (i.e., Released)

In either House, a bill or resolution can be reported favorably or without recommendation. In addition, a bill can also be reported unfavorably in the Senate, although this is rarely done. Legislation also can be reported without amendment, with amendment, or by committee substitute. If it has been amended prior to being referred to committee, be sure to cite the most recently amended version, designated as a reprint (R) of the original legislation, after the bill or resolution number (e.g., (1R), (2R), (3R)). Always begin a committee statement with a sentence describing the method by which the bill is being reported.

Examples (statement of motion by which bill was reported):

The Senate Commerce Committee reports favorably Senate Bill No. 123.

The Senate Environment Committee reports without recommendation Senate Bill No. 123 (2R).

The Senate Judiciary Committee reports unfavorably Senate Bill No. 123.

The Senate Labor Committee reports favorably and with committee amendments Assembly Bill No. 456.

The Senate Transportation Committee reports favorably and with committee amendments the Assembly Committee Substitute for Assembly Bill No. 456.

The Assembly Agriculture and Natural Resources Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 321.

The Assembly Education Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 321, 654, and 987.

The Assembly Human Services Committee reports favorably and with committee amendments Assembly Bill No. 321 (1R).

The Assembly Consumer Affairs Committee reports without recommendation and with committee amendments Senate Bill No. 654.

9.3.3 Summarizing the Bill's Provisions as Reported

A committee statement merely providing that the bill's title or the sponsor's statement adequately expresses the purpose and provisions of the bill is never appropriate. Following the sentence stating the motion by which the bill was reported, the committee statement sets out an introductory summation of the bill. If the bill has been amended by the committee or if a committee substitute has been reported, it is important to state clearly that the description applies to the changed version.

Examples (summary portion of committee statement):

> This bill transfers the Bureau of Alcohol Countermeasures in the New Jersey Motor Vehicle Commission to the Division of Alcoholism in the Department of Health.
>
> This bill permits members of the Fraternal Order of Police to obtain special license plates.
>
> As amended by the committee, this bill would make it illegal for a person to (1) intentionally feed a black bear, or (2) store pet food, garbage, or other bear attractants in a manner that will result in bear feedings when black bear are known to frequent the area. A person violating the bill's provisions would be subject to a civil fine of up to $1,000.

More detailed descriptions of the provisions of the bill should follow the introductory summary, particularly when the legislation is long or complicated or when the committee has adopted lengthy or complex amendments.

Additional information is also useful in understanding what a committee amendment accomplishes and why the committee adopted the amendment. Additional information can be included in the committee statement if it is available and if the committee wants the information to be included. Following are some kinds of additional information that may be included:

Section-by-Section Description: A committee statement on long and technically complex legislation might contain a section-by-section description of its provisions as a way of helping readers organize and learn what the legislation does. This technique may be especially helpful when delineating complex committee amendments made to various sections of the legislation.

Background: A committee statement might include information about the problem that the legislation is intended to solve, the ruling in a court case that prompted the legislation, data for evaluating a program that the legislation creates or alters, or an explanation of the development of the bill over several legislative sessions.

Examples (background information):

> This bill in effect overturns an opinion of the Appellate Division of the Superior Court, issued April 1, 2005, in the case of State v. Doe, 234 N.J. Super. 543 (App. Div. 2005).
>
> This bill is similar to Assembly Bill No. 9876 of 2003, which passed both Houses of the Legislature but was vetoed by the Governor at the conclusion of the 2002-2003 term. The changes made in this bill address the Governor's concerns and recommendations as presented in his veto message to Assembly Bill No. 9876.

Subheadings: When drafting a committee statement, the committee aide should feel free in appropriate cases to supply subheadings for the text of the bill summary. Appropriate cases are those in which the summary (1) covers specific, separable topics, rather than constituting an indivisible whole, and (2) is long enough – e.g., a page and a half or longer – to warrant the allotment of space to subheadings. Subheadings can be helpful to any reader trying to assimilate the overall content of a statement, and may especially be helpful to readers hunting for details regarding a particular aspect of the bill. Having potential subheadings in mind can help the committee aide, when drafting a statement, focus attention on its structure and flow.

A subheading should not distract from the text it explains; it should be no more than a single line in length. A subheading can appear at the start of the first paragraph of that text (with a period at the end to separate it from the text) or on the line preceding that paragraph (with or without a period); it can be printed in italic or bold font or with underscoring, and in upper or lower case.

The committee aide should take care, of course, that in statements having a section explaining COMMITTEE AMENDMENTS (see *9.3.6) or FISCAL IMPACT (see *9.3.7) (or both), no subheading competes for attention with the headings supplied to designate such sections. (For an example of a committee statement with these subheadings, see *Appendix A, page A-65: **A2505(2R) of 2010-2011**.)

Subheadings in a committee statement serve as substantive cues to the subject matter of the text, and also as visual cues to transitions between one topic and the next. Sometimes when the full text – though covering a number of distinct topics – is so short that subheadings are superfluous, it is nonetheless useful to use non-substantive visual cues to mark the division of at least a portion of the text into parts or items. The most common and unobtrusive of these purely visual cues is, of course, setting a piece of text as a paragraph through indentation; others (applied with or without indentation) include numbering (e.g., (1), (2), (3)), lettering, and the use of bullets or similar typographical symbols.

Example (subheadings in a committee statement):

This bill would revise the "New Jersey Trademark Counterfeiting Act," P.L.1997, c.57 (C.2C:21-32), to make it consistent with the Model State Anti-Counterfeiting Act adopted by the International Anti-Counterfeiting Coalition and the International Trademark Association.

Definition of "retail value."

The bill amends the definition of "retail value." Under current law, retail value is measured by the regular selling price for the counterfeit item. Under the bill, retail value would be the price of the authentic counterpart of the counterfeit item, if the counterfeit item would appear to a reasonably prudent person to be authentic.

Upgrading the crime.

The bill upgrades a violation to a crime of the third degree if during the commission of the offense the offender knowingly or recklessly causes or attempts to cause the bodily injury or death of another.

Definition of "bodily injury" and "serious bodily injury."

The bill defines "bodily injury" and "serious bodily injury" by referencing the State's criminal homicide statutes.

9.3.4 Explaining How the Bill Changes Current Law

Examples (the way in which a bill changes current law):

This bill would entitle disabled veterans who are residents of the State to obtain free hunting, fishing, and trapping licenses. Current law provides this benefit only to active members of the New Jersey National Guard.

Members of the Real Estate Commission are currently subject to P.L.1971, c.60 (C.45:1-2.1 et seq.), which provides that they are compensated on a $25 per diem basis or an amount as established by the Attorney General. However, this amount may not exceed $100 per day or $2,500 annually. This bill would increase the amount of compensation to a sum not to exceed $200 per day or $5,000 annually.

For very simple bills and supplementary bills establishing new programs, the way in which current law is being changed may be evident from that part of the statement containing the summary of the bill's provisions.

9.3.5 Summarizing Provisions of any Law Being Repealed

Examples (summary of repealer):

The bill repeals section 12 of P.L.1971, c.366 (C.24:14A-12), which imposes upon the Department of Health the responsibility for developing, implementing, and coordinating a program to control lead poisoning. The section of law being repealed is replaced by section 3 of the bill, the provisions of which are similar to those of the section of law being repealed. The repealer is necessary to ensure that these provisions will be compiled along with the other sections of this bill on lead poisoning, rather than in Title 24.

Because the bill places within the discretion of the municipal governing body the additional number of municipal court judges to be appointed in a municipality, the bill repeals those statutes that specifically authorize the appointment of additional judges in certain municipalities.

9.3.6 Summarizing Amendments Adopted

Examples (summary of committee amendments):

The committee amended the bill to clarify that the executive department representative serves on the commission without compensation, as stipulated in section 2 of P.L.1971, c.60 (C.45:1-2.2). The committee also added a $75,000 appropriation to the bill to fund the increase in salary.

Through amendment the committee:

(1) added appropriations of $35,000 to the Department of Human Services and $35,000 to the Department of Health to effectuate the purposes of the bill;

(2) added a section directing the Department of Human Services to conduct a study of the number and type of cases brought to obtain guardianship; and

(3) changed the effective date from immediately to March 1, 2013.

Note that the Assembly rules require that an explanation of the amendments be placed under a separate subheading in any Assembly committee statement, as in the following example:

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) include a $75,000 appropriation to the Department of Health to provide medical support services for the homeless; and

(2) Substitute the Department of Community Affairs for the Division of Housing and Community Resources as the official entity for establishing standards, guidelines, and regulations.

(For an example of an Assembly committee statement containing a separate committee amendment subheading as required by Assembly Rules, see *Appendix A, page A-61: **A1692 of 2010-2011**, and for an example of a Senate committee statement without this subheading, see *Appendix A, page A-69: **S1655 of 2008-2009**.)

It is never sufficient in describing amendments to say merely that amendments adopted by the committee are technical. Some characterization of the nature of the technical amendments is necessary, as in the following example:

> The committee adopted technical amendments to conform sections 1 and 2 of the bill to reflect changes made via P.L.2010, c.111 (C.4:10-19.1 et al.), which added "Made with Jersey Fresh" baked goods or other food products baked or made with "Jersey Fresh" products to the statute.

9.3.7 Fiscal Information

Fiscal information gathered by the committee in a public hearing or meeting might be used to supplement the information presented in a fiscal note or estimate, if the note or estimate is available. If legislation requires a fiscal note (see *5.1), but it has not been prepared, the Legislative Budget and Finance Officer or the appropriate fiscal analyst should be consulted to assist in assessing a bill's fiscal impact. Moreover, in the case of the budget committees of both Houses, a synopsis of the fiscal note or estimate is also incorporated within the committee statement under a separate, double-underlined header as in the following example:

FISCAL IMPACT:

> The executive branch has estimated that the 0.4 percent surcharge on new luxury and fuel inefficient passenger automobiles will generate approximately $25 million of revenue in State Fiscal Year 2010-2011.

(For an example of a statement with a subheading for fiscal impact, see *Appendix A, page A-65: **A2505(2R) of 2010-2011**.)

9.3.8 Pre-File Paragraph

If the bill or resolution released by the committee is a pre-file bill or resolution introduced pending technical review (see *9.5.7), the following paragraph should be included at the end of the committee statement (but, in the General Assembly, prior to the separate subheading describing any committee amendments):

> This bill (or resolution) was pre-filed for introduction in the (*insert appropriate two-year legislative session*) session pending technical review. As reported, the bill (or resolution) includes the changes required by technical review, which has been performed.

The pre-file paragraph is inserted automatically in a committee statement by using the toolbar button created for that purpose in the committee statement template. If the legislation

released by the committee is a resolution, the button should automatically substitute the word "resolution" for the word "bill" in the pre-file paragraph.

The pre-file paragraph should only be inserted in a committee statement by the first committee to consider a pre-filed bill or resolution. Committee statements reported by subsequent committees should not include the pre-file paragraph.

(For an example of a committee statement with a pre-file paragraph, see *Appendix A, page A-59: **S466 of 2010-2011**.)

9.3.9 Minority Statement

Under the Assembly rules, each committee member who voted against or abstained from the motion to report a bill or resolution may offer a minority statement, which is included within the committee statement under a separate designation (see *Appendix A, page A-71: **A1692 of 2010-2011**). The Senate's rule on minority statements is similar to the Assembly's rule.

The content of any minority statement is usually prepared and supplied by the member or the partisan staff aide, and the committee aide then reviews and edits it for proper technical form. Occasionally, a committee member, or partisan staff aide to the committee, may ask the committee aide to prepare, for the member's review and approval, a draft of the minority statement based upon the member's dissenting comments in the committee meeting.

A minority statement should be drafted as soon as possible after the committee meeting and included within the committee statement as soon as it is available. Sometimes a minority statement is not ready for inclusion in the committee statement prior to submission of the committee report to the Secretary of the Senate or the Clerk of the General Assembly, in which case it should be delivered as soon as possible following submission of the report. It must be available on the bill tracking system within 24 hours of the committee meeting.

9.3.10 Comparing Committee Substitute with the Original Bill (Optional)

Each House requires that the statement accompanying a committee's report of a bill being amended shall include an explanation of the amendments. Neither House, on the other hand, imposes an analogous requirement that the statement to a substitute bill must describe the differences between the substitute and the bill(s) for which the substitution was made. The absence of such an analogous requirement probably reflects the nature of most substitutes. When a substitute is adopted simply in order to combine two or more essentially similar bills and to share legislative sponsorship for the product, there may be little difference between the bills as referred to the committee and the resulting substitute, so that a comparison is unnecessary. Conversely, if the substitute constitutes a total rewriting of the bill for which the substitution has been made, a comparison may be almost impossible – and again, virtually unnecessary.

It frequently happens, however, that a substitute retains the general structure and substance of the bill that it replaces, while differing from that prior bill in a number of specifically identifiable ways. In this situation, it is both possible and useful to include in the committee statement a description of the differences between the substitute reported and the bill as originally

referred. Indeed, the case for including such a description is, in the abstract, even stronger than if those differences were the result of amendments; whereas amendatory changes to a bill are displayed in the text of a reprint, the text of a substitute, being a wholesale replacement of the original text, obscures the differences between the new bill and the old.

As should be apparent from the foregoing and from the examples following, the section in a committee statement comparing a substitute with the bill for which it was substituted has the same form as a section explaining committee amendments.

Example (comparison of substitute with original bill):

> The substitute bill differs from the legislation as referred to the committee by (1) vesting responsibility for implementation of the Phase II program in the DEP, rather than in a new "Clean Car Division" within the Department of Transportation, (2) providing for notification to the legislative committees with primary jurisdiction over environmental legislation regarding changes in the Phase II program, (3) creating the low emission vehicle review commission, and (4) deleting a requirement that the Commissioner of Transportation annually report to the Legislature on the status of the State's implementation of the Clean Car program, and providing instead for the low emission vehicle review commission to submit the report.

9.3.11 Describing the Committee's Intent (Optional)

A committee statement might contain a statement of the committee's intent in taking action on the legislation, or its interpretation of the bill's or resolution's provisions. The committee statement also might include a description of the way in which the committee's action on the legislation is consistent with its action on other legislation on the same subject, or the way in which the committee is departing from its past policies.

9.4 Additional Advice on Committee Statements

- Typically, a committee aide prepares a proposed committee statement for the committee's use before and during the meeting and as the basis of the final committee statement. When a proposed committee statement is converted into a final committee statement, it is important to take care that all information in the proposed committee statement is applicable to the legislation as it is reported by the committee. Information no longer applicable should be removed.

- The committee statement should not include a recitation of the public policy implications of the legislation, whether drawn from the sponsor's statement or some other source, unless the committee has endorsed them. For example, if the committee does not discuss legislation giving the Fraternal Order of Police the right to obtain special license plates, but simply votes to release it, the committee aide should not try to include in the committee statement information describing the purpose of the bill or the intent of the committee. Including a statement such as, "This bill will right a

longstanding injustice suffered by the Fraternal Order of Police for these many years," would be inappropriate. Committee aides should never insert their own opinions.

- Unless the committee instructs that a committee statement refer to individuals, organizations, or State agencies that presented testimony or offered amendments on legislation, the committee statement should not do so. However, the committee aide should note this information for the committee bill file, so that it may be made available to the Legislature upon request.

In short, committee aides should use their judgment, but if a question about what to include in a committee statement arises, the committee aide should discuss the matter with the Section Chief or other senior colleagues.

9.5 Committee Changes to Legislation

9.5.1 Committee Amendment

Amendments proposed to a bill or resolution by the standing reference committee to which it was referred are entitled "Senate (or Assembly) (*insert committee name*) Committee Amendments to Senate (or Assembly), No. . . ." (*identify the version of the bill or resolution, if other than the original, e.g., (1R), (2R), etc.)*, and bear the names of the prime sponsors of the bill or resolution. To distinguish among multiple sets of proposed committee amendments for the same bill, it may be helpful to provide additional identifying information, such as a name or number or the date or time. This extra information should be displayed in the upper left corner of the document in a manner that will allow the committee members and others to spot it easily during the committee meeting.

Sections of a bill or resolution which are being amended by the committee are set forth in their entirety with the following instructions preceding each section being amended: "REPLACE SECTION # (*insert appropriate section #*) TO READ:." Other committee amendment drafting directives that may be used to reflect committee action on legislation include:

- REPLACE TITLE TO READ:
- REPLACE SYNOPSIS TO READ:
- INSERT NEW SECTION # (*insert appropriate section #*) TO READ:
- OMIT SECTION # (*insert appropriate section #*) IN ITS ENTIRETY
- RENUMBER SECTION # (*insert appropriate section #*) AS SECTION # (*insert appropriate section #*)

Each of these directives is generated automatically by using the toolbar button created for that purpose and found on the committee amendment template.

Helpful Hint:
If the drafter is amending the preamble to a resolution (whereas clause(s)), the appropriate committee amendment is not automatically generated. The drafting directive is:

REPLACE PREAMBLE TO READ:

(For an example of an amendment to a preamble, see *Appendix A, page A-73: **SR83 of 2010-2011** (drafter's version) and *Appendix A, page A-77: **SR83(1R) of 2010-2011** (official version).)

Language to be deleted by committee amendment should be enclosed in the bold brackets generated by using the toolbar button, or by simultaneously depressing the control and bracket keys on the computer keyboard. Language to be added should be underlined. (See *5.7.1.) To reinsert language previously enclosed in brackets, insert the new language immediately after the closing bracket and underline the new material; do not delete existing brackets – i.e., do not bracket the brackets.

Any changes that are being made to the title of an underlying bill should be properly formatted and drafted as follows:

REPLACE TITLE TO READ:
AN ACT establishing the New Jersey Commission on Work and Family [1]**[**and the State Agency Work and Family Program**]**[1].

If making changes to a synopsis, do not use brackets or underlines:

REPLACE SYNOPSIS TO READ:
Establishes the New Jersey Commission on Work and Family.

Note that the REPLACE SYNOPSIS section should always appear at the end of the amendments.

Any changes that are being made to a section of the legislation by committee amendment should be enclosed by superscripted numerals which express the total number of times that the bill has been amended, including the committee amendment at issue, by a committee or a House.

For example, if the committee amendment is the third time the bill has been amended by a committee or a House, then the superscripted numeral of "3" should be used:

Example (bill amended multiple times):

3. (New section) a. [1]**[**For the purposes of this section, "local**]** As used in this section:

"Compensation" means wages, [2]salaries,[2] commissions, or any other form of remuneration paid to officers or employees for personal services but shall not include supplemental compensation for accumulated unused sick leave.

"Local[1] authority" means an "authority" as defined under the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

b. No executive director or chief executive officer of a local authority commencing service on and after the effective date of this act shall be paid [3][a salary] compensation[3] higher than the salary of the Governor of New Jersey without approval of the Local Finance Board, for good cause shown.

To facilitate reading an amended bill or resolution, multiple changes in a line, phrase, or sentence should be avoided in most cases; instead bracket the entire line or lines, phrase, or sentence and insert the replacement language. Although efforts should be made to save punctuation, bracket the entire line or phrase if it will facilitate reading the bill.

Replacing several sequential sections should be done on a section-by-section basis.

Example (replacing several sequential sections):

REPLACE SECTION 2 TO READ:

2. The department shall adopt and implement a [1][pilot] special[1] license plate program.

REPLACE SECTION 3 TO READ:

3. A person shall not operate [1][an automobile] a motor vehicle[1] without a special license plate.

REPLACE SECTION 4 TO READ:

4. This act shall take effect [1][immediately] on the 180th day after the date of enactment[1].

But inserting several new sequential (either amendatory or supplementary) sections can be done by one directive, with superscripts at the beginning and end of each added section.

Example (inserting several new sequential sections):

INSERT NEW SECTIONS 7 THROUGH 9 TO READ:

[1]7. a. The commissioner shall issue a permit to any applicant who meets the criteria and pays the fee established in section 6 of this act.

b. A permit shall be valid for a period of one year from the date of issuance.[1]

[1]8. A person shall not drill a well without a permit issued pursuant to section 7 of this act.[1]

[1]9. The civil penalty for violating section 8 of this act is $100 for the first offense and $200 for each subsequent offense.[1]

If inserting an additional amendatory section that was not part of the underlying bill, amendments are shown without superscripts because the superscripts appear instead at the beginning and end of the entire section. The final superscript for an added amendatory section should be placed before the "cf" (i.e., after the closing punctuation at the end of the substantive part of the law to be amended).

Example (inserting additional amendatory section):

INSERT NEW SECTION 4 TO READ:

[1]4. Section 1 of P.L.1970, c.268 (C.13:1B-15.128) is amended to read as follows:

1. A New Jersey Register of Historic Places is established in the Division of Parks **[**,**]** and Forestry **[**and Recreation of**]** in the Department of Environmental Protection **[**to consist of**]** for the purpose of maintaining a permanent record of areas, sites, structures, and objects within the State determined to have significant historical, archeological, architectural, or cultural value.[1]

(cf: P.L.1970, c.268, s.1)

(For an example of committee amendments that insert new amendatory sections not part of the underlying bill and amend an existing section of the bill, see *Appendix A, page A-81: **S2888 of 2010-2011** (drafter's version) and *Appendix A, page A-85: **S2888(1R) of 2010-2011** (official version).)

If the underlying bill is entirely supplementary, and a new supplementary section is inserted, the section should be underlined in its entirety and superscripted at the beginning and end of the section:

Example (inserting new supplementary section in bill that is entirely supplementary):

INSERT NEW SECTION 8 TO READ:

[1]8. The commission shall report its findings and conclusions, together with any recommendations for administrative or legislative action, to the Governor and the Legislature within 180 days after the date of enactment of this act.[1]

If the underlying bill contains one or more amendatory sections, any new supplementary section inserted should also be identified by the "(New section)" designation. The section should be underlined in its entirety and superscripted at the beginning and end of the section:

Example (inserting new supplementary section in bill that has one or more amendatory sections):

INSERT NEW SECTION 8 TO READ:

[1]8. (New section) The commission shall report its findings and conclusions, together with any recommendations for administrative or legislative action, to the Governor and the Legislature within 180 days after the date of enactment of this act.[1]

(For an example of committee amendments that insert a new supplementary section, see *Appendix A, page A-91: **A1561 of 2010-2011** (drafter's version) and *Appendix A, page A-93: **A1561(1R) of 2010-2011** (official version).)

If the committee amends the legislation to add a new supplementary section, remember to include a suggested allocation for that section in the upper left corner of the front page of the committee amendments being transmitted to BPU for processing.

Helpful Hint:
When preparing proposed committee amendments, remember to also think about whether it is necessary to amend the title of the legislation, or revise the synopsis, to reflect the proposed changes to the body of the bill.

9.5.2 Committee Amendment with Technical Changes

When legislation is considered by a committee in the House of origin, the committee aide should recommend appropriate technical amendments, whether or not substantive amendments are being considered, unless the prime sponsor or committee chair objects.

By contrast, when legislation is considered by a committee in the second House, and no substantive amendments are offered, the committee aide generally should not recommend or prepare strictly technical amendments unless directed to do so by the prime sponsor or the committee chair. An exception to this rule might be appropriate if the legislation is so technically flawed as to be unreadable or unable to accomplish the prime sponsor's objective, in which case the committee aide should approach the committee chair about the need for amendments.

The difficulty of adopting even technical amendments by a committee in the second House is that it requires the legislation to be returned to the House of origin for a concurrence vote (see *1.2.7), a potentially problematic additional step in the legislative process. This concern holds particularly true at the end of a two-year term (January of each even-numbered year) when there is no time to send a bill back to the House of origin. Likewise, it might not be desirable on the part of the sponsor to return a bill for purely technical reasons if there is any concern that the bill might have difficulty in passing a second time once returned.

To avoid such concerns, it is preferable that technical flaws be addressed by alerting the Legislative Counsel, as the Legislative Counsel is authorized under R.S.1:3-1 to make corrections. Specifically, the Legislative Counsel is authorized to "correct in the text, but not in the title, of any law, such errors in references to other laws and in punctuation and spelling, and other obvious errors in form, which will not affect the substance of the law, as shall be concurred in by the Attorney General and shall make such corrections in preparing the law for printing." If it is uncertain whether a technical correction falls within the scope of R.S.1:3-1, the Legislative Counsel should be consulted.

9.5.3 Special Circumstances in Drafting Amendments

Statutory Update: Sometimes legislation under consideration by a committee includes a section that amends a law that has changed, due to an intervening enactment, since the legislation was introduced. This situation presents a dilemma for the committee aide with respect to whether and how to update the amendatory section (and the corresponding "cf") to include the subsequent changes to the law without appearing to make substantive committee amendments. The solution is heavily dependent upon the circumstances, and each of the various drafting options has its advantages and disadvantages. Following are four scenarios in which the problem arises and the suggested course of action for each:

- If legislation before the committee has been pre-filed pending technical review and it is the first time it is to be reported from a committee, use the pre-filed bill technical review process (see *9.5.7) to update the law.

- If legislation before the committee is not pre-filed pending technical review, and the legislation is to be reported from a committee in the House of origin, use a committee amendment with brackets and underlines to show the updates to the law (unless the committee chair objects). Prepare the amendments using the version of the law as it appears in the underlying bill; do not use the most recent version of the law from the statutory database. Once you have used brackets and underlines to show the updates, then change the "cf" to the most up-to-date version of the law. In the committee statement, explain what has been done, being careful to distinguish for the reader the update changes from any substantive committee amendments.

- If the legislation before the committee is not pre-filed pending technical review and the legislation to be reported by the committee is a committee substitute, use the most recent version of the law from the statutory database and its accompanying "cf." Do not use brackets and underlines to show any updates to the law.

- If the legislation is to be reported by a committee in the second House, and there are no other amendments to be made, do nothing, because the statutory update would be a strictly technical amendment (see *9.5.2) that would unnecessarily require the legislation to be returned to the other House for a concurrence vote on the amendment. In this case, notify Legislative Counsel of the issue so that the update can be made after enactment pursuant to the authority granted to Legislative Counsel under R.S.1:3-1 to correct "errors in references to other laws and in punctuation and spelling, and other obvious errors in form, which will not affect the substance of the law . . . ."

However, if it is unclear how the bill's changes to the section of law would fit into the updated version to be prepared subsequently by Legislative Counsel, thus making it difficult for Legislative Counsel to exercise the authority granted in R.S.1:3-1, then committee amendments would be the better course of action. In this case, the approval of the committee chair should be obtained before proceeding with the amendments.

- If the legislation is to be reported by a committee in the second House, and there are substantive amendments to be made to the same section or another section of the legislation, use a committee amendment with brackets and underlines to show the updates to the law (unless the committee chair objects). Prepare the amendments using the version of the law as it appears in the underlying bill; do not use the most recent version of the law from the statutory database. Once you have used brackets and underlines to show the updates, then change the "cf" to the most up-to-date version of the law. Explain what has been done in the committee statement, being careful to distinguish for the reader the update changes from any substantive committee amendments considered by the committee.

- If the legislation is to be reported by the committee in the second House as a committee substitute, use the most recent version of the law from the statutory database and its accompanying "cf." Do not use brackets and underlines to show any updates to the law.

- If the changes necessary to update a section to the current version of the law are complicated or potentially controversial, alternate approaches are: (1) use the automatically generated directive "REPLACE SECTION # TO READ," bracket out the entire outdated section, and insert the current version of the law (with a corresponding updated "cf"); or (2) use the automatically generated directives "OMIT SECTION # IN ITS ENTIRETY" followed by "INSERT NEW SECTION # TO READ:," followed by the updated statutory text and its accompanying "cf." Show any substantive amendments to the updated law with the usual brackets and underlining.

9.5.4 Committee Substitute

Under the rules of both Houses, a committee may report a substitute bill or resolution, known as a committee substitute. A committee substitute must encompass substantially the same subject matter as the original legislation. (For a sample committee substitute, see *Appendix A, page A-97: **S1918 (SCS) of 2008-2009**.)

Helpful Hint:
Remember to include a suggested allocation in the upper left corner of the first page of the committee substitute being transmitted to BPU for processing.

Unless explicitly directed otherwise by the chair or majority partisan aide to the committee, the committee aide should avoid the use of a committee substitute for legislation being heard by a committee in the second House, because a committee substitute is considered a new bill or resolution in that House. This new bill creates a legislation merger problem on the floor of the second House. (See *9.5.2 and *1.2.7.)

For example, when an Assembly committee reports an Assembly committee substitute for an Assembly bill and a separate Assembly committee substitute for the corresponding identical Senate bill, the two substitute bills cannot be merged on the Assembly floor, even though they are identical, because the Assembly committee has created two new Assembly bills; there is no longer a Senate bill that can be merged and then passed by the Assembly, as the second House. Instead, the Assembly committee should amend the two bills to make them identical so that they may be merged on the Assembly floor, passed (in the form of a Senate bill in this case) by the Assembly, and then similarly sent over to the Senate for concurrence with the Assembly committee amendments. Alternatively, the committee could report a substitute for only the Assembly bill while amending the Senate bill to make it identical, thereby preserving the Senate bill and allowing for future merger.

9.5.5 Why Draft a Substitute?

There are three main reasons for a committee to report a substitute. The first is to combine a number of bills or resolutions dealing with the same or similar topics into one piece of legislation. The second reason is to create a more readable version (i.e., "clean copy") of legislation that has been amended several times previously. A third or fourth reprint, with all its superscripts, underlining, and brackets may be difficult to read. In such cases, a committee substitute can provide a more readable bill. Conversely, while a substitute bill may be more reader-friendly, it also eliminates the trail of changes incorporated into a bill, making it more difficult for even a sophisticated reader to quickly identify the revisions. Finally, a committee substitute can have a partisan or political purpose as discussed in *9.5.6.

Committee Amendments Versus Committee Substitute

	Pros	Cons
Amendments	• Easier to track successive revisions • Don't need to consider sponsorship of combined bills	• Amendments can be extensive, making them difficult to both draft and comprehend
Substitute	• Easier to read (fewer brackets and less underlining, no superscripts) • Can be easier to draft	• Can be difficult to trace proposed revisions • Need to consider sponsorship

9.5.6 Order of Sponsorship

Under the Assembly rules, the committee chair determines the order in which the sponsors' names appear on a committee substitute. Consequently, a committee substitute may be prepared for no other reason than to establish a new order of sponsorship. The Senate rules are silent on the issue of sponsors' names on committee substitutes, but the convention is the same as that used in the Assembly. In the absence of a determination by the chair, prime sponsors are to be listed first, followed by the co-sponsors, in the order that the bills or resolutions are listed in a committee substitute combining more than one bill or resolution. Be sure to check Legislative

Inquiry for the most recent sponsorship information. With the approval of the committee chair, other prime sponsors and co-sponsors may be added. It is not uncommon for one or more committee members (and sometimes the entire membership of the committee), upon hearing legislation in committee, to ask to be added as prime sponsors or co-sponsors.

Helpful Hint:
When preparing a committee substitute, a committee aide should be very careful to obtain clear direction from the chair or appropriate partisan staff aide with regard to sponsorship of the substitute, the order in which the sponsors' names are to appear, whether the sponsors are to be prime sponsors or co-sponsors, and the order in which the numbered bills are to be listed in the heading when the substitute combines two or more bills or resolutions.

There may be occasions when the prime sponsor or the committee chair wishes to avoid a possible sponsorship issue arising from a substitute. In such circumstances, committee amendments may be appropriate. Hence, as an alternative to a committee substitute, a committee aide may be asked, or it may be useful, to prepare committee amendments that bracket out all or nearly all of the sections of a bill or resolution and insert new or replacement sections after the end bracket, thereby essentially transforming the original bill or resolution into a new bill or resolution on the same topic. This avoids the sponsorship issue raised by the substitute format.

9.5.7 Technical Review of Pre-Filed Bill

Although not actually the product of committee action, whenever the first committee in the House of origin considers a pre-filed bill or resolution, the committee aide must perform a technical review of the legislation. This is because, under the joint rules of the Senate and General Assembly, a pre-filed bill or resolution may be "Introduced Pending Technical Review by Legislative Counsel." The committee aide should correct any technical errors in the legislation discovered through this review without involving the committee or the use of a committee amendment. This is accomplished by marking the corrections in ink on a hard copy of the legislation and transmitting that copy to BPU when the legislation is reported from committee. The committee aide also writes on the fronter of the marked up bill or resolution a suggested allocation (upper left corner) and the committee aide's bill drafting number (upper right corner, following a handwritten "TR") which identifies the committee aide as the technical reviewer of the pre-filed bill or resolution.

Because the changes made to the legislation are strictly technical and are made outside of the committee process, the committee does not, and should not, see or approve them. A technically reviewed pre-filed bill or resolution, including any "Not Amendment" sheet (see below), should be delivered only to BPU, and should not be delivered to the Secretary of the Senate or the Clerk of the General Assembly because it is not a committee work product. After the committee reports the legislation, BPU incorporates these technical corrections into a technically reviewed bill, which also includes any amendments adopted by the committee.

If the committee amends the same section of a pre-filed bill or resolution in which the committee aide has discovered technical errors, the committee aide may include the technical corrections as committee amendments. If that is done, then those technical corrections should not

also be shown on the marked up hard copy that reflects the technical review of the pre-filed bill or resolution.

Helpful Hint:
The marked-up hard copy of a technically reviewed pre-filed bill or resolution is filed by BPU in the CMU Director's office. The committee aide should use that marked-up hard copy as a guide for performing a technical review of the identical legislation pre-filed in the other House. A committee aide may also wish to keep a copy of the marked up hard copy of a technically reviewed pre-filed bill or resolution with the bill folder for that bill.

If the committee reports a committee substitute for a pre-filed bill or resolution, no technical review of the pre-filed bill or resolution is necessary because the committee substitute is in essence a new bill, which will be technically reviewed at the time of drafting like any other newly drafted bill. (See *8.1.2 and *8.2.)

If the legislation is a "new draft" pre-filed bill or resolution, no pre-file technical review is necessary because the technical review was done at the time of drafting. (During the pre-filing period, a legislator may pre-file not only legislation from the prior two-year legislative term but also newly drafted bills.) In other words, a "new draft" pre-filed bill or resolution, although pre-filed and introduced, is not "Introduced Pending Technical Review by Legislative Counsel" because it has already been technically reviewed. Of course, a committee aide should still review a "new draft" pre-filed bill or resolution, like any other, for technical errors that may need correction through use of the committee amendment process.

"Not Amendments": Occasionally, technical corrections to a pre-filed bill or resolution are so extensive that they become jumbled and incomprehensible if marked in ink on a hard copy. This often happens when the legislation proposes to amend a section of law that has been amended since the legislation was originally introduced. In these situations, it is best to do a "Not Amendment" sheet.

The "Not Amendment" sheet is a typed revision of the text of the section in question, updating it (with appropriate brackets and underlining) to the form in which it should have appeared in the bill for the purposes of the committee's consideration. That is, the sheet shows (as regular text – no brackets and underlines) those changes that legislative enactments have made in the section since the legislation was last technically reviewed (possibly several legislative sessions ago), plus the additional changes shown by brackets and underlines proposed by the bill; the sheet does not include any changes that the committee itself makes, since those appear separately in a committee amendment. The "Not Amendment" sheet looks very much like a committee amendment, except for the heading and the lack of superscripts. It is attached to the marked-up hard copy of the legislation, which is transmitted to BPU for processing (the "Not Amendment" sheet is an internal OLS document which is not transmitted to the Secretary of the Senate or the Clerk of the General Assembly). The template for the "Not Amendment" sheet is a check-off option which may be found after initiating the committee amendment template.

For an example of a pre-filed bill reported by a committee with "Not Amendments," see *Appendix A, page A-99: **A330 of 2010-2011** (pre-filed pending technical review); *Appendix A,

page A-107: **A330 of 2010-2011** ("Not Amendments") and *Appendix A, page A-111: **A330 of 2010-2011** (bill reported by the committee following technical review).

9.6 Floor Changes to Legislation

9.6.1 Floor Amendment

Floor Amendments may be proposed to legislation after its release from committee and prior to third reading. (See *1.2.4 and *1.2.5.) They are entitled "Senate (or Assembly) Amendments to Senate (or Assembly), No. . . ." (*identify the version of the bill or resolution (e.g., (1R), (2R), etc., if other than the original*), and bear the name of the member proposing the amendments followed on a separate line by the names of the prime sponsors of the legislation. The rules of each House require that an explanatory statement be included with the floor amendments. (For more information on the floor amendment statement, see *9.6.3.)

For an example of a floor amendment, see *Appendix A, page A-119: amendments to **A3158 (1R) of 2010-2011** (drafter's version); *Appendix A, page A-121: **A3158 (2R) of 2010-2011** (official version), and *Appendix A, page A-125: **A3158 (2R) of 2010-2011** (statement to floor amendments).

A sufficient number of copies of proposed floor amendments should be prepared for the member proposing them, or for an appropriate partisan staff aide. Check with senior secretarial or professional staff for the exact number of copies of floor amendments needed, because it is different for the two Houses and changes periodically in response to new instructions issued by the presiding officer of the House or the majority staff. Current practice is to prepare 10 copies for Senate floor amendments and 20 copies for Assembly floor amendments. Before preparing copies, check with the appropriate partisan staff aide, as he or she may prefer to arrange for the copying to be done instead.

Remember to remove the "Proposed" watermark before delivering the floor amendments to the requester.

9.6.2 Floor Substitute

A floor substitute essentially serves the same functions as a committee substitute and therefore looks very much like one as well. For obvious reasons, though, it is instead entitled "Senate (or Assembly) Substitute for Senate (or Assembly), No. . . ." (*identify the version of the bill or resolution, if other than the original, e.g., (1R), (2R), etc.*), and bears the names of the prime sponsors and co-sponsors of the identified version of the legislation for which the floor substitute is proposed.

(For an example of a floor substitute, see *Appendix A, page A-127: **floor substitute for S2108 of 2010-2011** (drafter's version) and *Appendix A, page A-129: **floor substitute for S2108 of 2010-2011** (official version).)

The member or members proposing the floor substitute must also be identified on the first page in the place provided by the template. If the member proposing the floor substitute is not known, consult with the appropriate partisan staff before finalizing the document for reproduction and delivery to the House floor.

The number of copies of a floor substitute needed is the same as that needed for a floor amendment. (See *9.6.1.)

Remember to remove the "Proposed" watermark before delivering the floor substitute to the requester and to include a suggested allocation in the upper left corner of the first page of the floor substitute being transmitted to BPU for processing.

9.6.3 Floor Statement

Both the Senate and General Assembly rules require a floor amendment or floor substitute to include a floor statement. While there is no limit on the length of a floor statement, the statement should be as succinct as possible. The statement should be placed at the end of the document under a centered heading, titled "STATEMENT."

Floor Amendment Statement: The purpose of a floor amendment statement is to describe how the proposed amendment affects or alters the provisions of the bill or resolution. The statement should summarize the content and effect of each proposed amendment, including any technical or clarifying amendment.

A floor amendment statement is not meant to duplicate the functions of the sponsor's statement or a committee statement, which provide a description of the major provisions of the bill or resolution or the legislation's objective, unless that information is relevant to the effect of the floor amendment. The floor amendment statement may include information about why the floor amendment is proposed if the member proposing the amendment so requests or if the information is necessary to explain the effect of the amendment upon the bill or resolution and the intent of the member proposing the amendment.

Note that the statement to a floor amendment becomes a separate document after processing by BPU.

(For an example of a statement to a floor amendment, see *Appendix A, page A-131: **statement to S1764 of 2010-2011**.)

Floor Substitute Statement: By contrast, the statement for a floor substitute must describe the entire bill, and, therefore, is drafted in the same style as a sponsor's statement or a committee statement for a committee substitute. (See *9.1 through *9.4.)

Note that the statement to a floor substitute remains within the document after processing by BPU.

(For an example of a statement to a floor substitute, see *Appendix A, page A-129: **statement to S2108 (SS) of 2010-2011**.)

9.6.4 Governor's Conditional Veto

When the Governor conditionally vetoes a bill, the Governor presents the veto to the House of origin. Customarily, the Senate waits for a conditional veto document prepared by OLS before voting on the conditional veto. By contrast, the General Assembly often takes action to consider the Governor's recommended changes before OLS has prepared the conditional veto document.

In either instance, because the changes must exactly match what the Governor has proposed, there is no further original drafting to be done. The drafter simply and exactly, except as discussed below, follows the instructions in the Governor's conditional veto document, and prepares the conditional veto amendment in essentially the same manner as a floor amendment, except that (1) it is entitled "Conditional Veto to Senate (or Assembly), No. . . ." (*identify the version of the bill, e.g., (1R), (2R), etc., if other than the original*), and (2) it contains no statement. Once the conditional veto amendment has been put into form by the drafter, a printed copy is given to BPU for processing.

The drafter of a conditional veto amendment may make only minor, strictly technical changes to a Governor's conditional veto, such as correcting obvious spelling and citation form errors. If the synopsis needs to be changed, the drafter need only inform BPU. If the drafter finds that the conditional veto contains major technical errors, consult the CMU Director or Legislative Counsel on how to proceed.

(For an example of a conditional veto amendment, see *Appendix A, page A-133: **S1918 (SCS) (2R) of 2008-2009**.)

CHAPTER 10 SPECIALIZED TYPES OF LEGISLATION

This chapter provides information on a variety of specialized types of legislation:

CHAPTER 10 SPECIALIZED TYPES OF LEGISLATION

10.1 Constitutional Amendments and Other Legislation Requiring Voter Approval

Constitutional Amendments: Article IX of the New Jersey Constitution and the rules of both Houses set forth the procedures for amending the New Jersey Constitution.

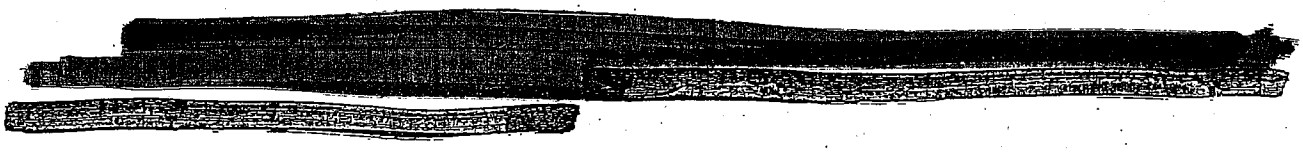
The Constitution and rules set out the following requirements, among others:

- The proposed constitutional amendment must be in the form of a concurrent resolution.
- After the concurrent resolution is reported from committee, it must be placed on the members' desks in both Houses. Placement on the desks must be at least 20 days prior to third reading and final passage and the placement recorded in the Senate Journal and Assembly Minutes. Generally the resolution is placed on the desks on the same day it is reported from committee, or on the next quorum day.
- Placement on the desks may occur on different days in each House but the 20-day period does not begin to run until after placement on the desks in the second House.
- A public hearing must be held (after placement on the desks and before the first vote in the House of origin). There is one public hearing.
- Under the Senate rules, the public hearing for a concurrent resolution originating in the Senate will be conducted before a Senate committee. Under the Assembly Rules, the public hearing for a concurrent resolution originating in the Assembly may be conducted either before the Assembly or before an Assembly committee. The usual practice is for the public hearing to be held by the committee that reported the concurrent resolution.
- The concurrent resolution must pass each House by a 3/5 vote or, if there is less than a 3/5 vote, by a simple majority vote of the members in two successive years.
- The concurrent resolution cannot be amended by the second House and returned to the House of origin or it is deemed lost and no further action can be taken on it.
- At least three months prior to the general election, the proposed amendment must be published in at least one newspaper of each county, if any be published therein.

Helpful Hints:

(1) When a concurrent resolution proposing a constitutional amendment is reported out of committee, the committee aide must provide a set of documents to the Clerk of the General Assembly or the Secretary of the Senate. This paperwork is in the bill drafting template, titled "Assembly [or Senate] Constitutional Amendment Procedural Doc.dot." The template will also generate a document that needs to be filed after the public hearing. For further information on the special procedures for reporting the concurrent resolution out of committee, see *7.7 [redacted].

(2) Because of the constitutional requirement for newspaper publication of the proposed amendment at least three months before the election, timing is crucial. Both Houses must approve the proposed amendment by early August for placement on the ballot in November of that year. As a practical matter, final approval may need to take place earlier, prior to the Legislature's summer schedule.



Other Legislation Requiring Voter Approval: The New Jersey Constitution specifically requires voter approval for three types of legislative enactments: constitutional amendments (discussed in this section); general obligation bond acts (see *10.6); and certain forms of gambling (see Article IV, Section VII, paragraph 2). Although voter approval of other types of legislative enactments is not mentioned, the Constitution does not prohibit the Legislature from placing any such enactment before the public for final approval. Although this type of legislation is rare, the drafter should be aware that it is an available option. (See *10.1.4.)

10.1.1 Form of the Legislation Proposing Constitutional Amendment

Pursuant to the rules in both Houses, a proposal to amend the New Jersey Constitution must be in the form of a concurrent resolution. The concurrent resolution may be introduced in either House and must take the same course as bills or other resolutions originating in that House. (See *1.2 and House rules.) There is no official gubernatorial role in the process of placing a proposed amendment to the New Jersey Constitution on the ballot for voter approval. Thus, once the proposed amendment has been approved by both Houses, it is filed with the Secretary of State for placement on the ballot. (For an example of a concurrent resolution proposing a constitutional amendment, see *Appendix A, page A-137: ACR209 of 2010-2011.)

10.1.2 Drafting a Constitutional Amendment

A concurrent resolution proposing an amendment to the New Jersey Constitution is presented for introduction in the same form and with the same number of copies as a bill. To create a fronter, select the appropriate resolution form from the drafting shell template menu and follow the instructions set forth in *5.1 and *6.2.

CHAPTER 10 SPECIALIZED TYPES OF LEGISLATION

In addition to the substantive and technical reviews conducted in the CMU section (see *Chapter 8), the concurrent resolution also must be reviewed by the Director or an Assistant Director of CMU. The purpose of this review is to ensure that the ballot question and interpretive statement presented to the voters are written in a manner which offers the average reader fair notice of the provisions of that amendment. Reintros of concurrent resolutions must be reviewed by the Director or an Assistant Director as well. The bill drafting number of the ballot reviewer should be inserted next to the "BR" designation on the fronter.

Title: The title of a concurrent resolution proposing an amendment to the New Jersey Constitution begins with the words "**A CONCURRENT RESOLUTION**" (always in small caps bold), followed by "proposing" and a succinct description of the resolution's content.

Examples (titles):

> **A CONCURRENT RESOLUTION** proposing to amend Article VIII, Section IV, paragraph 1 of the New Jersey Constitution.
>
> **A CONCURRENT RESOLUTION** proposing to amend Articles II, IV, and V of the New Jersey Constitution.
>
> **A CONCURRENT RESOLUTION** proposing to amend Article VIII, Section IV of the New Jersey Constitution by adding a new paragraph.

***Preamble*:** A concurrent resolution proposing an amendment to the New Jersey Constitution, unlike other resolutions discussed in Chapter 6, usually does not include a preamble (whereas clauses).

Enacting Clause: The enacting clause is the same as one for any other concurrent resolution (see *6.5) - for Senate Concurrent Resolutions, "BE IT RESOLVED by the Senate of the State of New Jersey (the General Assembly concurring):"; for Assembly Concurrent Resolutions, "BE IT RESOLVED by the General Assembly of the State of New Jersey (the Senate concurring):".

Section One – Amendment: The first numbered section of the concurrent resolution may contain one or more related amendments to paragraphs in the New Jersey Constitution, or propose an additional paragraph to a Section of an Article in the Constitution.

Example (amending existing language):

1. The following proposed amendment to the Constitution of the State of New Jersey is agreed to:

PROPOSED AMENDMENT

a. Amend Article II, Section I, paragraph 1 to read as follows:

1. General elections shall be held annually on the first Tuesday after the first Monday in November; but the time of holding such elections may be altered by law. The Governor, Lieutenant Governor, and members of the Legislature shall be chosen at general elections. Local elective officers shall be chosen at general elections or at such other times as shall be provided by law.
(cf: Art. II, Sec. I, par. 1)

b. Amend Article IV, Section V, paragraph 1 to read as follows:

1. No member of the Senate or General Assembly, during the term for which he shall have been elected, shall be nominated, elected or appointed to any State civil office or position, of profit, which shall have been created by law, or the emoluments whereof shall have been increased by law, during such term. The provisions of this paragraph shall not prohibit the election of any person as Governor, Lieutenant Governor, or as a member of the Senate or General Assembly.
(cf: Art. IV, Sec. V, par. 1)

Example (amending by adding a new paragraph):

1. The following proposed amendment to the Constitution of the State of New Jersey is agreed to:

PROPOSED AMENDMENT

Amend Article IV, Section VII by adding a new paragraph 13 to read as follows:

13. Marriage is solely between a man and a woman unless the Legislature otherwise provides.

Note: when amending a part of the Constitution that has been previously amended, the drafter's reference to the text used, referred to as the "cf," should indicate the most recent prior amendment, such as (cf: Art. II, Sec. I, par. 2; amended effective December 8, 1988).

Section Two – Template Language: The second numbered section is boilerplate language from the template with standard timing instructions for submitting the public question to the voters.

Section Three – Ballot Question and Interpretive Statement: The third numbered section is divided into two subsections. Subsection a. contains boilerplate language concerning the manner and form of the official ballot while subsection b. contains boxes for the ballot question and the interpretive statement.

10.1.3 Guidelines for Drafting Constitutional Amendment

For general assistance in drafting the concurrent resolution, see *10.1. These guidelines for drafting a concurrent resolution proposing a constitutional amendment apply only to the introductory caption, ballot question, and interpretive statement, which are set out in section 3 of the concurrent resolution. They are intended to be a "best practice" and should not be applied as though they represent a mandatory fixed formulation.

Title

The title should begin "CONSTITUTIONAL AMENDMENT TO . . . ." Next, set out the purpose of the question in a succinct manner so as to permit its ready identification by the reader. Do not attempt to provide specific provisions or exceptions to the amendment in the title.

Example:

CONSTITUTIONAL AMENDMENT TO DEDICATE A PORTION OF CABLE TELEVISION REVENUES TO PROGRAMS FOR ELIGIBLE SENIOR CITIZENS AND DISABLED RESIDENTS

Ballot Question

"Simple Language" and "True Purpose" Requirements: R.S.19:3-6 requires, in pertinent part, that "any public question voted upon at an election shall be presented in simple language that can be easily understood by the voter." The statute further provides that the ballot question "clearly set forth the true purpose of the matter being voted upon."

In applying these requirements:

- Avoid phrases that are confusing, vague, or insufficiently explained.
- Begin your text with the affirmative language: "Do you approve amending the Constitution to . . . ?"
- Use short sentences and indented paragraphs wherever possible.

Example:

> Do you approve amending the Constitution to expand the authorized uses of the constitutionally dedicated Corporation Business Tax Revenue?
>
> This amendment would allow the use of 15% of the dedicated funds to fund the development of lands for recreation and conservation purposes.

Interpretive Statement

The purpose of the interpretive statement is to help the average voter understand the public question for which approval is requested. The New Jersey Supreme Court has stated:

> Using the words of the statute [R.S.19:3-6], the statement should serve the function of 'interpreting' the public question and 'setting forth the true purpose' of same . . . [T]he brief statement is to be added to help the voter understand more about the amendment than the public question tells him, for the purpose of aiding him in his decision. [Gormley v. Lan, 88 N.J. 26, 37 (1981).]

To facilitate voter understanding within the meaning of the court's principles:

- Break the interpretive statement into a series of short, descriptive sentences.
- Avoid:
  - Double negatives, or exceptions to exceptions;
  - Words with obsolete meanings; and
  - Words or phrases that are unnecessarily technical.
- Use ordinary words whenever possible that are near to the meaning of those used in the public question, without introducing additional meaning or ambiguity.

The New Jersey Supreme Court has also set out additional direction concerning the "true purpose" requirement of the interpretive statement:

> To the extent possible within the limits of 'a brief statement,' it should try to get to the heart of the matter as understood by those who are knowledgeable about it. In some cases . . . the statement of 'true purpose' may best be achieved by attempting to state the consequences of both adoption and rejection of the proposed amendment. [Gormley v. Lan, 88 N.J. at 37.]

Consistent with the court's guidance, "in some cases" the drafter should consider using language that clarifies for the voter the consequences of a "yes" or a "no" vote. If used, this language must be limited to statements of fact. The following phrasing is recommended:

> A "yes" vote would amend the Constitution to . . .
> A "no" vote would leave the Constitution unchanged and . . .

Examples:

> A "yes" vote would amend the Constitution to create the new position of Lieutenant Governor.
> A "no" vote would leave the Constitution unchanged and the position of Lieutenant Governor would not be created.

> A "yes" vote would amend the Constitution to require members of the Legislature to serve full-time and bar them from holding any other paying job.
> A "no" vote would leave the Constitution unchanged, so members of the Legislature would continue to serve part-time and could also hold another paying job.

The drafter should not use the "yes" and "no" phrasing alone. Additional information should be included to assist the voter, such as a brief description of the current law, the effect of approval of the ballot question, and other relevant factual information.

Example:

> This proposed amendment requires all legislation proposing a new or increased State tax, fee, surcharge, or civil penalty to be passed by at least two-thirds of the members of each House of the Legislature. Currently, the New Jersey Constitution requires a majority vote of the members of each House to pass such legislation.
> A "yes" vote would amend the New Jersey Constitution to require that any legislation for new or increased taxes, fees, surcharges, or civil penalties be passed by at least two-thirds of each House.
> A "no" vote would leave the New Jersey Constitution unchanged and keep the requirement for a majority vote by each House.

When the "yes" and "no" phrasing is unhelpful or confusing, an alternative structure should be used. As stated by the New Jersey Supreme Court, "In other cases some other formulation or standard may better achieve the legislative purpose, namely, supplying the voter with additional important information to help him cast his vote." Gormley v. Lan, 88 N.J. at 38.

The Evaluation of Overall Readability

Prior to submitting the draft to CMU for review (see *10.1.2), the drafter must complete an evaluation of overall readability for the ballot question and its interpretive statement. A readability index can help determine the ability of a general audience to comprehend the text. These indexes apply a formula to estimate the years of education needed to understand the text by counting the average number of syllables per word and words per sentence.

When the draft is complete, use a readability index to score the ballot question and interpretive statement for grade level. Microsoft Word includes a built-in test, the "Flesch-Kincaid Grade Level." The drafter can apply this test by clicking on "Tools" then "Options." Under the "Spelling and Grammar" tab, check "show readability statistics." The computer first runs spell check and then scores the text's readability. After the drafter makes this change, the computer will provide the readability score every time the drafter runs the spell check function.

As an example of the test's readability scoring, the preceding two paragraphs score a grade level of 11.4 on the Flesch-Kincaid test. While the Central Management Unit review process does not require ballot questions and interpretive statements to be written at a specific grade level, a score of 11.4 would likely be comprehensible to the average New Jersey voter. The drafter should consider revisions to reduce the grade level score if this can be achieved without compromising the accuracy and explanatory value of the text. Note: Other readability indexes are available such as "Gunning Fog."

Set out below is an example of a constitutional amendment with the ballot question and interpretive statement drafted pursuant to these guidelines:

Comparison: Text of ACR5 of 2006-2007 and Revision Pursuant to the Guidelines

ACR5 of 2006-2007

PROVIDES THAT METHOD OF SELECTION AND APPOINTMENT OF CERTAIN MUNICIPAL COURT JUDGES BE SET BY STATUTE RATHER THAN BY THE CONSTITUTION
Shall the amendment to Article VI, Section VI, paragraph 1 of the New Jersey Constitution, agreed to by the Legislature, providing that judges of inferior courts with jurisdiction extending to more than one municipality be appointed as provided in law rather than as provided in the Constitution which requires nomination by the Governor and appointment with the advice and consent of the Senate, be approved?
INTERPRETIVE STATEMENT
This constitutional amendment would provide that the method of selection and appointment of certain municipal court judges would be set by statute, rather than be provided for in the Constitution. These judges may include judges of joint municipal courts and judges of central municipal courts with jurisdiction extending to the territorial boundaries of a county. This constitutional amendment does not preclude the possibility that a statute would continue to provide for nomination by the Governor with the advice and consent of the Senate, but it does permit a statute to set forth another method of selection and appointment that may not involve the Governor and the Senate.
Note: Flesch-Kincaid Grade Level is 22.3.

Revision Pursuant to Guidelines

CONSTITUTIONAL AMENDMENT TO PROVIDE THAT CERTAIN MUNICIPAL COURT JUDGES BE APPOINTED AS SET BY STATUTE
Do you approve amending the Constitution to allow the Legislature to provide by law a method of appointing municipal court judges in certain municipal courts? This would replace the current appointment process required by the Constitution. That process requires the judges to be appointed by the Governor with the advice and consent of the Senate. This change would apply only to judges appointed to municipal courts that have jurisdiction over more than one municipality.
INTERPRETIVE STATEMENT
Currently, the Constitution requires that judges appointed to courts that hear cases from more than one municipality be nominated by the Governor and approved by the Senate. This amendment would allow the Legislature to enact laws creating a new method of appointment. The Legislature could enact a law that continues the existing process or create a new process. The new process need not involve the Governor and the Senate. The change would apply to judges for certain courts known as joint municipal courts and central municipal courts. The change would not apply to judges of courts of single municipalities. A "yes" vote would amend the Constitution to allow the Legislature to create an appointment process for judges of joint and central municipal courts. A "no" vote would leave the Constitution unchanged. These judges would continue to be appointed by the Governor with the advice and consent of the Senate.
Note: Flesch-Kincaid Grade Level is 11.0.

Schedule: A schedule may be necessary under certain circumstances such as to provide instructions as to when the constitutional amendment will take effect or to provide instructions for implementation. A schedule would appear directly below the box containing the interpretive statement.

Examples:

SCHEDULE

The first election of a Lieutenant Governor shall be held at the next general election following adoption of this constitutional amendment at which a Governor is elected for a full term.

SCHEDULE

This Constitutional amendment shall, if approved, take effect on January 1, next following the general election at which it was approved, and shall be applicable to Supreme Court justices whose initial term expires on or after that date.

SCHEDULE

The provisions of this constitutional amendment shall take effect and be implemented by January 1st of the second year following approval by the people at a general election.

10.1.4 Other Legislation Requiring Voter Approval

While constitutional amendments (discussed in this section) and general obligation bond acts (see *10.6) adhere to particular drafting requirements, any legislation requiring voter approval for certain forms of gambling (see Article IV, Section VII, paragraph 2) or any other issue for which voter approval is sought is largely prepared using the general bill drafting guidelines (see *Chapter 5). Additionally, this legislation includes specialized sections for directing submission of the legislation to the voting public. These sections include boilerplate language with standard timing instructions and other procedures for submitting the legislation to the voters, as well as an accompanying ballot question and interpretive statement.

The boilerplate instructional and procedural language, unlike that used for a constitutional amendment or general obligation bond act, is not automatically generated in a template, so such language must be manually inserted into the bill. As for the ballot question and interpretive statement, the preparation of these should adhere to the "simple language" and "true purpose" requirements mandated for constitutional amendments (see *10.1.3.). The ballot question and interpretive statement should also be given a ballot review (BR) by the Director or Assistant Director of CMU in the same manner as that followed for constitutional amendments and general obligation bond acts. (See *10.1.2, 10.1.3, and 10.6.2.)

For an example of legislation requiring voter approval as described above, see *Appendix A, page A-143: A3611 of 2012-2013.

10.2 Supplemental Appropriations

The New Jersey Constitution requires that money for the support of the State government and for all other State purposes be provided for in one general appropriations act covering one fiscal year. [redacted] Frequently, it is necessary to provide for unforeseen spending needs during the fiscal year. The Constitution allows for such contingencies, which customarily have been provided for through the enactment of supplemental appropriations to the annual appropriations act. Since the appropriations act is a one-year spending plan with a life of one year, a supplement to that act also has a life of one year or less, and is not compiled as part of the permanent statutes.

A supplemental appropriation can be drafted either by using a supplemental appropriations template to create a separate bill that contains only the supplemental appropriation (referred to as a "basic supplemental appropriations bill" and commonly referred to as "supp. approp. bill"), or by appropriating funds in a bill that establishes or expands a program ("program appropriation"). In either case, a supplemental appropriation must specify four essential pieces of information: (1) an amount of State funds; (2) the source; (3) the recipient; and (4) the purpose to which the funds will be applied.

Helpful Hint:
A bill amending the annual appropriations act should only be used for the purpose of changing conditions on appropriations or reducing the amount of an appropriation. Sometimes a request may require amendments to the annual appropriations act as well as supplemental appropriations. For an example of this form of legislation, see *Appendix A, page A-149: A4101 of 2008-2009.

10.2.1 Supplemental Appropriations Bill Using a Template

To prepare a basic supplemental appropriations bill, the drafter should use the drafting shell template and select "Supplement to Appropriations." The software will generate the boilerplate title, language, and format of the bill. For an example of the boilerplate in use, see *Appendix A, page A-163: S2028 of 2006-2007.

Title: The title of a basic supplemental appropriations bill must cite the general appropriations act that it supplements. Since the act is usually the current appropriations act, the template will automatically insert the current appropriations act in the title.

Example (title with current appropriations act):

> A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2012 and regulating the disbursement thereof," approved June 30, 2011 (P.L.2011, c.85).

In some cases, particularly while the budget process is underway, the drafter may be asked to prepare a supplement to the next fiscal year's general appropriations act, in which case the approval date and chapter number should be left blank. This is an example of a bill drafted during fiscal year 2010-2011, before enactment of the next budget:

Example (title with future appropriations act):

> A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2012 and regulating the disbursement thereof," approved, 2011 (P.L.2011, c.).

Body: The first section of a supplemental appropriations bill contains everything except the effective date and includes opening language and the appropriation table with the program blanks.

Opening Language: Most of the opening language is automatically generated, but the drafter may need to change the information if a different fiscal year's appropriations act is to be supplemented. The drafter must specify the source of the funds. In the following examples, the funding source is the General Fund:

Examples (opening language):

> 1. In addition to the amounts appropriated under P.L.2011, c.85, there is appropriated out of the General Fund the following sum for the purpose specified:

> 1. In addition to the amounts appropriated under P.L.2011, c. , there is appropriated out of the General Fund, unless otherwise specifically indicated, the following sums for the purposes specified:

Filling in the Template's Program Blanks: The template provides the spaces for specifying the amount of funds to be appropriated, the recipient, and the purpose to which the funds will be applied. In identifying the recipient, the drafter must enter the numbers and names for the department, program category, and Statewide program, as well as the two-digit code for the program classification. The drafter also must identify the funding category. Supplemental appropriations are in the Direct State Services, Grants-In-Aid, or State Aid funding categories, and less typically, the Capital Construction or Debt Services funding categories. The current budget, the most recent Governor's proposed budget, and the current Appropriations Handbook have the department and program information. These sources are available in hard copy and are searchable online through the OLS and the Office of Management and Budget websites. Funding categories are discussed in the Reader's Guide for the Governor's proposed budget, which is usually found in the Governor's proposal or the Office of Management and Budget's website. The section fiscal analysts, the analyst who wrote the relevant departmental analysis, the Legislative Budget and Finance Office, and the budget drafters working through the Revenue, Finance and Appropriations Section are also resources.

Helpful Hint:
The template uses a table format. Selecting "Show Gridlines" from the Table menu will allow the drafter to see each table cell.

In the following example, the amount of State funds is $54,500,000, the source is the State General Fund, the recipient is the Department of Community Affairs (DCA), and the purpose is distribution by Local Government Services of State Aid to municipalities, allocated pursuant to the Special Municipal Aid Act. As displayed in the table, the DCA department number is 22; the Community Development and Environmental Management program category number is 70; the Community Development Management Statewide program number is 75; the Community Development Management program classification number is 04; and the Division of Local Government Services program classification suffix number is 8030.

22 DEPARTMENT OF COMMUNITY AFFAIRS

70 Community Development and Environmental Management ***75 Community Development Management***		
STATE AID		
04-8030 Local Government Services		$54,500,000
Total State Aid Appropriation, Community Development Management		$54,500,000
State Aid:		
04 Special Municipal Aid Act	($54,500,000)	

Funding Source: Funding is usually from the General Fund, but it may come from other sources. Appropriating amounts from constitutional dedications, bond proceeds, and statutory dedications may have hidden consequences. Depending on the nature of the supplemental appropriation, the drafters may need to become familiar with relevant constitutional text, relevant statutory provisions, a public question approved for authorizing debt, the terms of a bond act, and the terms of bond covenants. The drafter should be aware that an appropriations act may override statutory law such that revenue or a fund established by statute for one purpose can be appropriated for an entirely different purpose. Overriding and redirecting funds also may have unintended consequences, so the drafter should ask for help when unfamiliar with the restrictions on the spending of a funding source, the required use of the funds, or the statutes related to a statutorily-dedicated fund. Drafters should be particularly alert to supplemental appropriations that may activate "poison pills," which are statutory provisions that call for the discontinuation of specific revenue collections upon the violation of a related dedication.

For an example of a poison pill, see *Appendix A, page A-167: **section 2 of P.L.2003, c.114 (C.54:32D-2)** concerning the State hotel and motel occupancy fee.

Effective Date: Generally, supplemental appropriations are effective immediately. When a supplemental appropriation is tied to a future appropriations act, the effective date should be tied to the effective date of the future appropriations act, which in most circumstances can be simply stated as July 1 of the current calendar year. This would be the starting date of the next State fiscal year to which the future annual appropriations act will apply. Similarly, a supplemental appropriation may be dependent on a future event or may be part of a bill which has a delayed effective date.

For example, the operation of A4203 of 2011 was conditioned on the enactment of certain revenue-raising legislation:

> 2. This act shall take effect immediately, but shall remain inoperative until the enactment into law of P.L.2011, c. (pending before the Legislature as Senate Bill No. 2969 or Assembly Bill No. 4202 of 2011).

Synopsis: Ideally, the synopsis should identify the amount of funds appropriated, the source of funds, the recipient, and the purpose to which the funds will be applied. Writing a synopsis for an appropriation is often an exercise in prioritizing these elements so that as many as possible fit within the 35-word limit. (See *5.13.)

The synopsis should include the amount of the appropriation, when ascertainable. Some appropriations are not immediately ascertainable, such as an appropriation of "such amounts as are required to implement the purposes of this act, as determined by the Director of the Division of Budget and Accounting." Specifying the amount enables the Legislature to meet its responsibility of ensuring fiscal balance by identifying bills with appropriations. In addition, the rules of both Houses require bills that appropriate $100,000 or more to be second referenced to appropriations committees, so the synopsis serves as a flag for this purpose.

Unless otherwise specified, appropriations are presumed to be General Fund appropriations. Therefore, if the appropriation is from the General Fund and if it is necessary to omit information in order to comply with the 35-word limit, then the source of the funds may be omitted. All departments have approved acronyms, so use the acronym to identify the recipient. (See *Appendix C, page C-15: **Abbreviations and Acronyms for Synopses and Statements**.) Because a supplemental appropriation is presumed to be for the current State fiscal year, the fiscal year should be noted in the synopsis only when it is not for the current fiscal year.

The following example of a synopsis is for a supplemental appropriation of $500,000 from the General Fund to the Department of Community Affairs for Division of Local Government Services grants of $50,000 to nine organizations named in the body of the bill. The denotation in the synopsis that the appropriation is to the Department of Community Affairs for grants to certain organizations serves to highlight the nature of the public purpose.

Example (synopsis):

> Makes supplemental appropriation of $500,000 to DCA for grants to community beautification organizations.

10.2.2 Program Appropriations and Other Appropriations Language

Program Appropriations: The other type of supplemental appropriation is part of a bill that establishes or expands a program. These program appropriations are supplemental appropriations, but they are not written as supplements to a particular appropriations act. They are temporary, in effect for a single State fiscal year, and are not compiled as statutes. Therefore, when drafting a bill that contains a program appropriation, the suggested allocation for that section should be "Approp." (See *5.1.6.)

While the format of a program appropriation differs from that of a supplemental appropriations bill drafted using the template, the same information must be included in the bill. The appropriation section of the bill must include the amount of funds, the source, the recipient, and the purpose to which the funds will be applied. Also, as in the case of a typical supplemental appropriation bill, the title and synopsis of the bill must state the fact that the bill contains an appropriation. Generally, in a bill with a program appropriation, the section that appropriates funds is located toward the end of the bill. (See *4.6.1, "Order of Bill Elements.")

Examples (program appropriations sections):

> There is appropriated from the General Fund to the Department of Education the sum of $3,000,000 to be credited to the "State Adjustment Fund for Receiving School Districts" to effectuate the provisions of the act.
>
> There is appropriated from the General Fund to the Department of Law and Public Safety the sum of $2,000,000 for increasing the patrolling of the waters of the State by marine police for the purposes of enforcing this act.

Additional Appropriations Language: In both basic supplemental appropriations and program appropriations, it may be necessary to add language placing conditions, limitations, or directions on appropriations. More specifically, additional language is often used to determine the final amounts of an appropriation, objects of expenditures, identification of implementing officials, and methods of oversight.

Making an appropriation from a particular source in an unascertainable amount is a common issue addressed through appropriation language. It is sometimes the case that the amount of funds is defined by a revenue source.

For those cases, a drafter may wish to consider the following language:

> "Amounts from the fees imposed . . . ."; or
> "Amounts collected in excess of . . . ."

For an example of additional language that imposes specific conditions on an appropriation, see the excerpt of S4001(1R) of 2010-2011 below. Directly following the first reprint's $2 million appropriation to the Department of Education for Grants for After School and

Summer Activities for At-Risk Children, the additional language indicates that the appropriation's grants are to be awarded by the Commissioner of Education through a competitive process to Statewide youth development organizations for after school activities and summer programming targeting high and moderate risk children.

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural, and Intellectual Development

34 Educational Support Services

[1]GRANTS-IN-AID

40-5064	Student Services	$2,000,000
	Total Grant-in-Aid Appropriation, Educational Support Services	$2,000,000

Grant-in-Aid:

40	Grants for After School and Summer Activities for At-Risk Children	($2,000,000)

The amount hereinabove appropriated for Grants for After School and Summer Activities for At-Risk Children shall be awarded by the Commissioner of Education pursuant to a competitive process to Statewide youth development organizations for after school activities and summer programming targeting high and moderate risk children.[1]

While additional language may be used to impose significant conditions on an appropriation, there are limits to the type of language provisions that may be contained in a supplemental appropriations act. The single object requirement of the State Constitution (see *2.2.1) confines the content of supplemental appropriations language provisions, but how narrow that context is defined is unclear. The temporary nature of a supplemental appropriation act also limits the content of additional language provisions. It is not appropriate to amend a provision of statutory law in a supplemental appropriations act. Moreover, most analyses have concluded that it is also inappropriate to use a language provision which does not concern the use of State funds or spending programs to suspend a compiled statute.

Appropriations Language and the Line-Item Veto: Appropriations are subject to the Governor's line-item veto authority. (See *1.2.9.) This unique authority extends to language establishing conditions on appropriations. Unlike the absolute or conditional veto, the remains of legislation subject to a line-item veto take effect without further legislative action. This dynamic sometimes leads to requests that ask the drafter to craft appropriation language which is particularly amenable or somewhat resistant to a line-item veto. When asked to draft such an appropriation language provision a drafter may find it helpful to review previous line-item veto messages, which can be found through the detailed budget links on the Office of Management and Budget's website.

Language that Promises to Appropriate: Sometimes a drafter may be asked to draft a bill that establishes a new program and a dedicated source of funding for the program by channeling a revenue stream into the program or by directing the Legislature to annually appropriate the sums that are necessary to fund the program. Permanent codified laws cannot act as appropriations for

future fiscal years, and the Legislature cannot commit itself to make future appropriations this way. If asked to prepare such a bill, the drafter should consult the Section Chief or CMU. Ultimately, if the drafter is required to employ language that promises to appropriate, it should be noted that such promises do not rise to the level of an appropriation and do not necessitate specific denotation in the title or synopsis.

10.3 Commissions and Similar Entities

Numerous legislative proposals are introduced each year to establish special commissions to undertake a variety of duties. Commissions and similar entities which are sometimes labeled as committees, councils, task forces, and the like may be authorized to conduct studies, serve in an advisory capacity to an agency, monitor the implementation of a law, organize or provide support for the celebration of an event, or carry out any number of other non-administrative functions. They are considered to be "special" in that they are usually set up on an ad hoc, temporary basis to meet a specific need. In general, they fall outside the normal organizational chart of State government since they usually have no administrative responsibility and their membership may be composed of a mixture of representation from different branches of government, different levels of government, and the public and private sectors.

The form and content of enabling legislation for commissions by and large represent an evolution in customs rather than a prescribed legal mandate. The origins of many of these customs are obscure. Some may have a basis in court decisions, others in the opinions of the Attorney General or the Legislative Counsel. Others probably owe their existence to the unilateral and expedient work of a bill drafter of a previous generation.

10.3.1 Forms of Enabling Legislation for Commissions

One-House Resolution: This form of resolution is adopted by one House only. It represents the sentiment or opinion of the House and does not require any action by the other House or the Governor. The advantage of this format is that it can gain final approval more quickly than a measure which must pass both Houses. A one-House resolution is appropriate only when the membership of the commission is limited to members of the adopting House or persons appointed by the presiding officer of that House.

The major disadvantage of this format is that it establishes a commission which may be considered less prestigious than one which has been established by action of both Houses or with the approval of the Governor. That is, of course, a value judgment which would not necessarily affect the work of the commission or the impact of its findings and recommendations. It is certainly legitimate and appropriate for a House to seek advice from its own advisory or study group. Yet, few commissions are set up exclusively by one House. If a matter is to be reviewed within one House, the usual course is for the House to direct a standing reference committee to undertake the task.

A second disadvantage of this format is that it does not allow for the immediate appropriation of money for the work of the commission. It has been well established that funds may be appropriated only through enactment of a law. A commission established by any form of resolution may receive funds only through the subsequent passage of an appropriations bill. A legislative commission may, however, request staff support from OLS, regardless of its enabling format or whether or not it has received an appropriation.

A commission created by a one-House resolution expires at the end of the two-year legislative term in which it was created unless the resolution sets an earlier date. However, an expired commission may still file a report with the new Legislature that convenes after the

commission's expiration. Further, a commission established by a one-House resolution may be continued in the new legislative term upon adoption of a resolution of reconstitution.

One final technical point regarding the use of a one-House resolution to establish a commission is that it has been customary to apply the term "commission" only to an entity established by both Houses. A one-House study or advisory panel is generally cited as a "task force" or a "committee." This distinction preserves the use of the term "commission" for the more broadly-based two-House panel. The drafter should maintain this distinction if possible. (See *Appendix A, page A-173: **AR140 of 2004-2005** (establishes "Assembly Study Committee on Presidential Primaries").)

Concurrent Resolution: A concurrent resolution is effective upon adoption by both Houses. No gubernatorial action is required. A concurrent resolution is the appropriate format for the establishment of a commission composed entirely of legislators or appointees of legislative leadership. It is not appropriate to call for either gubernatorial appointments or for ex officio membership by executive agency personnel on a commission established by a concurrent resolution.

A concurrent resolution is more difficult to pass than a one-House resolution since it is subject to committee review and floor action in both Houses rather than one. On the other hand, it does represent a more-broadly based and higher order of legislative action and therefore provides a commission with a greater appearance of importance.

As is the case with a one-House resolution, a commission established by a concurrent resolution may receive funds only by enactment of a subsequent appropriations bill. Likewise, it expires at the end of the two-year legislative term, but may be continued by adoption of a resolution of reconstitution in the new legislative term. (See *Appendix A, page A-177: **ACR96 of 2010-2011** (establishes temporary "Public Employee Pension Fund Investment Practices Study Commission").) Because of these restrictions on funding and tenure, it may be appropriate in some cases to establish a legislative commission by law, through a bill or joint resolution, rather than by a concurrent resolution.

Joint Resolution: A joint resolution is effective upon passage by both Houses and approval by the Governor. In addition to a bill, a joint resolution may be used to establish a commission with members representing both the legislative and executive branches. As with other types of resolutions, funds may not be appropriated in a joint resolution.

Unlike the commissions established by a one-House or concurrent resolution, a commission established by joint resolution may expire at the end of the term next following the term in which the resolution is adopted -- a life which can vary from two to almost four years. A joint resolution may also establish a permanent commission, although it is not the favored vehicle. Of course, the resolution itself can specify shorter longevity, and an expired commission may be reconstituted by a resolution of reconstitution.

A commission established by joint resolution, by virtue of its mix of legislative and executive appointees and its anticipated longer existence, may be considered to be a more broadly-based and prestigious body than a commission established by a lesser form of resolution. (See *Appendix A, page A-181: **SJR62 of 2010-2011** (establishes "Casino Gaming Study Commission").)

Bill: A bill is enacted into law when passed by both Houses and approved by the Governor. Any type of commission can be established by law, but the predominate type is one in which both the Legislature and the Governor provide appointees. The use of a bill rather than a resolution to establish a commission offers three major benefits:

(1) the commission gains an extra measure of status as a statutory body. (See *Appendix A, page A-185: **A178 of 2010-2011** (establishes "New Jersey Commission on Government Efficiency and Cost Control"));

(2) the commission can be established as a permanent entity (a law continues in force until terminated, either by a built-in expiration date or by enactment of a repealer) or as a temporary entity whose life may extend beyond the two-year legislative term in which it is created; and

(3) funds can be appropriated to the commission (see *Appendix A, page A-191: **A1154 of 2008-2009**) (creates "New Jersey Commission on Work and Family"; appropriates $1,000,000)).

10.3.2 Commission Name

A commission must be given a formal name. The lack of a name creates an awkward and potentially confusing situation for the members, the press, the public, and those charged with maintaining the commission's official records. As noted previously, these special study or advisory bodies need not be labeled as "commissions." They can be task forces or councils. Special ad hoc bodies which only serve one House have traditionally been cited as "committees." (See *Appendix A, page A-173: **AR140 of 2004-2005** (establishes "Assembly Study Committee on Presidential Primaries").)

10.3.3 Time Frame for Commission

Organization: Once a commission is established, a certain amount of time will elapse before all the appointments are made and the commission holds its organizational meeting, particularly if Senate confirmation is required for gubernatorial appointments (referred to as "advice and consent appointments"). It is common to provide that a commission "shall organize as soon as practicable after the appointment of its members." If the chair is appointed in the legislation, rather than selected by the members at the organizational meeting, the language may stipulate that "the chair shall convene an organizational meeting as soon as possible after the appointment of its members." If members are to be appointed by more than one appointing authority, and there is a concern that all appointments may not be made on a timely basis, the drafter may provide that the commission shall organize "upon the appointment of a majority of its authorized membership." (See ***10.3.5** and ***10.3.6**.)

Work of the Commission: In those cases when a commission must issue its final report or take some official action within a specific period of time, subsection b. of N.J.S.A.52:14-14 and N.J.S.A.52:14-14.1 provide that "if the commission has a time fixed to complete its duties, the time period shall not begin to run until the appointment and qualification of a number of members sufficient to constitute a quorum, unless otherwise provided" in the act or joint resolution.

Depending on the exigencies of the situation, a different time frame may be appropriate, such as:

- within six months after its organizational meeting
- within six months after the commission organizes
- within six months after final appointment of its members

If time is of the essence, it may be necessary to provide a specific date by which the commission must carry out its task, such as:

- six months after enactment of the enabling resolution
- by November 15

Please note this approach runs the risk that the commission may be just beginning its operations by the time the deadline occurs.

Most commissions are established for a temporary period since their usual purpose is to conduct a study and issue a report by a given date. A commission should be a permanent entity formed by a bill when it is expected to function on a continuing basis.

Expiration of the Commission: The intended longevity of a commission can be complicated by the form of its enabling legislation. A commission established by a bill will continue to exist as a permanent entity unless the bill specifies an expiration date, such as:

- This act shall expire on _____.
- The commission shall expire on _____.

A termination date for the commission itself may provide that "The commission shall expire upon issuance of its final report," but this type of termination date must be coupled with a time frame to submit the report, such as "The commission shall have 18 months from the date of organization to submit its final report."

A commission established by a one-House or concurrent resolution will automatically terminate with the expiration of the two-year legislative term in which it is established. (See *10.3.1.) A commission of this type could continue to function in the new legislative term only if it were renewed by adoption of a resolution of reconstitution. As discussed earlier, a commission established by joint resolution will expire at the end of the following two-year term, absent any other direction in the joint resolution.

These two commission time frames (permanence in the case of a bill, eventual automatic termination in the case of a one-House, concurrent, or joint resolution) represent the "default" situation in the absence of any specific termination language in the enabling bill or resolution. There are situations when it may be appropriate to avoid mention of an expiration date and to rely on these default provisions. A commission intended to continue as a permanent entity would best be established by a bill with no expiration date or a joint resolution with a specific statement in the body of the resolution that the commission is established on a permanent basis.

If the commission is not intended to be permanent, the drafter should provide the commission with an appropriate time frame for its work or specify at what point the commission will cease to exist. Doing so will indicate the Legislature's expectations regarding the intensity and duration of the commission's work, and will eliminate future uncertainty as to the commission's status as an active or defunct entity. Following are examples of language which may be suitable for establishing commission time frames:

This [act, joint resolution] shall take effect immediately and shall expire:

- on December 31, _____
- three years following enactment
- three years following the organization of the commission
- three years following the final appointment of the commission's original members
- upon the submission by the commission of its report

The task force shall dissolve:

- upon the issuance of its final report and recommendations
- no later than March 15, _____
- on the 30th day after issuance of the report

A drafter, may, on occasion, receive a request to establish a commission by one-House or concurrent resolution so late in the two-year term that the commission may not have sufficient time to issue its report by the end of the term. While the new Legislature could reconstitute the commission, it is also permissible to provide a reporting date in the original resolution that falls beyond the end of the term. Since it has been established that a commission may issue its report after the end of the two-year term, the enabling resolution could establish a specific reporting date, such as March 15, or a general reporting date, such as six months after adoption of the resolution, which carries beyond the end of the term.

10.3.4 Membership

There are two general types of commission memberships: appointed and ex officio. As the term implies, appointed members are selected to serve by an appointing authority, generally the Senate President, Assembly Speaker, other legislative leadership, or Governor. Ex officio members are identified by office or position and are placed on the commission in the enabling legislation itself. For example, the Governor and State Treasurer are ex officio members of the

State House Commission, while the appointed members consist of two members of each House selected by the respective presiding officers.

To facilitate voting, the enabling legislation should provide that the commission will have an odd number of members.

Ex Officio Members: The purpose of an ex officio appointment is to ensure that a particular official or office is represented on a commission. An individual serves as an ex officio member only while holding the office or position specified in the enabling legislation. If another person obtains that office or position, then the new officeholder automatically replaces the former occupant on the commission.

Ex officio members are equal voting members of a commission. If the sponsor's intent is to place a nonvoting member on a commission, then that person must be identified in the enabling measure as "nonvoting" or as a member "who shall be ineligible to vote."

Because ex officio members are often represented by designees, the drafter should provide language to that effect, such as "ex officio members may be represented by designees."

Appointed Members: Appointed members may be legislators, State or local government officials or employees, representatives of public or private interest groups, or private citizens. In general, detailed qualifications for an appointed member are not required unless specifically requested by the sponsor or to ensure representation of a certain quality or character.

Care should be taken when providing for appointments with general terms such as "persons," "citizens of this State," "members of the public," "residents of this State," or just "members." Sometimes a qualifying phrase is useful to clarify the meaning. In one instance, the requirement that each presiding officer appoint "four persons" to a commission resulted in the appointment of four private citizens by one officer and four legislators by the other. As an example of helpful qualifying phrases, "persons" who are to be appointed to a particular commission "shall not hold elective office." Also bear in mind that the terms "a member of the public" and "a person who shall represent the public interest" do not necessarily convey the same meaning.

Political Affiliation of Members: Commission legislation often contains language to provide that the appointed members be drawn from both major political parties. The aim may be to provide for equal or near-equal representation of both major parties or to insure that each party is accorded representation. It is conventional, but certainly not required, that the appointed members represent both parties in equal proportion, or near-equal if the total number of members is uneven. The sponsor of the legislation can, of course, offer any combination of political party preferences for the appointed members that he or she wishes. In fact, it may not be necessary to specify any political affiliation at all.

If members are to be chosen with regard to their political affiliation, the enabling legislation must specify the number from each party to be selected by each appointing authority. For example, when a 12-member commission is established with four appointees each of the Governor, the Senate President, and the Speaker of the General Assembly, it is totally inappropriate, as well as practically and politically troublesome, to merely state that "not more than six of the 12 members shall be members of the same political party." A more suitable way to describe the appointments is:

> The commission shall consist of 12 members as follows: four members of the Senate, two members of the majority party to be appointed by the President of the Senate and two members of the minority party to be appointed by the Minority Leader of the Senate; four members of the General Assembly, two members of the majority party to be appointed by the Speaker of the General Assembly and two members of the minority party to be appointed by the Minority Leader of the General Assembly; and four public members to be appointed by the Governor.

Terms of Office: In establishing a commission of a permanent or long-standing nature, it is appropriate to specify the length of the term of office for each appointed member. If a member is to serve until the expiration of the commission, then no reference to a term is needed. In the case of a permanent commission, some provision for periodic reappointment or replacement is in order. In addition, staggering the terms of initial appointees to the commission will facilitate the transition when terms expire, members resign, and new members are appointed, thus preventing the problems that would ensue with a complete turnover of all of the members of the commission in a single year.

Example (length of term):

> Each member shall serve for a term of four years and until the appointment and qualification of his successor. No person may serve, in succession, more than two four-year terms and any portion of an unexpired term as a member of the commission.

Example (vacancies):

> Vacancies on the commission shall be filled for the unexpired terms in the same manner as original appointments.

Example (staggered terms):

> Of those first appointed, two shall be appointed for a one-year term, one shall be appointed for a two-year term, and one shall be appointed for a three-year term.

The need to specify terms is most important with regard to legislators who serve on commissions. There is often considerable uncertainty as to whether or not a legislator upon

reelection automatically continues as a member of a commission to which he or she was appointed in the previous term. As a practical matter, it may be prudent to provide that a legislator of either House serves "during the two-year legislative term in which the appointment is made." This reserves to the presiding officer the right to reappoint or replace the legislator in the new term. Other arrangements are also possible. For example, members of the Joint Legislative Committee on Ethical Standards are appointed annually "to serve during the legislative year." Whatever language is used, care should be taken to avoid introducing confusion as to the meanings of the words "term," "session," and "year."

10.3.5 Members Needed to Organize

The drafter should include language specifying the number of members required to organize. This can prevent issues as to how many members are necessary to organize where there are vacancies due to a delay in appointment. If a requester wants a certain partisan composition in the membership and the enabling legislation permits organization before the appointment of all the members, the drafter should consider how this may affect the partisan composition of the committee at the organizational meeting.

10.3.6 Members Needed for a Quorum

The common law rule in New Jersey is that, absent some clear evidence to the contrary in the text or legislative history of the authorizing legislation, a quorum of a commission, board, committee, or other similar body is a majority of the members, not counting vacancies. Thus, if a nine-member commission has five vacancies, three members would constitute a quorum, and a majority of two could take action.

To depart from the common law rule, the drafter should either specify the number of members needed for a quorum or define a quorum as a majority or some larger fraction of the commission's total authorized membership. In the example of a nine-member commission, if the drafter wanted five to be the minimum required for a quorum, the phrase "a majority of *all* the authorized members shall constitute a quorum" is sufficient. If the drafter does not specify a number, it is essential to include the word "all." Courts presume the Legislature is conversant with the common law rule.

10.3.7 Appointing Authority

An appointing authority is the official or entity empowered by the enabling legislation to make appointments to a commission. The standard appointing authorities are the President of the Senate, the Speaker of the General Assembly, and the Governor. Whether any one or all three of these officials are specified as appointing authorities for any commission will depend, of course, on the form of the measure and the desire of the sponsor. For example, it is not appropriate to include the Governor as an appointing authority for a commission established by concurrent resolution, as the use of a concurrent resolution implies a strictly legislative endeavor. (See *10.3.1.)

The drafter should note that the appointment powers depend to a large extent on the function of the commission – for example, the Governor should make appointments to an executive branch commission; the Assembly Speaker and Senate President should make appointments to a legislative commission; all three should make appointments to a mixed-branch commission.

It is permissible but not desirable to vest the power to appoint members in other public or private officials or entities. For example, the following individuals or bodies have been designated in commission legislation to make appointments to a commission:

- various State agencies
- Director of the Division of Consumer Affairs
- Commissioner of Health
- President, Mercer County Freeholders
- Mayor of Trenton
- New Jersey Advisory Council on Alcoholism
- Senate and General Assembly

Designating a non-State or non-public entity to appoint a member to a commission actually violates the principle of hierarchical governmental organization, since it assigns a governmental duty to an entity that is outside State government. To insure that a particular interest group is represented on a commission while reserving the right of appointment for the Governor, Senate President, or Speaker of the General Assembly, require either that one of the appointees represent the interest group, or that an appointee be selected upon the recommendation of, or from a list submitted by, the interest group.

Example (appointment of member of interest group):

> The public members appointed by the Governor shall include one member from the New Jersey Business and Industry Association.

Example (appointment of members of several interest groups):

> The commission shall consist of . . . 11 public members who have expertise and experience in connection with workers' compensation appointed by the Governor. Of the 11 public members: two shall be individuals appointed from a list or lists of nominees provided by one or more recognized Statewide organizations representing businesses, one of whom shall represent a self-insured employer; two shall be individuals appointed from a list or lists of nominees provided by one or more recognized Statewide organizations representing labor unions; two shall represent workers' compensation insurers; one shall be a petitioner's attorney; one shall be a respondent's attorney; and three shall be workers' compensation benefit claimants.

Joint Appointments: Avoid joint appointments made by the President of the Senate and the Speaker of the General Assembly. The requirement serves little purpose and can lead to delays in action for either procedural or political reasons. It is better to permit each presiding officer to act independently in making appointments.

10.3.8 Subpoena Power

A committee or commission does not have inherent subpoena power and such power normally is not given. A legislative committee or commission may be granted this authority in the enabling resolution by providing that the committee or commission "shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes."

(See examples in *Appendix A, page A-199: AR57 of 2010-2011 (resolution granting subpoena power to a standing reference committee) and *Appendix A, page A-203: AR130 of 2000-2001 (resolution granting subpoena power to a legislative task force.)

A non-legislative type of committee or commission also may be granted subpoena power in the enabling resolution.

10.3.9 Commission Expenses

As noted earlier, funds can be appropriated to a commission only in a bill, not in a resolution. (See *10.3.1.) Many commissions are established without funding, and in these cases minor operating expenses for stationary, postage, office supplies, and refreshments are usually absorbed by the agency which serves as the commission's staff. For most legislative study commissions, OLS or the two Houses may cover these costs.

While standard commission language provides that members shall serve without compensation, it usually states that members "shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties" and that the commission "may incur traveling and other miscellaneous expenses as it may deem necessary." It is imperative to add that reimbursement of expenses and the incurring of costs can be only "within the limits of funds appropriated or otherwise made available to the commission for its purposes."

10.3.10 Drafting Tips for Legislation to Establish Commissions and Similar Entities

Form of Legislation:

Use the bill or resolution form which is appropriate for the type of membership, manner of appointment, purpose, and intended longevity of the commission:

- Use a **one-House resolution** if the appointed members are from only one House or are appointed by the presiding officer of one House and there are no executive branch members. (See example in *Appendix A, page 173: AR140 of 2004-2005.)

- Use a **concurrent resolution** if the appointed members are from both Houses or appointed by the presiding officer of each House and there are no executive branch members. (See example in *Appendix A, page A-177: **ACR96 of 2010-2011**.)

- Use either a **joint resolution** or a **bill** when members represent both the legislative and executive branches or when a commission will continue beyond the two-year legislative term. (See examples in *Appendix A, page A-181: **SJR62 of 2010-2011** and in *Appendix A, page A-185: **A178 of 2010-2011**.)

- Use a **bill** when an appropriation is made to the commission. (See example in *Appendix A, page A-191: **A1154 of 2008-2009**.)

Appointing Authority :

- Do not confer appointing authority on a non-State official unless absolutely necessary.
- Do not provide for joint appointments; each appointing authority should act independently.
- Do not provide for joint decision-making with respect to any required political balance on a commission; each appointing authority should be given an independent allocation of the number of members to be appointed from each political party.
- Specify any required qualifications for members such as political affiliation.

Ex Officio Membership:

- Do not confuse the term "ex officio" with "nonvoting."
- Do not confer ex officio membership on a non-State official unless absolutely necessary.

Expenses

- Provide that any commission expenses or reimbursement to members is subject to the limits of the funds made available to the commission.

Members of the Legislature:

- Do not provide for members of the Legislature to serve on a commission which has an executive function.

Number of Members on the Commission:

- To the extent possible, make sure the voting membership consists of an odd number.
- Provide a statement of the total number of commission members, and indicate if any are nonvoting.
- Specify the number of members needed to organize.
- Specify the number of members needed to constitute a quorum.

Permanent Commission:

- Allocate a permanent commission to one of the executive departments in compliance with the requirements of Article V, Section IV, paragraph 1 of the New Jersey Constitution:

> All executive and administrative offices, departments, and instrumentalities of the State government, including the offices of Secretary of State and Attorney General, and their respective functions, powers and duties, shall be allocated by law among and within not more than twenty principal departments, in such manner as to group the same according to major purposes so far as practicable. Temporary commissions for special purposes may, however, be established by law and such commissions need not be allocated within a principal department.

Starting Date and Expiration Date

- Establish a starting date for the commission's work when time is of the essence or when the report date is set at a fixed interval after the establishment of the commission.
- Provide an expiration date for the commission *unless*: (a) it is of a permanent nature; (b) it is established by one-House or concurrent resolution and is intended to remain in existence until the end of the two-year legislative term; or (c) it is established by joint resolution and is intended to remain in existence until the end of the two-year term following the term in which the joint resolution is adopted.

Subpoena Power

- Do not assume that commissions have inherent subpoena power. Subpoena power must be specifically conferred by the legislation.

Terms of Office

- Specify the terms of office of members when appropriate, particularly in the case of legislators.
- Stagger the terms of initial appointees to a long-term commission.

10.4 Special Laws (Special Legislation)

Special legislation is the term used to describe laws that possess a private, special, or local character. These laws are also referred to as private laws, special laws, and local laws. Although a private law is usually intended to affect one person or entity and a local law is usually intended to affect one county or municipality, both are generically referred to as special legislation.

Examples:

- P.L.1986, c.95 authorized the borough of Fanwood to issue a new plenary liquor license to the owner or operator of a hotel with at least 70 rooms and operated in connection with a restaurant with the capacity to seat 50 or more persons notwithstanding that the existing number of such licenses exceeded the limitation imposed by N.J.S.A.33:1-12.14. (See *Appendix A, page A-207: **P.L.1986, c.95**.)

- A4079 of 2006-2007 authorized Keansburg to appoint Guillermo Rivera, Jr. to the Police Department. (See *Appendix A, page A-209: **A4079 of 2006-2007**.)

These types of laws present unique drafting challenges because of certain constitutional restrictions and requirements. Article IV, Section VII, paragraph 7 of the New Jersey Constitution prohibits a general law from embracing "any provision of a private, special or local character." Paragraphs 8 through 10 of that section set forth procedures that must be followed to pass special legislation, itemize various types of laws that cannot be passed through special legislation, and contain a special procedure by which a county or municipality can petition the Legislature for a local law regulating the internal affairs of that county or municipality.

Every law is either general legislation or special legislation. Whether a law is special or general depends on the class affected by the law. General legislation impacts equally upon an entire group of people or entities who, considering the purpose of the legislation, are distinguished by characteristics sufficiently significant to make them a class by themselves. Unconstitutional special legislation arbitrarily excludes from a class others who should be included; however, not all special legislation is unconstitutional. An example of constitutional special legislation is the granting of a pension to an individual who would not otherwise be eligible to receive the pension. The designation of a new municipality also is an example of constitutionally permitted special legislation.

Special legislation that is enacted into law is published as a Pamphlet Law but is not compiled into the statutory database. Special laws enacted after December 20, 1937 are listed in an alphabetical index maintained in the Legislative Counsel's Table of Contents under the heading "PRIVATE AND LOCAL ACTS SINCE ENACTMENT OF THE REVISED STATUTES."

10.4.1 Distinguishing General from Special Legislation

The New Jersey Supreme Court has established a three-part test (commonly known as the "Vreeland test") to determine whether a statute is general legislation. First, the purpose and object of the statute must be considered; second, in light of the legislation's purpose it must be determined whether any group is excluded from the classification that should be included; and third, it must be determined whether the classification created in the statute rests on any rational or reasonable basis relevant to the purpose or object of the statute. A statute that purports to be general legislation but fails to pass the "Vreeland test" amounts to unconstitutional special legislation.

Helpful Hint:
The drafter should identify the bill as special legislation in its synopsis in order to alert the Secretary of the Senate, Clerk of the Assembly, Leadership, and OLS committee aides that there may be special notice requirements and that the bill must be passed by a two-thirds majority in each House in the case of special legislation regulating the internal affairs of a county or municipality.
Example: "Special legislation to permit appointment of Guillermo Rivera, Jr. to the Keansburg Police Department and enrollment in PFRS." (See *Appendix A, page A-209: A4079 of 2006-2007.)

10.4.2 Filing Prerequisites for Special Legislation

The Constitution and laws of New Jersey permit the enactment of special legislation provided that it is enacted for a valid purpose and in accordance with the procedures required for special legislation. Article IV, Section VII, paragraph 8 of the New Jersey Constitution provides:

> No private, special or local law shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. Such notice shall be given at such time and in such manner and shall be so evidenced and the evidence thereof shall be so preserved as may be provided by law.

Article IV, Section VII, paragraph 9 then sets forth those subjects on which the Legislature may not enact special legislation. Article IV, Section VII, paragraph 10 sets forth special considerations pertaining to the enactment of special legislation regulating the internal affairs of a municipality or county. The specific procedures to follow in securing the enactment of special legislation, also known as private, special, or local laws, are codified at N.J.S.A.1:6-1 et seq.

10.4.3 Exhibits to be Attached to Special Legislation

When drafting a private, special, or local law, the drafter should make the sponsor aware of various exhibits that must be submitted along with the bill when it is introduced. The drafter should ensure that these exhibits are received prior to the day of introduction so that the drafter can examine them for correctness. These exhibits include a "Petition to the Legislature" and a proof of publication of a "Notice of Intention to Apply for Special Law" that states the object of

the bill. In the case of a bill requested by a municipality or county to regulate its internal affairs, a certified copy of an ordinance authorizing the petition by the governing body, proof of publication of the notice of public hearing on that ordinance, and proof of publication of the ordinance after its adoption also must be submitted with a "Petition to the Legislature" and "Notice of Intention to Apply for Special Law."

The "Notice of Intention" must be published in the appropriate newspapers at least seven days prior to introduction of the bill and within the same legislative session. (See N.J.S.A.1:6-1 and 1:6-10.) When an identical special legislation bill is prepared for introduction in the other House, it is permissible to submit photocopies of the original exhibits along with the bill, provided that it is noted on the photocopies that the original exhibits were submitted with the bill in the first House.

Unless otherwise stated in the special legislation, a local law will not become operative until approval by voter referendum following its enactment by the Legislature.

10.4.4 Statutory Filing Fee Requirement for Special Legislation

N.J.S.A.1:6-8 states that no private, special, or local act shall have the effect of law, except legislation that refers to benevolent, religious, charitable, or educational institutions, until any person interested in the act pays the sum of $25 into the State Treasury. If no one pays the assessment before the first day of July next following passage of the act, then the act "shall cease, and be inoperative and void, to all intents and purposes as though the same had not been passed."

Helpful Hint:
The drafter should make the sponsor of the special legislation aware, in a cover letter, of the $25 fee requirement of N.J.S.A.1:6-8, if applicable.

10.5 Validating Acts

Although validating acts are infrequent the drafter should be aware of them. Unlike other legislation, a validating act has no prospective effect; it does not apply to future acts.

The purpose of a validating act is to cure past errors, omissions, and neglects. It is intended to give legal effect to a past action ineffective because of noncompliance with legal requirements. (See Corpus Juris Secundum, Const. Law, § 572.)

Like special legislation, validating acts that are enacted into law are published as Pamphlet Laws but are not compiled into the statutory database. Validating acts enacted after December 20, 1937 are listed in an alphabetical index maintained in the Legislative Counsel's Table of Contents under the heading "TABLE OF PUBLIC VALIDATING ACTS ENACTED SINCE ENACTMENT OF REVISED STATUTES (DECEMBER 20, 1937)."

Example:

- P.L.2003, c.49 (Val.:17A-1.8) validated all marriages, if otherwise valid, that had been solemnized by a person who purported to be a minister of religion but who was not at the time of such solemnization authorized as a minister. (See *Appendix A, page A-213: **P.L.2003, c.49**.)

10.6 General Obligation Bond Acts

10.6.1 What Is a General Obligation Bond Act?

Article VIII, Section II, paragraph 3 of the New Jersey Constitution, commonly known as the "debt limitation clause," establishes the conditions by which the Legislature, with voter approval, may create debt for the purpose of financing various public projects or endeavors. A law that is enacted to create such debt is called a "general obligation bond act" (or "G.O. bond act") because the bonds that are issued are direct and general obligations of the State. Typically, a G.O. bond act is used to raise a large sum up-front to pay for capital projects that have a long life, such as the acquisition of lands for public parks or the construction of public buildings.

A G.O. bond act authorizes the State to sell bonds to investors to raise revenue for the use stated in the act. The State promises to pay back the principal with interest within a prescribed time period not to exceed 35 years. The full faith and credit of the State are pledged for payment of the bonds when they become due. This means that holders of the bonds have recourse directly against the State in the event of a default.

Although a G.O. bond act is not allocated to the permanent statutory law, it is published in the Pamphlet Laws, and the short title and P.L. citation are included in the Legislative Counsel Table of Contents (LCTOC) under the heading of "Temporary and Executed Acts Since Enactment of Revised Statutes." The LCTOC will also indicate whether a particular bond act has been amended.

Helpful Hint:
A State-created authority may issue bonds which do not pledge the full faith and credit of the State and therefore do not require an act of the Legislature and voter approval. These are not G.O. bonds.

A G.O. bond act should not be confused with either its subsequent implementing law, if there is one, or a bond appropriation law.

Sometimes after approval of a bond act by the voters, an implementing law will be enacted to further specify how the bond proceeds may be spent, expand upon how the bond fund program will be administered, or provide additional detail on the qualifying criteria for grant or loan applicants if the bond act is financing a grant or loan program. An implementing law must fit within the limits of a fair and reasonable expression of the object, authority, and language of the bond act.

A bond appropriation law appropriates the revenues raised from the sale of the bonds for the various purposes authorized by the bond act. Unlike the G.O. bond act itself, bond implementation laws and bond appropriation laws do not require voter approval.

10.6.2 Drafting a G.O. Bond Act

Elements of a G.O. Bond Act: In many ways, a G.O. bond act looks like most other legislation. It has a title, short title, definitions (with many standardized terms used in nearly all G.O. bond acts), effective date, sponsor's statement, and synopsis. It often has a legislative findings and declarations section as well as a section providing rulemaking authority to the appropriate State entity or entities to administer the bond act. It has an appropriation of $5,000 to cover the costs of providing public notice of the public question as required under the bond act.

Unlike other forms of legislation, a G.O. bond act contains a section detailing the purposes for which the bonds are to be sold and a section establishing a dedicated fund into which the bond proceeds are to be deposited for eventual appropriation by law. If the bond proceeds are to be used to provide State grants or loans, there will likely be several sections providing some detail on the nature of the grants or loans and how they will be awarded. A G.O. bond act also will have a section reciting the proposed public question and interpretive statement to be placed on the ballot and detailing the procedure by which that will be accomplished.

Most of the rest of a G.O. bond act is "boilerplate" and should not be altered by the drafter, even for what seem to be innocuous, purely grammatical, or technical reasons, without checking first with a Section Chief or appropriate senior OLS staff. This is because the legal, financial, and procedural boilerplate has been standardized over the years by the State government officials "issuing" the bonds, the Attorney General's office, and various bond counsel and financial institutions involved in selling bonds. Deleting or altering some of this language could have unforeseen consequences.

The bill drafting software includes a template for a model G.O. bond act, which includes cues to help the drafter distinguish between boilerplate and the provisions that the drafter must or may modify depending upon the specifics of the request.

The template also contains a "Note to Drafter" with helpful information and background.

Above the public question is a caption, in capital letters centered at the top of the question box, which succinctly describes the bond act in plain language. Usually the short title, or a slight modification of the short title, of the bond act is used as the caption. For example, the caption for the "Statewide Transportation and Local Bridge Bond Act of 1999," P.L.1999, c.181, was STATEWIDE TRANSPORTATION AND LOCAL BRIDGE BOND ACT OF 1999. The slightly modified short title caption for the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, was GREEN ACRES, FARMLAND AND HISTORIC PRESERVATION, AND BLUE ACRES BOND ISSUE. Usually, the caption ends with the words "BOND ACT" or "BOND ISSUE."

(For an example of a general obligation bond act, see *Appendix A, page A-215: **P.L.2009, c.117**.)

Single Object Under Debt Limitation Clause: When drafting a G.O. bond act, take care to meet the State constitutional requirement in Article VIII, Section II, paragraph 3 that the debt is authorized "for some single object or work distinctly specified therein." Although it is not uncommon for several possible uses for the bond funds to be listed in the bond act, they still must meet the test of a "single object" as required under the debt limitation clause, which should be distinguished from the single object rule of Article IV, Section VII, paragraph 4 of the New Jersey Constitution. (See *2.2.1.) For example, a bond act that provides funding for the preservation of open space, farmland, and historic sites would meet the single object test, because it is all about the preservation of resources, even though there are three distinct uses for the funds to be raised from the bond sale.

If, however, the bond act funded those kinds of preservation projects as well as the construction of new prisons, it may violate the single object rule and, consequently, could be vulnerable to a legal challenge. On the other hand, the construction of prisons, libraries, psychiatric hospitals, and homes for the disabled would seem to pass the single object test because the bond act could be characterized as being essentially about the construction of public facilities. It is sometimes difficult to determine when there is a single object problem, but the drafter should be aware of the importance of avoiding obvious violations. The courts generally have interpreted the single object rule liberally.

Public Question: The form and content of the public question and the associated public interpretive statement appear on the ballot exactly as they appear in the bond act itself. The public question should be clearly articulated and contain all of the purposes for the bonds in the manner of the following example:

> Do you approve of the "Statewide Transportation and Local Bridge Bond Act of 1999," which authorizes the State to issue bonds in the amount of $500,000,000 for the purpose of rehabilitating and improving the State transportation system, including structurally deficient local bridges, and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof?

Helpful Hint:
Although it is not wrong to include the year of enactment in the short title and the caption, it is usually necessary only when distinguishing the bond act from other previously enacted bond acts with the same or a very similar name. One problem with including the year in the short title and the caption is that the bond act may not reach the floor of either House for a vote in the same year that it was reported by the last committee to consider it. In that situation, a floor amendment to update the short title and the caption would probably be advisable to avoid voter confusion about a bond act that seems to be for the prior year.

Public Interpretive Statement: The purpose of the interpretive statement, which appears just below the public question in the bond act and on the election ballot, is to give to the voter, in plain language, an objective, accurate, and succinct explanation of the public question and the bond act. It should give the reader fair notice of the provisions of the bond act. It should not be a recitation of the public question just above it, and it should not include legalese, jargon, or stylized bill drafting language. Do not editorialize or include material that could be viewed as supporting

one side or the other. However, it is permissible to include some factual information if necessary or useful for the voter to understand the question. (See *10.1.3.)

CMU Ballot Review: The public question and public interpretive statement for a bond act must be submitted to the Director or an Assistant Director of CMU for review and approval as to form and content prior to giving a draft copy to the requestor. After it is approved, the "Ballot Review" (BR) box on the fronter should be marked with the CMU reviewer's bill drafting number. If the public question or public interpretive statement is to be materially amended by a committee or on the floor, the proposed amendatory language should also be submitted in advance to the CMU Director or Assistant Director for review and approval.

Timing Requirements: Once approved by the Legislature and Governor, Article II, Section I, paragraph 2 of the New Jersey Constitution requires that the public question on a G.O. bond act must be submitted to the people at the general election next occurring at least 70 days thereafter:

> All questions submitted to the people of the entire State shall be voted upon at the general election next occurring at least 70 days following the final action of the Governor or the Legislature, as appropriate, necessary to submit the questions. The text of any such question shall be published at least once in one or more newspapers of each county, if any newspapers be published therein, at least 60 days before the election at which it is to be submitted to the people, and the results of the vote upon a question shall be void unless the text thereof shall have been so published.

Consequently, every year in August there is a deadline by which a G.O. bond act must be approved by the Legislature and Governor if it is to be placed on the ballot that November. Legislators and drafters of bond acts should be cognizant of this deadline. Additional procedural requirements for G.O. bond acts, particularly concerning public hearings, are set forth in the Assembly rules.

Amending a G.O. Bond Act: Occasionally, a member will ask for legislation to amend an enacted G.O. bond act. Such a request raises the issue of whether the proposed amendatory legislation, once enacted into law by the Legislature and the Governor, must then be submitted to the voters for their approval.

The general rule is that if the proposed changes are purely technical or administrative in nature, then voter approval is not required. However, if the proposed changes are material in nature, then voter approval is required and the legislation must be drafted accordingly with a public question and interpretive statement for the ballot, etc. For example, changing the executive agency which is administering a bond program is probably only administrative in nature and therefore does not require voter approval, but adding a new purpose for the use of the bond proceeds is certainly material in nature and therefore requires voter approval.

In determining whether a proposed change to a G.O. bond act is material or not, consider whether it may be said that the voters were misled or the choice of the electorate was affected in a meaningful way. Make sure that the proposed change does not violate the constitutional single object rule or, with respect to the bondholders, result in an unconstitutional impairment against contracts.

Be careful not to violate these legal principles when drafting implementing legislation for, or an appropriation of funds from, a G.O. bond act. Such legislation cannot be used to indirectly amend a G.O. bond act in a material way, and cannot include language that conflicts with the express material provisions or authorizations in the bond act.

10.7 Interstate Agreements

An interstate agreement is the result of a voluntary, cooperative effort by two or more states to address a mutual concern that goes beyond a single state's borders, yet does not call for a response by the federal government. Often, the agreement is in the form of a compact.

Probably the most well-known example in New Jersey of an interstate agreement is the compact that created the Port Authority of New York and New Jersey. The Port Authority is a self-supporting bi-state authority whose purpose is the development and operation of transportation and commerce facilities in the Port of New York District. Another example is the Interstate Driver License Compact in which member states agree to exchange information on motor vehicle citations against nonresident drivers.

Generally speaking, interstate agreements fall into two broad categories: those that create a new bi-state or interstate entity to carry out the agreement (such as the Port Authority of New York and New Jersey), and those that utilize existing state entities to carry out the agreement (such as the Interstate Driver License Compact, which is carried out by each state's existing driver licensing authority).

The normal course for a state to enter into an interstate agreement is for its legislature and governor to enact a bill which includes the agreement and authorization for its governor to enter into the agreement with the other state. When a second state has enacted reciprocal legislation, the governors of the states proceed with entering into the agreement. As discussed below, some agreements also require the consent of Congress.

Helpful Hint:
Keep in mind that even though New Jersey has enacted a statute consenting to an interstate agreement, unless the reciprocal legislation has been enacted by the other state, and any required congressional approval has been received, the statute is not in effect. What appears at first glance to be law may only reflect an attempt at an interstate agreement that was never completed.

Each interstate agreement is unique. A drafter should proceed with caution because language used in a bill for one interstate agreement may not be a good model for language in another. The following is a brief discussion to alert a drafter to considerations specific to interstate agreements.

10.7.1 Creating an Interstate Agreement

Identical Language Requirement: Fundamentally, an interstate agreement is a contract between the parties to the agreement. The essence of an interstate agreement is that the parties agree to the same provisions. Thus the bills drafted in both states must expressly name the entity, set forth the requirements applicable to that entity, and have identical language or language that has an identical effect. Sometimes this requirement is described as "substantially similar" language.

The identical language requirement can put great constraints on the drafter. If language has been agreed to by parties from both states and the language is given to a drafter to put into bill form, any changes by the drafter could negate the agreement. A drafter told to prepare a New Jersey bill based upon a bill already introduced in another state has almost no discretion at all in preparing the bill.

An example of the importance of the identical language requirement can be found in the attempts of New Jersey and Pennsylvania to impose an audit on the Delaware River Joint Toll Bridge Commission. The commission was created by an interstate compact between New Jersey and Pennsylvania to operate certain bridges over the Delaware River. New Jersey enacted a law to amend the compact to require annual financial and management audits by the commission. Pennsylvania enacted a law to amend the compact to require biennial performance audits. As a result of the inconsistencies, no agreement was reached and no audit requirement was established.

Authorization for Governor to Enter into the Agreement: The bill should include language which authorizes the Governor to enter into the agreement with the other state or states.

Example (authorizing language):

> The Governor is hereby authorized to enter into a compact or agreement on behalf of the State of New Jersey with the Commonwealth of Pennsylvania in substantially the following form.

Congressional Approval: The United States Constitution provides in Article I, Section 10, Clause 3 that "No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State . . . ." Not all agreements between states are subject to congressional approval under the clause. The United States Supreme Court has held that an interstate agreement that does not increase the political power of the states and does not encroach upon the supremacy of the federal government is not within the scope of the clause and will not be invalidated for lack of congressional consent.

Interstate compacts are more formalized than interstate agreements, but both may require congressional approval. The determining factor is whether the agreement or compact enhances state power at the expense of federal supremacy. If the drafter is not certain as to whether the interstate agreement requires congressional approval, the Legislative Counsel's Office should be consulted. A safe course may be to provide in the bill that the Governor is authorized to seek congressional approval if it should be required.

If congressional approval is required, language authorizing the Governor to seek approval should be included in the bill.

Example (authorizing language for congressional approval):

> The Governor is hereby authorized to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent and approval of the compact.

Congress can add certain binding conditions to its consent. By proceeding under the agreement, the states in effect accept any conditions that Congress may have added to the agreement.

Effective Date: As discussed above, an interstate agreement is contingent upon the other state's enactment of reciprocal legislation. This requirement is usually put in the effective date provision of a bill.

Example (effective date):

> This act shall take effect upon the enactment of substantially similar legislation by the State of New York, unless the State of New York has enacted such legislation prior to the date of enactment of this act, in which case this act shall take effect immediately.

If congressional approval of the interstate agreement is required, the effective date must take that into account.

Example (effective date requiring congressional approval):

> This act shall take effect upon the enactment into law by the State of New York of legislation having an identical effect and upon the consent of Congress given thereto, but if the State of New York shall have already enacted such legislation, then this act shall take effect immediately upon consent of Congress given thereto.

(For an example of legislation creating an interstate agreement, see *Appendix A, page A-229: **P.L.2010, c.120** (established the Interstate Insurance Product Regulation Compact).)

10.7.2 Changes to Existing Interstate Agreement

Understanding the original agreement and any congressional approval it received is key to proceeding with any changes; all else flows from the provisions of the enabling legislation. If the original agreement has been modified, the drafter must be familiar with the original and current forms of the agreement. The agreement should be reviewed for any requirements for modifications. Likewise, check to see if Congress made any provision regarding future modifications in its approval of the original agreement or its approval of any subsequent modifications.

When drafting a bill to modify an interstate agreement, follow the form of the original agreement. If the original agreement was a compact, then the new agreement should be a supplemental compact or an amendment to the compact. If congressional approval was required for the original agreement, then it may be necessary to seek congressional approval for any modification of the original agreement. The requirements concerning identical language, congressional approval, and authorizations for the Governor are basically the same for a bill to modify the agreement because the parties are, in effect, making a new interstate agreement. (See *Appendix A, page A-247: **S2348 of 2010-2011**.)

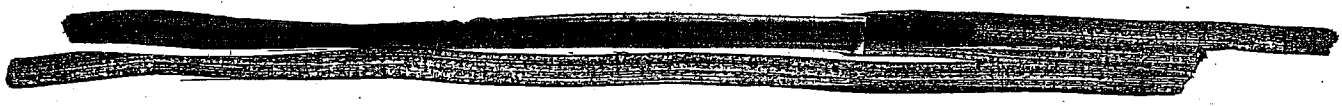
Some interstate agreements permit the states to individually enact legislation which will not be part of the agreement, but will be related to it. For example, the compact for the Delaware River Port Authority provides that each state reserves the right to provide by law for the exercise of a veto power by the Governor of that state over any action of any commissioner from that state. New Jersey enacted a law implementing the optional gubernatorial veto. This enactment did not require the enactment of substantially similar legislation by the other member of the compact or approval by Congress. The drafter should consider the possibility that, if the agreement permits such an approach, the purpose of the legislative request might be accomplished through a related statute or changes to a related statute rather than changes to the interstate agreement. (See *Appendix A, page A-255: **S1649(1R) of 2004-2005** (bill related to an interstate agreement; provides legislative authorization for a certain project of the Delaware River and Bay Authority).)

If numerous substantive changes are proposed, the drafter should consider whether to put all the proposed changes in one bill or to prepare a package of bills with each bill containing only one substantive change. Because the parties to the agreement must pass identical legislation, a bill with 10 substantive changes will not take effect if there is a minor variation between the states as to one of the proposed changes. However, if the 10 proposed changes were in 10 separate bills, nine of the 10 bills would be effective and the bill with the variation would not take effect. If there is a concern that there may be a provision that the other state will not agree to, the drafter should consider putting each of the provisions in separate bills. The drafter should discuss with the requestor whether the "all or nothing" approach should be used.

Helpful Hint:
By tradition, the title of an amendatory or supplementary compact takes a rather lengthy form, including the recitation of the title of the existing compact. (See *Appendix A, page A-247: **S2348 of 2010-2011**.)

10.8 Legislative Regulatory Oversight by Concurrent Resolution

Under an amendment to Article V, Section IV, paragraph 6 of the New Jersey Constitution (approved by the voters in 1992), the Legislature may exercise a legislative veto of an existing or proposed executive branch agency rule or regulation, and thereby invalidate it or prohibit its adoption in whole or in part. To do so, the Legislature must follow the constitutionally prescribed procedure outlined in *10.8.1 below. While the constitution lays out the procedure, either House may adopt rules and establish regulatory oversight committees to facilitate its application. The General Assembly has established the Assembly Regulatory Oversight Committee; House rules provide that bills may be second-referenced to this committee.



10.8.1 Constitutional Procedure

The basic elements of the regulatory oversight procedure are:

- The Legislature reviews a rule or regulation to determine if it is consistent with legislative intent;
- If it is not consistent, the Legislature adopts a concurrent resolution stating its finding, and transmits it to the Governor and to the head of the appropriate executive branch agency;
- The Legislature waits 30 days for the executive branch agency to amend or withdraw the rule or regulation;
- If the executive branch agency does not amend or withdraw the rule or regulation, either House of the Legislature holds a public hearing on the invalidation, or prohibition of the adoption, of the rule or regulation;
- A transcript of the public hearing is prepared and placed on the desks of the members of each House; and
- The Legislature adopts a second concurrent resolution to invalidate or prohibit the rule or regulation no sooner than 20 calendar days after the public hearing transcript is placed on the members' desks.

10.8.2 Basis for Invalidation or Prohibition

The New Jersey Constitution only authorizes the Legislature to review an existing or proposed rule or regulation that implements a statute enacted by the Legislature. This means that State rules and regulations adopted in compliance with federal law, court decisions, and executive orders issued by the Governor, for which there are no authorizing State statutes, are not reviewable by the Legislature using this authority.

The Constitution provides only one basis upon which the Legislature may invalidate a rule or regulation - that the rule or regulation is not "consistent with the intent of the Legislature as expressed in the language of the statute which the rule or regulation is intended to implement." Thus, the Legislature may invalidate a rule or regulation only if it is both based upon a State statute and inconsistent with legislative intent as expressed in the language of the statute that the rule or regulation is intended to implement. The Legislature that finds inconsistency need not be the same Legislature that enacted the underlying statute.

The controlling factor in establishing the intent of a statute for the purposes of legislative regulatory oversight is a reading of the express language and purposes of the statute. A rule or regulation need not contradict the language of the statute to be found "inconsistent" with the language of the statute. The Legislature may find the rule or regulation to be inconsistent with the statute's purposes or with the sense or scheme of the statute as a whole. Moreover, the Legislature presumably cannot intend to authorize a rule or regulation which is unconstitutional. Therefore, rules or regulations that are constitutionally discriminatory, do not provide for due process of law, or otherwise deprive persons of constitutional rights are subject to legislative invalidation, just as they are subject to judicial invalidation.

Because the public reaction to a particular rule or regulation is most often motivated by its unpopularity, its cost, or its unequal treatment of some sector or class in society, it is important to separate these issues from the question of consistency with the language of the statute. However, because the Constitution does not require the Legislature to demonstrate inconsistency, but only to find or determine inconsistency, the Legislature may exercise significant latitude in reviewing or invalidating rules and regulations. In the event the executive branch asserts that the Legislature has misused its constitutional prerogative, the New Jersey Supreme Court probably would be the final arbiter.

10.8.3 Drafting Considerations

Form of Initial Concurrent Resolution: Generally, a concurrent resolution seeking to invalidate or prohibit a rule or regulation sets forth the reasoning behind the finding of inconsistency and refers to specific statutory language with which the rule or regulation is considered to be inconsistent by the Legislature. This provides guidance for the department or agency proposing or adopting the rule or regulation in order to conduct its review in response to the Legislature's finding of inconsistency. Without specific statutory language or reasoning for the finding of legislative inconsistency in the first concurrent resolution, the affected department or agency is at a disadvantage in responding to the Legislature. It also may weaken the Legislature's legal position if legislative action to invalidate or prohibit the rule or regulation is contested in court.

The Constitution provides no guidance with regard to the exact form of these concurrent resolutions.

Title: The title is usually written in the following manner:

Example (title of concurrent resolution):

> **A CONCURRENT RESOLUTION** concerning legislative review of State Board of Education regulations pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey.

Substantive Language: The concurrent resolution contains several WHEREAS clauses or sections. The first contains a boilerplate recitation of the Legislature's authority under the Constitution. The concurrent resolution then details the important or key facts, rationale, and conclusions of the Legislature about the offending regulations and the legislative intent of the statute. The resolution also sets out the Legislature's finding of inconsistency.

Below the BE IT RESOLVED clause, the next-to-last section is a boilerplate authentication and distribution directive, with appropriate adaptations, to the Secretary of the Senate and the Clerk of the General Assembly. The last section is a boilerplate instruction directed to the appropriate department or agency regarding the 30-day response period established by the Constitution. (See *Appendix A, page A-257: **ACR126 of 2010-2011** (whereas clauses) and *Appendix A, page A-261: **ACR157 of 2010-2011** (no whereas clauses).)

The extent of detail provided in the concurrent resolution may depend upon the degree to which the regulation clearly conflicts with the statutory language at issue. There is nothing wrong with composing this language in a way that suggests a factual and legal argument presented to convince a court on the chance that it may have to rule on the efficacy and legitimacy of the resolution. The drafter should remember also that the resolution serves the political purpose of formalizing a dispute about intent between the legislative branch and the executive branch, where, absent court involvement, the Legislature ostensibly has the upper hand and is both the prosecutor and the judge.

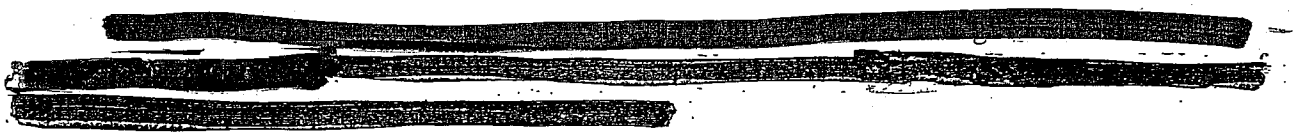
Synopsis: The synopsis is usually written in the following manner:

Examples (synopsis for concurrent resolution):

> Determines that DHSS regulations concerning immunization of pupils in school are not consistent with legislative intent.
>
> Determines that DEP's proposed regulations concerning watershed management are not consistent with legislative intent.

Form of Second Concurrent Resolution: As of 2013, only two second concurrent resolutions have been introduced, SCR102 of 1996-1997 and SCR151/ACR188 of 2010-2011. (See *Appendix A, page A-267: **SCR102 of 1996-1997** and *Appendix A, page A-271: **SCR151 of 2010-2011**.)

The second concurrent resolution expresses legislative invalidation of the regulation and: (1) describes the first concurrent resolution and its passage and filing; (2) finds that the 30-day response period has expired without appropriate responsive action by the department or agency; and (3) declares the regulations invalidated. **SCR102 of 1996-1997** and **SCR151 of 2010-2011** were not passed by the Legislature, so the full process established by the Constitution was not implemented or tested. Drafters should check for later examples.



10.8.4 Drafting Issues: Legislative Intent and Regulatory Power

Expression of Legislative Intent: Because of the nature of the legislative regulatory oversight veto and its dependence upon examining the express language of the statute at issue, there is even more reason for a bill drafter to draft all legislation as clearly as possible to correctly capture legislative intent (or at least the sponsor's or committee's intent). Vague, ambiguous, confusing, or conflicting wording in a statute does not help either the executive branch agency implementing the law or the Legislature when it is exercising its regulatory oversight authority. Whether legislative intent is expressed in the legislative findings and declarations section or in the basic composition of the sentences and paragraphs in the other substantive sections of a bill, it should be plainly stated, at least to the extent permissible and achievable within the constraints of the legislative and political processes. Remember, too, that the Constitution does not provide for the use of the sponsor's statement, committee statements, or other legislative history as a basis for determining inconsistency.

Occasionally, it is useful to place an express and specific declaration of legislative intent within a substantive section of a bill other than the legislative findings and declarations section. If a bill is particularly long, or if a section of the bill is to be compiled within another lengthy law, it may be useful to address a question as to interpretation or execution of a particular provision directly in the section where the question may arise.

The goal of the drafter is to create a statutory scheme wherein the legislative findings and declarations, definitions, and language used in the other substantive sections of a bill mutually reinforce and support each other and the overall intent of the bill. It is also important to examine the existing language of any laws that are to be amended or supplemented by a bill to guard against creating any conflict or inconsistency. Obviously, it is difficult to demonstrate that a rule or regulation is inconsistent with a statute if the statutory law is itself inconsistent.

10.9 Sentencing Under the Criminal Code (Title 2C)

All legislation involving criminal penalties must be drafted in accordance with the structure set out in Title 2C of the New Jersey Statutes, the "New Jersey Code of Criminal Justice." Title 2C is also known as the Criminal Code. The general sentencing provisions of the Criminal Code are summarized below. Note that under the Criminal Code a person may be sentenced to serve a term of imprisonment, or to pay a fine, or both.

SENTENCING UNDER TITLE 2C

CRIME	Ordinary Term of Imprisonment	Ordinary Fine
First Degree	10-20 years	Up to $200,000
Second Degree	5-10 years	Up to $150,000
Third Degree	3-5 years	Up to $15,000
Fourth Degree	Up to 18 months	Up to $10,000

(See N.J.S.2C:43-6 and 2C:43-3)

OFFENSE	Ordinary Term of Imprisonment	Ordinary Fine
Disorderly Persons	Up to 6 months	Up to $1,000
Petty Disorderly Persons	Up to 30 days	Up to $500

(See N.J.S.2C:43-8 and 2C:43-3)

Several caveats must be added. The chart only sets out the ordinary sentences for offenses, and does not include the extended terms that a judge may order under certain circumstances (such as in the case of a persistent offender, a professional criminal, or an offense with a firearm). See N.J.S.A.2C:43-7 for the sentencing provisions and see N.J.S.A.2C:44-3 for the criteria used in imposing extended terms. The chart also does not address specific crimes for which the terms of imprisonment may vary. For example, N.J.S.A.2C:11-3 provides that kidnapping under certain circumstances is a crime of the first degree, but is punishable by a minimum term of imprisonment of 25 years.

Under the Criminal Code, which was established by P.L.1978, c.95, all offenses are divided into two categories: crimes and criminal offenses. A crime can be of the first, second, third, or fourth degree. If the degree of a particular crime is not specified in a statute, it is a crime of the fourth degree. (See N.J.S.A.2C:1-4 and 2C:43-1a.)

A criminal offense can be either a disorderly person offense or a petty disorderly persons offense. These are not crimes; there is no right to trial by jury, and conviction of such an offense does not give rise to any legal disadvantage based on conviction of a crime.

There is a presumption of imprisonment for a person convicted of a crime of the first or second degree: the court will sentence the person to a term of imprisonment unless it finds that imprisonment "would be a serious injustice which overrides the need to deter such conduct by others." (See N.J.S.A.2C:44-1d.)

A first offender convicted of an offense other than a crime of the first or second degree (i.e., a crime of the third or fourth degree, a disorderly persons offense, or a petty disorderly persons offense) usually enjoys a presumption of nonimprisonment. In these cases the court will not impose a sentence of imprisonment unless it finds that imprisonment "is necessary for the protection of the public." However, there are several exceptions to this rule for particular crimes of the third or fourth degree; in these cases the ordinary presumption of nonimprisonment does not apply. Thus, for those particular crimes there is no presumption, either for imprisonment or nonimprisonment. (See N.J.S.A.2C:44-1e.)

P.L.1978, c.95 also states which sentencing provisions outside of Title 2C were superseded by its enactment and which were left whole. Although the Criminal Code abolished the categories of "high misdemeanor" and "misdemeanor," references to those categories are still found in Titles outside of 2C. The Criminal Code sets out rules for their classification within the new statutory scheme. (See N.J.S.A.2C:1-4c., 2C:43-1b., and 2C:1-5b.) The chart below sets out the sentences for these offenses defined outside the Criminal Code.

Crime or Offense Outside Title 2C	Disposition Under the Criminal Code	Term of Imprisonment and Fine Under the Criminal Code
"High Misdemeanor"	Sentenced as a crime of the third degree	3-5 years' imprisonment; fine of up to $15,000
"Crime" (with no degree of crime specified)	Sentenced as a crime of the fourth degree	Up to 18 months' imprisonment; fine of up to $10,000
"Misdemeanor" with *no* term of imprisonment specified or with specified term of *over 18 months*	Sentenced as a crime of the fourth degree	Up to 18 months' imprisonment; fine of up to $10,000
"Misdemeanor" with specified term *over* 6 months but *no more than* 18 months	Designated as a crime of the fourth degree	As provided in the statute
"Misdemeanor" with specified term of imprisonment of *6 months or less*	Sentenced as a disorderly persons offense	Up to 6 months' imprisonment; fine of up to $1,000

(See 2C:1-4c., 2C:1-5b., 2C:43-1b.)

Note:

- If a statute outside the Criminal Code uses the designation "petty disorderly persons offense" or "disorderly persons offense" the designation stands and sentencing is in accordance with the Criminal Code. (See N.J.S.A.2C:1-4b.)

- If the statute outside the Criminal Code uses the designation "misdemeanor" it is classified as either a crime of the fourth degree or as a disorderly persons offense, depending on the specifics of the sentencing provisions of the statute:

    - If the statute designates an offense as a "misdemeanor" *without specifying a term of imprisonment*, the offense is classified as a crime of the fourth degree and the maximum term of imprisonment is 18 months. For example, N.J.S.A.5:5-67, concerning requirements for horse racing records, provides that a person violating the statute is guilty of a misdemeanor and shall be fined not more than $25,000. The statute does not specify a term of imprisonment. Under the Criminal Code this offense is treated as a crime of the fourth degree with a maximum term of imprisonment of 18 months. However, note that the higher maximum fine set forth in the statute still applies since under the Criminal Code a fine may include "any higher amount specifically authorized by another section of this code or any other statute." (See N.J.S.A.2C:43-3f. and 2C:1-5b.)

    - If the statute designates an offense as a "misdemeanor" and specifies a term of imprisonment *greater than six months and no more than 18 months*, the offense is designated as a crime of the fourth degree. However, violators will be sentenced as provided in the statute.

    - If the statute designates an offense as a "misdemeanor" *and specifies a term of imprisonment exceeding 18 months*, the offense is also classified as a crime of the fourth degree with a maximum term of 18 months. For example, N.J.S.A.9:6-8.10b, concerning the unauthorized disclosure of child abuse records, provides that a person violating the statute is guilty of a misdemeanor "and subject to a fine of not more than $1,000.00, or to imprisonment for not more than 3 years, or both." Under the Criminal Code this offense is treated as a crime of the fourth degree with a maximum term of imprisonment of 18 months and a fine of up to $10,000 or both. (See N.J.S.A.2C:43-3f. and 2C:1-5b.)

    - If the statute designates an offense as a "misdemeanor" with a specified term of imprisonment of *six months or less*, the offense will be classified as a disorderly persons offense with a maximum imprisonment term of six months. Thus, N.J.S.A.52:35-9, which provides that a person violating requirements for bids on public work is guilty of a misdemeanor and may be sentenced to imprisonment "not exceeding six months," would now be classified as a disorderly persons offense. (See N.J.S.A.2C:1-4c.)

- If the statute uses the designation "high misdemeanor" it is classified as a crime of the third degree. (See N.J.S.A.2C:43-1b.)

CHAPTER 10 SPECIALIZED TYPES OF LEGISLATION

Important References:

- N.J.S.A.2C:43-2 sets out all authorized dispositions (payment of a fine, payment of restitution, suspension of sentence, community service, probation, imprisonment).
- N.J.S.A.2C:43-3 sets out the maximums for fines. Fines may also be based on the pecuniary loss suffered by the victim.
- N.J.S.A.2C:43-6 sets out the ordinary terms of imprisonment for crimes.
- N.J.S.A.2C:43-8 sets out the terms of imprisonment for disorderly persons and petty disorderly persons offenses.
- N.J.S.A.2C:43-4 sets out special provisions for corporate penalties. Under the statute, the court may sentence a corporation convicted of an offense to pay a fine of up to three times the amount otherwise provided by law.

Drafting Style – Statements:

The preferred style for setting out criminal penalties in a bill statement is to provide the maximum term or maximum fine or both, as follows:

> A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years or a fine of up to $200,000, or both.
>
> A crime of the second degree is ordinarily punishable by a term of imprisonment of five to 10 years or a fine of up to $150,000, or both.
>
> A crime of the third degree is ordinarily punishable by a term of imprisonment of three to five years or a fine of up to $15,000, or both.
>
> A crime of the fourth degree is ordinarily punishable by a term of imprisonment of up to 18 months or a fine of up to $10,000, or both.
>
> A disorderly persons offense is ordinarily punishable by a term of imprisonment of up to six months or a fine of up to $1,000, or both.
>
> A petty disorderly persons offense is ordinarily punishable by a term of imprisonment of up to 30 days or a fine of up to $500, or both.

10.10 Civil Penalty Collection — the "Penalty Enforcement Law of 1999"

Legislation that imposes a civil penalty for a violation of a statutory provision should specify how that penalty will be imposed and collected. The "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) sets out procedures in this regard.

The "Penalty Enforcement Law of 1999" addresses two types of cases:

(1) Section 1 of the enactment (codified as C.2A:58-10) governs cases where a hearing was previously held and penalties were imposed pursuant to the "Administrative Procedure Act"; and

(2) Section 2 of the enactment (codified as C.2A:58-11) governs cases where there has not been a previous administrative adjudication.

Section 1 of P.L.1999, c.274 (C.2A:58-10):

Under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) a person in a contested case has the right to notice, a hearing, and findings of fact. (See *3.3 and *5.9 for more information about the "Administrative Procedure Act.")

Section 1 of the "Penalty Enforcement Law of 1999" covers actions to enforce civil penalties or awards of damages where the facts have already been judged in an administrative hearing and the person has been ordered to pay the penalty or award. (The person still has the right of appeal: pursuant to the Rules of Court, an appeal of a final administrative order may be brought in the Superior Court, Appellate Division.)

Since in these circumstances there are no facts to be established, the court will not conduct another hearing. Instead, this section of the "Penalty Enforcement Law of 1999" authorizes the administrative agency to have the final order entered on the judgment docket of either the Superior Court or the Special Civil Part. After docketing, the order is treated in the same way as a judgment; it may be enforced against the defendant's property and the court may conduct proceedings to compel payment.

Section 2 of P.L.1999, c.274 (C.2A:58-11):

Section 2 of the "Penalty Enforcement Law of 1999" governs cases where a statute allows an administrative agency, an officer, or a private party to bring an action to impose a civil penalty for a violation of a statute or an ordinance and there has not been a prior administrative adjudication. The action to impose a civil penalty may be brought in the Superior Court. If the statute that establishes the civil penalty provides that the action may be brought in a municipal court, the action may be brought in any municipal court with jurisdiction or in the Superior Court.

In these cases the court will conduct a hearing and take testimony in order to determine whether the violation occurred and, if so, the appropriate penalty. The proceedings are summary and there is no jury. An action in Superior Court to impose a civil penalty may also be joined with an action to restrain related violations.

Statutory References:

Section 3 of P.L.1999, c.274 (C.2A:58-12) provides that older references in the statutes to the "penalty enforcement law" will be treated as references to the "Penalty Enforcement Law of 1999." New bill drafts should include the proper citation: **the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.)**.

Examples:

- N.J.S.A.19:44A-22 provides for penalties of up to $200,000 for violation of certain campaign contribution laws. After the New Jersey Election Law Enforcement Commission (ELEC) makes findings of the applicable penalties, the court is authorized to enforce the penalties in a summary proceeding conducted under the "Penalty Enforcement Law of 1999." N.J.S.A.19:44A-6b. authorizes ELEC to initiate a civil action in any court to enforce compliance with the election law statutes by injunction or recovery of monetary penalties.

- N.J.S.A.2A:170-51.4 bars the sale of tobacco to minors and imposes penalties of up to $1,000 for violations. The statute provides that the civil penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999" in a summary proceeding in municipal court. The statute also authorizes health code enforcement officials and law enforcement officers to issue a summons for a violation of the statute.

10.11 Independent Authorities

An independent public authority is an instrumentality of government, often described as a "public body corporate and politic," created to exercise governmental functions free from many of the constraints usually applicable to State or local government agencies. Each independent authority in New Jersey is unique and governed by a separate and distinct enabling statute. Most have the power to sue or be sued in their own name, plan and implement their own budgets and capital improvement programs, establish their own credit rating, raise their own funds through bonding or other types of financing, collect fees for the use or rental of any capital projects which they are empowered to construct, and use their own revenue in a manner of their choosing as permitted by their governing statute.

In addition to independent authorities created to serve the State or a region within the State, there also exist county and municipal authorities. These local authorities are generally not created by, but merely authorized under, State law. Local authorities are actually established only by action of the local government unit.

Examples (existing State and regional authorities):

Set out below are several existing authorities:

- Casino Reinvestment Development Authority, N.J.S.A.5:12-153 et seq.
- Higher Education Student Assistance Authority, N.J.S.A.18A:71A-3 et seq.
- New Jersey Economic Development Authority, N.J.S.A.34:1B-1 et seq.
- New Jersey Turnpike Authority, N.J.S.A.27:23-1 et seq.
- New Jersey Sports and Exposition Authority, N.J.S.A.5:10-1 et seq.
- South Jersey Transportation Authority, N.J.S.A.27:25A-1 et seq.

Examples (legislation creating an independent authority):

- The "Fort Monmouth Economic Revitalization Authority Act," P.L.2010, c.51 (C.52:27I-18 et seq.) (regional authority).
- **A2001 of 2010-2011**, the "New Jersey Broadband and Electronic Health Information Network Authority Act" (State-wide authority) (See Appendix A, page A-275).

10.12 Classification of Counties and Cities

The statutory classification of counties and cities permits the Legislature to limit the impact of legislation to a limited number of entities when the purpose of the legislation is reasonably related to population size, population density, or the location of cities or counties. Classification is only permissible when it does not exclude any counties or cities that should otherwise be included in a grouping. Using a valid classification, legislation affecting a limited number of counties or cities can be enacted as a general law without having to follow the procedures and restrictions for enacting special or local laws. (See *10.4.) For examples, see N.J.S.A.2B:11-11, N.J.S.A.11A:3-5, and N.J.S.A.18A:7A-49.

10.12.1 County Classification by Population

There are, at present, six classes of counties, classified on the basis of their populations as ascertained by the most recent federal decennial census, as set forth in N.J.S.A.40A:6-1. The 2010 census did not change the county classifications in place since the 2000 census.

- First class – counties having a population of more than 550,000 and a population density of more than 3,000 persons per square mile
- Second class – all other counties having a population of more than 200,000 except such counties bordering on the Atlantic Ocean
- Third class – counties having a population of not less than 50,000 but not more than 200,000 except such counties bordering on the Atlantic Ocean
- Fourth class – counties having a population of less than 50,000 except such counties bordering on the Atlantic Ocean
- Fifth class – counties bordering on the Atlantic Ocean having a population of more than 125,000
- Sixth class – counties bordering on the Atlantic Ocean having a population of not more than 125,000

County Classification	Counties
First class	Bergen, Essex, and Hudson
Second class	Burlington, Camden, Gloucester, Mercer, Middlesex, Morris, Passaic, Somerset, and Union
Third class	Cumberland, Hunterdon, Salem, Sussex, and Warren
Fourth class	(None)
Fifth class	Atlantic, Monmouth, and Ocean
Sixth class	Cape May

10.12.2 City Classification by Population

There are four classes of cities, classified on the basis of their populations as ascertained by the most recent federal decennial census, as set forth in N.J.S.A.40A:6-4. *Note*: As cities are a specific form of municipal government, not all New Jersey municipalities are cities.

- First class – cities having a population of more than 150,000 (currently only Newark and Jersey City)
- Second class – cities having a population of not less than 12,000 but not more than 150,000 (for example: Elizabeth, Paterson, and Trenton)
- Third class – all cities which are not first, second, or fourth class cities (for example: Absecon, Burlington, and Lambertville)
- Fourth class – cities bordering on the Atlantic Ocean that are seaside or summer resorts, regardless of population (for example: Atlantic City, Cape May, and Long Branch)

Appendix A includes bill examples based upon the discussions in specific sections of the text. To assist with the cross-referencing, the header of each bill example includes a text box with the specific section of the manual and a brief notation of the subject matter discussed. (Note that for some bill examples the text box refers to more than one applicable section of the manual.)

For example, section 5.5 of the manual discusses the preferred style for legislation that commemorates a person's name. A note at the end of the text refers to the following example: (See also Appendix A, page A-1: **S3010 of 2010-2011**.)

When you turn to page A-1 of Appendix A you will see the full text of S3010 of 2010-2011 with the descriptive text box at the top of each page. In this case, the text box on S3010 provides:

Section 5.5	***Section 5.7.2***
Naming bill for a person	***Amendatory and supplementary bill***

CHAPTER 5 DRAFTING A BILL

CHAPTER 6 DRAFTING A RESOLUTION

CHAPTER 9 DRAFTING FOR COMMITTEE AND FLOOR ACTION

CHAPTER 10 SPECIALIZED TYPES OF LEGISLATION

Section 5.5	*Section 5.7.2*
Naming bill for a person	*Amendatory and supplementary bill*

SENATE, No. 3010

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED JULY 12, 2011

Sponsored by:
Senator NICHOLAS J. SACCO
District 32 (Bergen and Hudson)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Senators Codey, Girgenti, Buono, Vitale, Ruiz, Scutari, Rice, Weinberg, Beach, Turner, Gordon, Stack, Cunningham, Van Drew, Norcross, Madden, B.Smith, Sarlo, Whelan, Lesniak and Sweeney

SYNOPSIS

"Caylee's Law"; upgrades penalties for failing to report a death; criminalizes failure to report disappearance of child within 24 hours.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning certain reporting requirements, designated as Caylee's Law, amending P.L.1967, c.234, and supplementing chapter 12 of Title 2C of the New Jersey Statutes.

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

1. Section 12 of P.L.1967, c.234 (C.52:17B-89) is amended to read as follows:

12. Any person who may become aware of any death by criminal violence **[**or**]**, by accident or suicide, or in any suspicious or unusual manner, shall report **[**such**]** that death to the office of county medical examiner, the office of State Medical Examiner, or to the police department of the municipality in which **[**such**]** the person died.

Any person who shall willfully neglect or refuse to report **[**such**]** the death, or who, without an order from the office of county medical examiner or the office of State Medical Examiner, shall willfully touch, remove, or disturb the body of **[**any such**]** the person, or touch, remove or disturb the clothing upon or near **[**such**]** the body, is **[**a disorderly person**]** guilty of a crime of the fourth degree.

(cf: P.L.1967, c.234, s.12)

2. (New section) a. A parent, guardian, or other person with legal custody of a child who knew or should have known of the disappearance of a child for which that parent, guardian, or other person is responsible who fails to report the missing child to the appropriate law enforcement agency within 24 hours shall be guilty of a crime of the fourth degree.

b. For the purposes of this section, a "missing child" means a person 13 years of age or younger whose whereabouts are not currently known.

3. This act shall take effect immediately.

STATEMENT

This bill would increase the penalties for failing to report a death and would make it crime for failing to report a missing child.

Under current law, a person who becomes aware of a death by criminal violence or accident is required to report that death to the county medical examiner, the State Medical Examiner, or the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

municipal police department where the death occurred. A person who willfully neglects or refuses to report the death, or who touches, removes, or disturbs the body of the dead person, is guilty of a disorderly persons offense. A disorderly persons offense is punishable by up to six months in prison, a fine of up to $1,000, or both. This bill would upgrade this offense to a crime of the fourth degree. Fourth degree crimes are punishable by a term of imprisonment of up to 18 months, a fine of up to $10,000, or both.

The bill also makes it a crime of the fourth degree for a responsible parent, guardian, or other person with legal custody of a child who knew or should have known of the disappearance of that child to fail to report the missing child to the appropriate law enforcement agency within 24 hours.

This bill, named "Caylee's Law," is in response to the tragic case of Caylee Anthony, whose mother, Casey Anthony, was recently found not guilty of Caylee's murder. In that case, Caylee Anthony was missing for 31 days before her disappearance was reported by her grandmother. This bill addresses this situation by imposing harsher penalties on anyone who fails to report a child's death and criminalizing the failure of parents to promptly notify authorities when their child is missing.

ASSEMBLY, No. 352

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Hunterdon and Mercer)

SYNOPSIS

"Motor Vehicle Owners' Right to Repair Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

AN ACT concerning the diagnosis, service and repair of motor vehicles and supplementing Title 56 of the Revised Statutes.

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

1. This act shall be known and may be cited as the "Motor Vehicle Owners' Right to Repair Act."

2. The Legislature finds and declares that:

a. The ability to diagnose, service and repair a motor vehicle in a timely, reliable and affordable manner is essential to the safety and well-being of consumers in this State.

b. Consumers are entitled to choose among competing repair facilities for the convenient, reliable and affordable repair of their motor vehicles.

c. Increased competition among repair facilities will benefit vehicle owners in this State.

d. Computers of various kinds are commonly being used in motor vehicle systems, such as pollution control, transmission, antilock brakes, electronic and mechanical systems, heating and air-conditioning, sound and steering.

e. The diagnosis, service and repair of these vehicle systems are essential to the safe and proper operation of motor vehicles.

f. In many instances, access codes prevent owners from making, or having made, the necessary diagnosis, service and repair of their motor vehicles in a timely, convenient, reliable and affordable manner.

g. Vehicle owners in this State should have the right:

(1) to obtain all information necessary to provide for the diagnosis, service and repair of their vehicles;

(2) to choose between original parts and aftermarket parts when repairing their motor vehicles; and

(3) to make, or have made, repairs necessary to keep their vehicles in reasonably good and serviceable condition during the expected vehicle life.

h. The limitation of access to vehicle repair information regarding who can repair motor vehicles and what parts may be used to repair those vehicles limits consumer choice and thus limits competition.

3. As used in this act:

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, or his designee.

"Manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture,

assemble or distribute to dealers at least 10 new motor vehicles.

"Model year" means the annual production period of a manufacturer, that includes January 1st of the calendar year; or the specific calendar year if the manufacturer does not have an annual production period.

"Motor vehicle" means a passenger automobile or motorcycle as defined in R.S.39:1-1 which is purchased or leased in the State of New Jersey or which is registered by the New Jersey Motor Vehicle Commission.

"Motor vehicle equipment" means any system, part, or component of a motor vehicle as originally manufactured; or any similar part or component manufactured or sold for replacement or improvement of a system, part or component or as an accessory or addition to a motor vehicle; or any device or an article of apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.

"Repair facility" means a person engaged in the repair, diagnosing or servicing of motor vehicles, including but not limited to any independent service provider.

"Vehicle owner" means any person who owns, leases or otherwise has the legal right to use and possess a motor vehicle, or the agent of such person.

4. a. The manufacturer of a motor vehicle shall provide to any motor vehicle owner, to a repair facility, and to the director any information relating to the diagnosis, service, or maintenance of a motor vehicle. The information, which shall be provided on a timely and non-discriminatory basis, shall include:

(1) any information necessary to integrate replacement motor vehicle equipment into the motor vehicle; and

(2) any other information, as determined by the director, that is necessary to diagnose, service, repair, activate, certify, or install any motor vehicle equipment in a motor vehicle or motor vehicle system.

b. (1) A manufacturer shall not be required to publicly disclose information that, if made public, would divulge methods or processes entitled to protection as trade secrets of that manufacturer, but may be required to disclose that information to the director for the purpose of determining whether that information is entitled to such protection. The determination shall be made on the record after an opportunity for an agency hearing.

(2) No information may be withheld by a manufacturer if that information is provided either directly or indirectly to franchised dealers, authorized service providers, or other service providers or repair facilities.

5. a. Not later than 180 days after the date of enactment of this act, the director shall prescribe rules setting forth a uniform method by which a manufacturer shall provide the information required by subsection a. of section 4 of this act, including disclosure in writing, on the Internet, or in any other manner, or under other terms the director determines may be appropriate. These rules shall take effect for vehicles manufactured after model year 1994.

b. The director shall not prescribe rules that:

(1) interfere with the authority of the Administrator of the Environmental Protection Agency under section 202(m) of the "Clean Air Act" (42 U.S.C. 7521(m)) with regard to motor vehicle emissions control diagnostics systems; or

(2) conflict with rules prescribed by the administrator under that section.

6. Any person who violates any of the provisions of this act, in addition to any other penalty provided by law, shall be liable for a penalty of not more than $10,000 for the first offense and not more than $20,000 for the second and each subsequent offense.

A vehicle owner or repair facility may bring a civil action to enjoin a violation of this act and to recover the costs of litigation including reasonable attorney and expert witness fees.

7. This act shall take effect on the 180th day following enactment.

STATEMENT

This bill requires motor vehicle manufacturers to provide the information necessary to diagnose, service, or maintain vehicles to their owners, repair facilities, and the Director of Consumer Affairs. Under the bill, manufacturers are to provide any information necessary to integrate replacement equipment into the vehicle and any other information of any kind used to diagnose, service, repair, activate, certify or install any motor vehicle equipment in a motor vehicle or motor vehicle system.

Under the bill, a manufacturer would not be required to disclose information that, if made public, would reveal trade secret information. The director is required to establish a uniform method by which a manufacturers must provide the necessary diagnostic and repair information to vehicle owners.

A violation of this bill would result in a penalty of not more than $10,000 for the first offense and not more than $20,000 for the second and each subsequent offense. A vehicle owner or repair facility may also bring a civil action to enjoin a violation of this act and to recover the costs of litigation including reasonable attorney and expert witness fees.

Section 5.7.1
Amendatory bill

ASSEMBLY, No. 3852

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2011

Sponsored by:
Assemblyman PATRICK J. DIEGNAN, JR.
District 18 (Middlesex)
Assemblyman PETER J. BARNES, III
District 18 (Middlesex)
Assemblyman JOHN S. WISNIEWSKI
District 19 (Middlesex)
Assemblyman RALPH R. CAPUTO
District 28 (Essex)

Co-Sponsored by:
Assemblywoman Stender, Assemblyman Green, Assemblywoman Voss, Assemblymen Conners and O'Donnell

SYNOPSIS

Requires voter approval at the annual school election or by the board of school estimate prior to the establishment of a charter school.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/24/2011)

AN ACT concerning the establishment of charter schools and amending P.L.1995, c.426.

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

1. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to read as follows:

4. a. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching staff members and parents. A charter school may also be established by an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district. If the charter school is established by a private entity, representatives of the private entity shall not constitute a majority of the trustees of the school, and the charter shall specify the extent to which the private entity shall be involved in the operation of the school. The name of the charter school shall not include the name or identification of the private entity, and the private entity shall not realize a net profit from its operation of a charter school. A private or parochial school shall not be eligible for charter school status.

b. A currently existing public school is eligible to become a charter school if the following criteria are met:

(1) At least 51% of the teaching staff in the school shall have signed a petition in support of the school becoming a charter school; and

(2) At least 51% of the parents or guardians of pupils attending that public school shall have signed a petition in support of the school becoming a charter school.

c. (1) An application to establish a charter school shall be submitted to the commissioner and the local board of education or State district superintendent, in the case of a [State-operated school district] school district under full State intervention, in the school year preceding the school year in which the charter school will be established. Notice of the filing of the application shall be sent immediately by the commissioner to the members of the State Legislature, school superintendents, and mayors and governing bodies of all legislative districts, school districts, or municipalities in which there are students who will be eligible for enrollment in the charter school. The board of education or State district superintendent shall review the application and forward a recommendation to the commissioner within 60 days of receipt of the application. [The] Except as otherwise provided pursuant to paragraph (2) of this subsection, the commissioner shall have final authority to grant or reject a charter application.

(2) The commissioner shall not approve an application for the establishment of a charter school unless the establishment of the charter school has been approved by the voters of the district at the annual school election in the case of a charter school to be established in a Type II district, or the board of school estimate in the case of a charter school to be established in a Type I district.

d. The local board of education or a charter school applicant may appeal the decision of the commissioner to the [State Board of Education. The State board shall render a decision within 30 days of the date of the receipt of the appeal. If the State board does not render a decision within 30 days, the decision of the commissioner shall be deemed final] Appellate Division of the Superior Court.

e. A charter school established during the 48 months following the effective date of this act, other than a currently existing public school which becomes a charter school pursuant to the provisions of subsection b. of section 4 of this act, shall not have an enrollment in excess of 500 students or greater than 25% of the student body of the school district in which the charter school is established, whichever is less.

Any two charter schools within the same public school district that are not operating the same grade levels may petition the commissioner to amend their charters and consolidate into one school. The commissioner may approve an amendment to consolidate, provided that the basis for consolidation is to accommodate the transfer of students who would otherwise be subject to the random selection process pursuant to section 8 of P.L.1995, c.426 (C.18A:36A-8).

(cf: P.L.2002, c.123, s.4)

2. This act shall take effect immediately.

STATEMENT

This bill provides that the Commissioner of Education may not approve an application for the establishment of a charter school unless the establishment of the charter school has been approved by the voters of the district at the annual school election in the case of a charter school to be established in a Type II district. In the case of a charter school to be established in a Type I district, the bill provides that the board of school estimate must approve the establishment of the charter school.

Section 5.7.2
Supplementary bill

ASSEMBLY, No. 2813

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED JUNE 10, 2010

Sponsored by:
Assemblyman ANGEL FUENTES
District 5 (Camden and Gloucester)

SYNOPSIS

Requires training for certain staff working with persons with developmental disabilities.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning training for certain staff working with persons with developmental disabilities and supplementing chapter 6D of Title 30 of the Revised Statutes.

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

1. a. The Department of Human Services, in consultation with the New Jersey Community College Consortium for Workforce and Economic Development, shall establish a training program for staff members at State developmental centers and group homes who work or will work directly with persons with developmental disabilities to help improve the delivery of services to persons with developmental disabilities residing in these facilities.

b. The curriculum of the training program shall include:

(1) federal and State laws relating to persons with developmental disabilities, as applicable to the care of persons with developmental disabilities residing in a developmental center or group home;

(2) recognition and understanding of behavior that is appropriate for persons with developmental disabilities at different ages and levels of functioning;

(3) methods to help persons with developmental disabilities attain social, educational, and occupational skills based on the person's physical or intellectual disability, or both;

(4) information about adaptation of treatment and rehabilitation for a person with a developmental disability based on the person's personal history and current physical or mental condition; and

(5) methods to improve communications and establish better working relationships with persons with developmental disabilities, their families or guardians, as appropriate, and co-workers, through the use of empathy, positive communication skills, and active listening, and to use such techniques to communicate with parents or guardians, as appropriate, about providing care to persons with developmental disabilities.

c. The Commissioner of Human Services or the commissioner's designee shall annually review the training program and modify the program as appropriate.

d. The department shall require that:

(1) all applicable staff members employed on the effective date of this act, as a condition of continued employment at a State developmental center or group home, successfully complete the training program within 24 months of the effective date of this act; and

(2) as a condition of employment, an applicable staff member hired at a State developmental center or group home after the effective date of this act successfully complete the training program within 12 months of the staff member's date of hire.

e. The commissioner shall ensure that applicable staff members receive annual refresher training that includes any updated information relating to the training required pursuant to this section.

f. A current staff member or applicant for employment at a State developmental center or group home who refuses to participate in the training program shall be terminated or permanently disqualified from employment at a State developmental center or group home.

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

3. This act shall take effect on the first day of the seventh month next following the date of enactment, but the Commissioner of Human Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

STATEMENT

This bill establishes a mandatory training program for staff members at State developmental centers and group homes who work or will work directly with persons with developmental disabilities to help improve the delivery of services to persons with developmental disabilities residing in these facilities. The Department of Human Services (DHS), in consultation with the New Jersey Community College Consortium for Workforce and Economic Development, would establish the program.

The curriculum of the training program would include:

- federal and State laws relating to persons with developmental disabilities, as applicable to the care of persons with developmental disabilities residing in a developmental center or group home;
- recognition and understanding of behavior that is appropriate for persons with developmental disabilities at different ages and levels of functioning;
- methods to help persons with developmental disabilities attain social, educational, and occupational skills based on the person's physical or intellectual disability, or both;
- information about adaptation of treatment and rehabilitation for a person with a developmental disability based on the person's personal history and current physical or mental condition; and
- methods to improve communications and establish better working relationships with persons with developmental disabilities, their families or guardians, as appropriate, and co-

workers, through the use of empathy, positive communication skills, and active listening, and to use such techniques to communicate with parents or guardians, as appropriate, about providing care to persons with developmental disabilities.

The bill requires the Commissioner of Human Services or the commissioner's designee to annually review the training program and modify it as appropriate, and also to ensure that applicable staff members receive annual refresher training.

Additionally, DHS would require all applicable staff members employed on the bill's effective date to successfully complete the training program within 24 months of that date, as a condition of continued employment at a State developmental center or group home. Staff members hired after the bill's effective date would be required to successfully complete the program within 12 months of the date of hire.

A current staff member or applicant who refuses to participate in the training program would be terminated or permanently disqualified from employment at a State developmental center or group home.

The bill provides for rule making by the Commissioner of Human Services, has a delayed effective date of the first day of the seventh month following enactment, and allows the commissioner to take anticipatory action in advance of the effective date as necessary for implementing the bill.

Section 5.7.3
Temporary and Executed (T&E) bill (drafter's version)

8/19/2008 TRC
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BPU# AUT 0757.DOC
AU 245
SR 206
TR 043
DR N
CR 34

House Copy OLS Copy Public Copy
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BILL NO. _____

Date of Intro. _____

Ref. _____

NOTE TO SPONSOR	Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.

AN ACT directing the Chief Technology Officer in the Office of Information Technology to study and report on the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

Directs Chief Technology Officer in the Office of Information Technology to study and report potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

PRIME Sponsor _____ /

CO-Sponsor	District	CO-Sponsor	District

Same as _____ 06/07 Same as _____ 08/09

Suggested allocation: s.1: T&E; s.2: Eff. date to 2008/69

AN ACT directing the Chief Technology Officer in the Office of Information Technology to study and report on the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

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

1. a. As used in this section:

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

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Office of Information Technology" means the Office of Information Technology established by section 9 of P.L.2007, c. 56 (C.52:18A-227) in but not of the Department of the Treasury.

b. The Chief Technology Officer in the Office of Information Technology shall conduct a study and prepare and submit, within six months of the effective date of this act, to the Governor and both houses of the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Chair of the Senate Commerce Committee, and the Chair of the Assembly Telecommunications and Utilities Committee, or the respective successor committees, as appropriate, a written report which shall make findings and recommendations concerning the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

c. The report shall include, but shall not be limited to, the following:

(1) An analysis of information obtained from users of the State government computer systems, including citizens, State agencies, universities, community colleges, local education agencies, and other units of local government. The information shall pertain to the use of electronic transactions, including the use of electronic signature and electronic record.

(2) Specific proposals that would, if implemented, expand the use of electronic transactions, including the use of electronic signature and electronic record in State government, and which shall include the establishment of an ongoing function within State government to execute the expansion. The proposals shall address the feasibility of expanding activities involving the use of electronic transaction, including the use of electronic signature and electronic record, that are suitable for utilization within the State government computer systems, as well as those activities suitable for governmental entities to pursue independently. The proposals shall also include information concerning expected costs and benefits of such expansion; recommendations for funding recurring and

nonrecurring costs of the specific proposals; and a model to support the proposals.

(3) An evaluation of the opportunities for efficiencies and potential cost savings in State government through the expanded use of electronic transactions, including the use of electronic signature and electronic record.

(4) An assessment of opportunities for the State to obtain federal and local support to further implement the use of electronic transactions, including the use of electronic signature and electronic record.

(5) Proposed legislation that may be considered by the Legislature to ensure implementation by the State agencies.

(6) Any other information deemed relevant to the subject matter of the report.

2. This act shall take effect immediately and shall expire on the 30th day following submission of the report required to be prepared under section 1 of this act.

STATEMENT

This bill would require the Chief Technology Officer in the Office of Information Technology to study and submit a written report concerning the potential benefits of the expanded use of electronic transactions, including the use of electronic signature and electronic record by the State. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means. The Chief Technology Officer is to provide the Governor, both houses of the Legislature, the Chair of the Senate Commerce Committee, and the Chair of the Assembly Telecommunications and Utilities Committee, with a written report of the study findings together with any recommendations concerning the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

The report is to include an analysis of information obtained from users of the State government computer systems, including citizens, State agencies, universities, community colleges, local education agencies, and other units of local government. The information would pertain to the use of electronic transactions, including the use of electronic signature and electronic record.

Additionally, the report would contain specific proposals that would, if implemented, expand the use of electronic transactions, including the use of electronic signature and electronic record in State government, and would include the establishment of an

ongoing function within State government to execute the expansion. The proposals would address the feasibility of expanding activities involving the use of electronic transaction, including the use of electronic signature and electronic record that are suitable for utilization within the State government computer systems, as well as those activities suitable for governmental entities to pursue independently. Also, the proposals would include information concerning expected costs and benefits of such expansion; recommendations for funding recurring and nonrecurring costs of the specific proposals; and a model to support the proposals.

The bill would require the Chief Technology Officer to include, within the report, an evaluation of the opportunities for efficiencies and potential cost savings in State government through the use of electronic transactions, including the use of electronic signature and electronic record.

The report would include an assessment of opportunities for the State to obtain federal and local support to further implement the use of electronic transactions, including the use of electronic signature and electronic record. Also, the report would include proposed legislation that may be considered by the Legislature to ensure implementation by the State agencies. Finally, the report would include any other information deemed relevant to the subject matter of the report.

Directs Chief Technology Officer in the Office of Information Technology to study and report potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

ASSEMBLY, No. 914

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblyman UPENDRA J. CHIVUKULA
District 17 (Middlesex and Somerset)
Assemblywoman SHEILA Y. OLIVER
District 34 (Essex and Passaic)

Co-Sponsored by:
Assemblywomen Lampitt and Handlin

SYNOPSIS

Directs Chief Technology Officer in the Office of Information Technology to study and report potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

AN ACT directing the Chief Technology Officer in the Office of Information Technology to study and report on the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

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

1. a. As used in this section:

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

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Office of Information Technology" means the Office of Information Technology established by section 9 of P.L.2007, c. 56 (C.52:18A-227) in but not of the Department of the Treasury.

b. The Chief Technology Officer in the Office of Information Technology shall conduct a study and prepare and submit, within six months of the effective date of this act, to the Governor and both houses of the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Chair of the Senate Commerce Committee, and the Chair of the Assembly Telecommunications and Utilities Committee, or the respective successor committees, as appropriate, a written report which shall make findings and recommendations concerning the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

c. The report shall include, but shall not be limited to, the following:

(1) An analysis of information obtained from users of the State government computer systems, including citizens, State agencies, universities, community colleges, local education agencies, and other units of local government. The information shall pertain to the use of electronic transactions, including the use of electronic signature and electronic record.

(2) Specific proposals that would, if implemented, expand the use of electronic transactions, including the use of electronic signature and electronic record in State government, and which shall include the establishment of an ongoing function within State government to execute the expansion. The proposals shall address the feasibility of expanding activities involving the use of electronic transaction, including the use of electronic signature and electronic record, that are suitable for utilization within the State government computer systems, as well as those activities suitable for governmental entities to pursue independently. The proposals shall

also include information concerning expected costs and benefits of such expansion; recommendations for funding recurring and nonrecurring costs of the specific proposals; and a model to support the proposals.

(3) An evaluation of the opportunities for efficiencies and potential cost savings in State government through the expanded use of electronic transactions, including the use of electronic signature and electronic record.

(4) An assessment of opportunities for the State to obtain federal and local support to further implement the use of electronic transactions, including the use of electronic signature and electronic record.

(5) Proposed legislation that may be considered by the Legislature to ensure implementation by the State agencies.

(6) Any other information deemed relevant to the subject matter of the report.

2. This act shall take effect immediately and shall expire on the 30th day following submission of the report required to be prepared under section 1 of this act.

STATEMENT

This bill would require the Chief Technology Officer in the Office of Information Technology to study and submit a written report concerning the potential benefits of the expanded use of electronic transactions, including the use of electronic signature and electronic record by the State. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means. The Chief Technology Officer is to provide the Governor, both houses of the Legislature, the Chair of the Senate Commerce Committee, and the Chair of the Assembly Telecommunications and Utilities Committee, with a written report of the study findings together with any recommendations concerning the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

The report is to include an analysis of information obtained from users of the State government computer systems, including citizens, State agencies, universities, community colleges, local education agencies, and other units of local government. The information would pertain to the use of electronic transactions, including the use of electronic signature and electronic record.

Additionally, the report would contain specific proposals that would, if implemented, expand the use of electronic transactions, including the use of electronic signature and electronic record in State government, and would include the establishment of an ongoing function within State government to execute the expansion. The proposals would address the feasibility of expanding activities involving the use of electronic transaction, including the use of electronic signature and electronic record that are suitable for utilization within the State government computer systems, as well as those activities suitable for governmental entities to pursue independently. Also, the proposals would include information concerning expected costs and benefits of such expansion; recommendations for funding recurring and nonrecurring costs of the specific proposals; and a model to support the proposals.

The bill would require the Chief Technology Officer to include, within the report, an evaluation of the opportunities for efficiencies and potential cost savings in State government through the use of electronic transactions, including the use of electronic signature and electronic record.

The report would include an assessment of opportunities for the State to obtain federal and local support to further implement the use of electronic transactions, including the use of electronic signature and electronic record. Also, the report would include proposed legislation that may be considered by the Legislature to ensure implementation by the State agencies. Finally, the report would include any other information deemed relevant to the subject matter of the report.

T&E

P.L.2010, CHAPTER 76, ***approved September 10, 2010***
Assembly, No. 914 ***(First Reprint)***

AN ACT directing the Chief Technology Officer in the Office of Information Technology to study and report on the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

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

1. a. As used in this section:

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

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Office of Information Technology" means the Office of Information Technology established by section 9 of P.L.2007, c. 56 (C.52:18A-227) in but not of the Department of the Treasury.

b. The Chief Technology Officer in the Office of Information Technology shall conduct a study and prepare and submit, within six months of the effective date of this act, to the Governor and both houses of the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Chair of the Senate Commerce Committee, and the Chair of the Assembly Telecommunications and Utilities Committee, or the respective successor committees, as appropriate, a '[written]' report 'in electronic form,' which shall make findings and recommendations concerning the potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

c. The report shall include, but shall not be limited to, the following:

(1) An analysis of information obtained from users of the State government computer systems, including citizens, State agencies, universities, community colleges, local education agencies, and other units of local government. The information shall pertain to the use of electronic transactions, including the use of electronic signature and electronic record.

(2) Specific proposals that would, if implemented, expand the use of electronic transactions, including the use of electronic signature and electronic record in State government, and which

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
'Senate floor amendments adopted June 10, 2010.

shall include the establishment of an ongoing function within State government to execute the expansion. The proposals shall address the feasibility of expanding activities involving the use of electronic transaction, including the use of electronic signature and electronic record, that are suitable for utilization within the State government computer systems, as well as those activities suitable for governmental entities to pursue independently. The proposals shall also include information concerning expected costs and benefits of such expansion; recommendations for funding recurring and nonrecurring costs of the specific proposals; and a model to support the proposals.

(3) An evaluation of the opportunities for efficiencies and potential cost savings in State government through the expanded use of electronic transactions, including the use of electronic signature and electronic record.

(4) An assessment of opportunities for the State to obtain federal and local support to further implement the use of electronic transactions, including the use of electronic signature and electronic record.

(5) Proposed legislation that may be considered by the Legislature to ensure implementation by the State agencies.

(6) Any other information deemed relevant to the subject matter of the report.

2. This act shall take effect immediately and shall expire on the 30th day following submission of the report required to be prepared under section 1 of this act.

Directs Chief Technology Officer in the Office of Information Technology to study and report potential benefits of expanding the use of electronic transactions, including the use of electronic signature and electronic record by the State.

Section 5.10
Simple repealer bill

ASSEMBLY, No. 2784

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED MAY 20, 2010

Sponsored by:
Assemblyman JOHN DIMAIO
District 23 (Warren and Hunterdon)
Assemblyman DECLAN J. O'SCANLON, JR.
District 12 (Mercer and Monmouth)

SYNOPSIS

Repeals law that prohibits school boards from imposing terms and conditions of employment.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning collective negotiations for school employees and repealing P.L.2003, c.126.

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

1. P.L.2003, c.126 (C.34:13A-31 et seq.) is repealed.

2. This act shall take effect immediately.

STATEMENT

This bill repeals the "School Employees Contract Resolution and Equity Act," P.L.2003, c.126 (C.34:13A-31 et seq.), which currently provides for certain collective negotiation procedures for school employee contracts and prohibits any school employer from unilaterally imposing, modifying, amending, deleting, or altering any terms and conditions of employment of its employees without specific agreement of their majority representative.

By repealing this law, passed in 2003, the bill will reinstate the ability of school boards to impose their last best contract offers, thereby resolving a negotiations impasse. Likewise, the bill will eliminate the super conciliation process, a mediation procedure provided for by P.L.2003, c.126, used for negotiations that have reached an impasse and when other procedures have been exhausted. Repealing the law will reinstate impasse resolution procedures to be consistent with procedures existing prior to 2003.

Finally, by repealing the law, school employee contract negotiation impasses will continue to be handled using the mediation and fact-finding process administered by the Public Employment Relations Commission, as it is currently and as it was prior to 2003. Also, consistent with procedures established prior to 2003, mediators and fact-finders will continue to have confidentiality in the performance of their functions, and may not be required to divulge information or to testify concerning mediation and fact-finding.

ASSEMBLY, No. 333

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblywoman DIANNE C. GOVE
District 9 (Atlantic, Burlington and Ocean)
Assemblyman BRIAN E. RUMPF
District 9 (Atlantic, Burlington and Ocean)

Co-Sponsored by:
Assemblywoman McHose

SYNOPSIS

Eliminates the New Jersey inheritance tax and repeals various parts of the statutory law.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

AN ACT eliminating the inheritance tax and repealing various parts of the statutory law.

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

1. The following are repealed:
R.S.54:33-1 through R.S.54:33-12;
R.S.54:34-1 through R.S.54:34-13;
R.S.54:35-1 through R.S.54:35-22;
R.S.54:36-1 through R.S.54:36-7;
R.S.54:37-1 through R.S.54:37-8;
section 1 of P.L.1940, c.220 (C.54:33-9.1);
section 2 of P.L.1985, c.57 (C.54:33-14);
section 1 of P.L.1955, c.135 (C.54:34-1.1);
section 4 of P.L.1978, c.172 (C.54:35-4.1);
sections 1 and 2 of P.L.1947, c.369 (C.54:35-5.1 and 54:35-5.2);
section 2 of P.L.1956, c.54 (C.54:35-10.1); and
section 1 of P.L.1939, c.122 (C.54:35-23).

2. This act shall take effect immediately.

STATEMENT

This bill repeals the inheritance tax and the applicable sections of law. This legislation would remove the inheritance tax on Class C. and D. beneficiaries. A Class C beneficiary is a brother, sister, son-in-law or daughter-in-law. Class D beneficiaries are all others. The other classes have been exempted over the years.

Section 6.1.1
Resolution designating a ceremonial day, week, or month

ASSEMBLY JOINT RESOLUTION
No. 11

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblywoman JOAN M. VOSS
District 38 (Bergen)
Assemblyman VINCENT J. POLISTINA
District 2 (Atlantic)

Co-Sponsored by:
Assemblymen Johnson, Diegnan and Assemblywoman McHose

SYNOPSIS

Designates second full week in April as "Asperger's Syndrome Awareness Week."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

AJR11 VOSS, POLISTINA
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A JOINT RESOLUTION designating the second full week in April as "Asperger's Syndrome Awareness Week" in New Jersey.

WHEREAS, Asperger's Syndrome is a Pervasive Developmental Disorder often characterized by autistic-like behaviors and marked by deficiencies in social and communication skills; and

WHEREAS, Children with Asperger's Syndrome tend to be self-absorbed, have difficulty making friends, are often preoccupied with their own interests and easily become the victims of teasing or bullying; and

WHEREAS, Although those with Asperger's Syndrome have a better prognosis than those with other Pervasive Developmental Disorders, people with Asperger's Syndrome often continue to demonstrate difficulties in social interactions well into their adult lives and face an increased risk of developing psychosis, depression and anxiety; and

WHEREAS, Early diagnosis of Asperger's Syndrome is extremely important as people with Asperger's Syndrome who are diagnosed and treated early have an increased chance of living independently and leading healthy, productive lives; and

WHEREAS, Although early diagnosis and treatment are paramount, those with the disorder are often misdiagnosed with other neurological disorders such as Attention Deficit and Hyperactivity Disorders (ADD and ADHD) or Obsessive Compulsive Disorder (OCD); and

WHEREAS, If early diagnosis and proper treatment of Asperger's Syndrome are to occur, the public needs to develop an awareness and understanding of the disorder and its symptoms; now, therefore,

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

1. The second full week in April of each year is designated as "Asperger's Syndrome Awareness Week" in the State of New Jersey to foster an awareness and understanding of Asperger's Syndrome.

2. The Governor is requested to annually issue a proclamation calling upon public officials and citizens of this State to observe "Asperger's Syndrome Awareness Week" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

STATEMENT

This joint resolution designates the second full week in April of each year as "Asperger's Syndrome Awareness Week" in order to foster an awareness and understanding of the disorder. The joint resolution also respectfully requests the Governor to issue an annual proclamation calling upon public officials and citizens of this State to observe the week with appropriate activities and programs.

ASSEMBLY JOINT RESOLUTION
No. 19

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblyman MATTHEW W. MILAM
District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Allows prosecutors to introduce evidence of defendant's prior restraining orders in certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

A JOINT RESOLUTION pursuant to P.L.1960, c.52 proposing an amendment to the Rules of Evidence.

WHEREAS, Section 38 of P.L.1960, c.52 (C.2A:84A-38) provides a procedure for the adoption of rules of evidence without necessity for presentation at the Judicial Conference so that their adoption by the Supreme Court may be accelerated; now, therefore,

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

1. Pursuant to section 38 of P.L.1960, c.52 (C.2A:84A-38), the Supreme Court of New Jersey may adopt the amendatory rule specified in this section in the form set out, at any time after this joint resolution has been delivered to and signed by the Governor of the State of New Jersey, by entering an order that the amendment is adopted and by causing true copies of its order of adoption to be delivered to the President of the Senate, the Speaker of the General Assembly, and the Governor, without again presenting the subject matter and a tentative draft of rules at a Judicial Conference.

Rule 404 is amended to read as follows:

Rule 404. Character evidence not admissible to prove conduct; exceptions; other crimes; evidence

(a) *Character evidence generally.* Evidence of a person's character or character trait, including a trait of care or skill or lack thereof, is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion except:

(1) *Character of accused.* Evidence of a pertinent trait of the accused's character offered by the accused, which shall not be excluded under Rule 403, or by the prosecution to rebut the same;

(2) *Character of victim.* Evidence of a pertinent trait of character of the victim of the crime offered by an accused or by the prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) *Character of witness.* Evidence of the character of a witness as provided in Rule 608.

(b) *Other crimes, wrongs, or acts.* (1) Except as otherwise provided by Rule 608 (b), and as provided in subparagraph (2), evidence of other crimes, wrongs, or acts is not admissible to prove the disposition of a person in order to show that such person acted in conformity therewith. Such evidence may be admitted for other purposes, such as proof of motive, opportunity, intent, preparation,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

plan, knowledge, identity or absence of mistake or accident when such matters are relevant to a material issue in dispute.

(2) Evidence of any prior or current final domestic violence restraining order issued against the accused is admissible if the accused is charged with homicide, assault, terroristic threats, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual contact, lewdness, criminal mischief, burglary, criminal trespass, harassment, or stalking, and the prior or current final domestic violence restraining order concerned the victim.

(c) *Character and character trait in issue.* Evidence of a person's character or trait of character is admissible when the character or trait is an element of a claim or defense.

2. The rule set forth in section 1 of this Joint Resolution, if ordered adopted by the Supreme Court, shall take effect on the date set forth in the order of adoption.

3. This joint resolution shall take effect immediately upon signature thereof by the Governor; and the Secretary of State is directed to transmit an authenticated copy forthwith to the Chief Justice of the Supreme Court of New Jersey.

STATEMENT

This joint resolution would amend the Rules of Evidence to permit the prosecution in certain cases to let the jury consider evidence of a defendant's prior and current final domestic violence restraining orders. The resolution would only apply where the defendant is charged with homicide, assault, terroristic threats, kidnapping, criminal restraint, false imprisonment, sexual assault, criminal sexual contact, lewdness, criminal mischief, burglary, criminal trespass, harassment, or stalking, and where the prior or current final domestic violence restraining concerned the victim.

SENATE CONCURRENT RESOLUTION No. 149

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED MARCH 10, 2011

Sponsored by:
Senator MICHAEL J. DOHERTY
District 23 (Warren and Hunterdon)

SYNOPSIS

Applies to Congress for the calling of a Constitutional convention to require balanced federal budget.

CURRENT VERSION OF TEXT

As introduced.

A CONCURRENT RESOLUTION applying to the Congress for the calling of a convention for the sole purpose of proposing an amendment to the Constitution of the United States requiring a balanced federal budget.

WHEREAS, Fiscal discipline and economic integrity have been core principles of American governance; and

WHEREAS, The American people have historically demanded the same prudent, responsible, and intellectually honest financial behavior from their elected representatives as ultimately compels individual behavior; and

WHEREAS, It is the firm conviction of the people of New Jersey that it is wrong to fund the prosperity of the present generation by robbing future Americans of their own; and

WHEREAS, Mortgaging the birthright of our children and grandchildren is a dangerous departure from traditional American values that threatens to permanently undermine the strength of our nation; and

WHEREAS, Our national debt is increasingly owed to the governments of foreign nations, not to the citizens of the United States, thus transferring our wealth to others and making it unavailable to supply the means for America's future growth and prosperity; and

WHEREAS, This generation will bequeath to its children one of the world's most indebted industrial democracies; and

WHEREAS, High federal deficits cause increasingly high payments for debt interest, make future borrowing more costly, reduce investment activity, and thus reduce the size of the future economy; and

WHEREAS, The federal government has for too long relied on revenue increases and borrowing against our future rather than on prudent spending decisions within the limit of current revenues; and

WHEREAS, Lasting control of this nation's budget deficit can be achieved only by addressing the spending habits of our federal government, not by increasing the tax burden under which our citizens already labor; and

WHEREAS, Article V of the Constitution of the United States makes provision for amending the Constitution on the application of two-thirds of the several states, calling a convention for proposing amendments that shall be valid to all intents and purposes if ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress; now, therefore,

BE IT RESOLVED *by the Senate of the State of New Jersey (the General Assembly concurring):*

1. The Legislature of the State of New Jersey makes application

to the Congress of the United States, pursuant to Article V of the Constitution of the United States, to call an Article V amendment convention for the sole, specific and exclusive purpose of proposing an amendment to the Constitution of the United States to achieve and maintain a balanced federal budget.

2. An amendment to the Constitution of the United States to be proposed by a convention for submission to the states for ratification shall:

a. Require that federal outlays for a budget period not exceed the receipts for the same period of time;

b. Impose spending limits on the federal government by setting a base budget year and allowing spending to increase only on account of economic or demographic criteria established in the amendment;

c. Prohibit imposition of new taxes or an increase in existing taxes or existing tax rates;

d. Impose future debt or borrowing limits;

e. Allow for provisions of the amendment to take effect upon ratification or no more than four years thereafter;

f. Allow Congress to enforce and implement the provisions of the amendment by appropriate legislation, and to authorize competent estimates of revenues, outlays, and economic or demographic criteria;

g. Allow flexibility in permitting federal balanced-budget requirements to be waived in any fiscal year in which a declaration of war is in effect, or any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the duly chosen and sworn members of each House of Congress, which becomes law; and

h. Consider a prohibition against federal mandates on states to impose taxes or fees, or any other requirement, unless all costs of compliance are fully and contemporaneously funded.

i. Set extraordinary vote requirements of at least two-thirds for deviations from the limits listed in this section if adopted;

3. If Congress adopts, before 90 days after the legislatures of two-thirds of the states have made application for a convention as described in section 1 of this resolution, an amendment to the Constitution of the United Stated containing provisions similar in subject matter to that contained in section 2 of this resolution, then this application for a convention shall no longer be of any force or effect.

4. With the exception noted in section 3, the application contained in section 1 constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made application for a convention to propose an amendment similar in

subject matter to that contained in section 2 of this resolution.

5. This application for a limited constitutional convention shall be automatically rescinded if the Supreme Court of the United Stated holds that the Congress of the United States cannot call a constitutional convention limited solely and exclusively to the subject requested by two-thirds of the several states.

6. This application shall be deemed null and void, rescinded, and of no effect in the event that a convention called pursuant to this resolution is not limited to the specific and exclusive purpose set forth in sections 1 and 2 of this resolution.

7. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and the President of the Senate and attested by the Clerk of the General Assembly and the Secretary of the Senate, shall be transmitted to the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress elected thereto from New Jersey and the presiding officer of each house of each state legislature in the United States.

STATEMENT

This resolution is intended to serve as an application to the United States Congress, pursuant to Article V of the Constitution of the United States, for the calling a convention for the sole purpose of proposing an amendment to the Constitution requiring a balanced federal budget. Such an amendment is necessary to restore fiscal discipline and economic integrity to our national governance.

Specifically, this resolution urges the Congress to consider a Constitutional balanced budget amendment which: 1) Requires that federal outlays for a budget period not exceed the receipts for the same period of time; 2) Imposes spending limits on the federal government by setting a base budget year and allowing spending to increase only on account of economic or demographic criteria established in the amendment; 3) Prohibits imposition of new taxes or an increase in existing taxes or existing tax rates; 4) Imposes future debt or borrowing limits; 5) Sets extraordinary vote requirements of at least two-thirds for deviations from the limits; 6) Allows for provisions of the amendment to take effect upon ratification or no more than four years thereafter; 7) Allows Congress to enforce and implement the provisions of the amendment by appropriate legislation, and to authorize competent estimates of revenues, outlays, and economic or demographic criteria; 8) Allows flexibility in permitting federal balanced-budget requirements to be waived in any fiscal year in which a declaration of war is in effect, or any fiscal year in which the United States is

engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the duly chosen and sworn members of each House of Congress, which becomes law; and 9) Considers a prohibition against federal mandates on states to impose taxes or fees, or any other requirement, unless all costs of compliance are fully and contemporaneously funded.

Article V of the United States Constitution provides that on the application of the Legislatures of two-thirds of the States, Congress shall call a convention for proposing amendments to the Constitution which will become valid when ratified by the Legislatures of three-fourths of the states or by conventions of three-fourths of the states.

ASSEMBLY CONCURRENT RESOLUTION No. 120

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED MARCH 16, 2010

Sponsored by:
Assemblyman JOHN DIMAIO
District 23 (Warren and Hunterdon)

SYNOPSIS

Amends Joint Rule 42 to provide greater transparency and collective decision-making in the preparation of the annual appropriations bill.

CURRENT VERSION OF TEXT

As introduced.

A CONCURRENT RESOLUTION amending Joint Rule 42.

BE IT RESOLVED *by the General Assembly of the State of New Jersey (the Senate concurring):*

1. Joint Rule 42 is amended to read as follows:

42. a. The chair of the Senate Budget and Appropriations Committee and the chair of the Assembly Budget Committee shall, during their respective committee deliberations on the subject of the Governor's budget recommendations transmitted to the Legislature for the ensuing State fiscal year, [and at least 14 calendar days before the House shall pass an annual appropriations bill, accept resolutions] consider resolutions made by members of either House and the State Treasurer that propose to add, delete or otherwise change revenues, line-items or language provisions in the Governor's budget recommendations, which resolutions shall be filed in writing with either committee [and], shall be identified by the sponsor or sponsors , and shall be available to the public. The sponsor or sponsors of a budget resolution shall set forth in detail therein each revenue, line-item or language provision proposed to be added, deleted or changed and append thereto a statement explaining the proposed changes and the reasons therefor. The sponsor or sponsors of a budget resolution shall append thereto a personal disclosure statement indicating whether the sponsor or the sponsor's family (the member's spouse, domestic partner or civil union partner, children, parents or siblings) have any employment relationship or business relationship with, or receive any compensation from, the intended recipient of any increased funding proposed in a budget resolution. All budget resolutions shall be filed with the committees at least 14 calendar days before the respective House shall pass an annual appropriations bill, except that budget resolutions may be filed with a committee thereafter [in a manner to be determined by the Presiding Officer of each House for that House] only upon a motion approved by all the authorized members of a committee. All resolutions to be filed with either committee shall be delivered to the Legislative Budget and Finance Officer and shall be made available to the public through the Office of Legislative Services.

b. No annual appropriations bill shall be introduced in either House that contains any additions, deletions, or changes in items in the Governor's budget recommendations unless the budget committee of the respective House has, at an open meeting, upon the affirmative vote of a majority of its authorized membership,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

approved each resolution that proposes any of those additions, deletions, or changes in items in the Governor's budget recommendations.

c. The annual appropriations bill that shall pass both Houses shall contain only items proposed in the Governor's budget recommendations and items in budget resolutions filed pursuant to this Joint Rule.

d. Nothing in this Joint Rule shall preclude the [Presiding Officer of either House] budget committee of the respective House, at an open meeting, upon the affirmative vote of a majority of its authorized membership, from adopting limitations that are more restrictive than the procedures set forth in this Joint Rule or requiring additional information be included in resolutions filed in their respective House.

2. This resolution shall take effect immediately.

STATEMENT

This concurrent resolution amends Joint Rule 42 to provide greater transparency and collective decision-making in the preparation of the annual appropriations bill.

The resolution requires that no annual appropriation bill be introduced which includes a change to the Governor's recommendations unless that change, offered through a budget resolution, has been approved by the respective budget committee through an affirmative vote in an open meeting.

The resolution also transfers the authority, from the presiding officer of either House to the respective budget committee, for (1) granting reprieves from the budget resolution filing deadline; and (2) adopting procedural limitations more restrictive than Joint Rule 42. The committees may proceed with such a reprieve or enhanced procedural limitation by an affirmative vote in an open meeting.

Additionally, the resolution adds language to Joint Rule 42 to emphasize that budget resolutions shall be submitted in writing, be considered by the committees, and be available to the public.

SENATE CONCURRENT RESOLUTION No. 33

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Senator ROBERT W. SINGER
District 30 (Burlington, Mercer, Monmouth and Ocean)
Senator THOMAS H. KEAN, JR.
District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:
Senators A.R.Bucco and Scutari

SYNOPSIS

Memorializes President and Congress to provide residents of U.S. Territories same opportunity to participate in health insurance exchanges as residents of the states.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

A CONCURRENT RESOLUTION memorializing the President and Congress of the United States to permit residents of the United States territories to participate in health insurance exchanges.

WHEREAS, Both the United States Senate and House of Representatives are considering health care reform legislation that will make health care coverage more affordable and accessible to all citizens of the United States; and

WHEREAS, The proposed legislation pending in the Senate differs somewhat in scope from that of the House of Representatives, but the legislation in both the Senate and House of Representatives includes provisions to establish one or more health insurance exchanges to facilitate the offering and purchase of health insurance coverage; and

WHEREAS, While it is clear that residents in the 50 states will have the opportunity to participate in health insurance exchanges, it is not clear or certain that participation will be afforded to the residents of the United States Territories, such as Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands; and

WHEREAS, The residents of the Territories are United States citizens, but unless they are explicitly given the same opportunity to participate in health insurance exchanges as provided to the residents of the 50 states, they will be subject to discriminatory treatment under the pending federal health care reform and their opportunities to obtain health care coverage will be unnecessarily limited; now, therefore,

BE IT RESOLVED *by the Senate of the State of New Jersey (the General Assembly concurring):*

1. The President and Congress of the United States are respectfully memorialized to ensure that residents of the United States Territories are afforded the same opportunity to participate in any health insurance exchanges established as part of national health care reform as are residents of the 50 states.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and the Speaker of the General Assembly and attested by the Secretary of the Senate and the Clerk of the General Assembly, shall be transmitted to the President and Vice-President of the United States, the Majority and Minority Leaders of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and every member of Congress elected from this State.

STATEMENT

This concurrent resolution memorializes the President and Congress to ensure that residents of the United States Territories are afforded the same opportunity to participate in any health insurance exchanges established as part of national health care reform as are residents of the 50 states.

Residents of the United States Territories, such as Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands, are United States citizens, but unless they are given the same opportunity to participate in health insurance exchanges, they will be subject to discriminatory treatment under the pending federal health care reform and their opportunities to obtain health care coverage will be unnecessarily limited.

SENATE RESOLUTION No. 16

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)
Senator ROBERT M. GORDON
District 38 (Bergen)

Co-Sponsored by:
Senator Weinberg

SYNOPSIS

Supports continued operation of IZOD Center.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

A SENATE RESOLUTION supporting the continued operation of the IZOD Center in the Meadowlands complex.

WHEREAS, The IZOD Center, a multipurpose indoor arena in the Meadowlands complex, is one of the top grossing venues in the United States and, in 2007, was rated the third highest grossing facility in the country for family shows and concerts and the sixth highest grossing facility in the world for such events; and

WHEREAS, The IZOD Center has received multiple awards for event success, ticket sales, and its management personnel; and

WHEREAS, Concerts, family shows, and miscellaneous events generate significantly more net revenue for the Meadowlands complex than the New Jersey Nets, New Jersey Devils, and Seton Hall basketball; and

WHEREAS, Officials of the New Jersey Sports and Exposition Authority (NJSEA), which operates the IZOD Center, support continued operation of that arena and assert that the recent departure of the New Jersey Devils and Seton Hall basketball have enabled the NJSEA to sign other lucrative shows which have improved the IZOD Center's income from operations by a margin of approximately $5.2 million; and

WHEREAS, The construction of a rail spur connecting the Meadowlands complex with New Jersey Transit's Pascack Valley Line and the Secaucus Transfer Station is well underway and, when it opens, will allow most patrons in New Jersey and New York City to access the IZOD Center directly using mass transportation, likely increasing event attendance; and

WHEREAS, The IZOD Center's renowned position in the entertainment marketplace will be further enhanced when the nearby Xanadu shopping and entertainment complex opens in 2009; and

WHEREAS, Keeping the IZOD Center open is a viable and sound business decision for the State of New Jersey; and

WHEREAS, It is altogether fitting and proper for this House, and in the public interest, to support the continued operation of the IZOD Center in the Meadowlands complex; now, therefore,

BE IT RESOLVED *by the Senate of the State of New Jersey:*

1. This House supports the continued operation of the IZOD Center in the Meadowlands complex.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested to by the Secretary thereof, shall be transmitted to the Governor, the Chairman of the New Jersey Sports and Exposition Authority Board of Commissioners, and the President of the New Jersey Sports and Exposition Authority.

STATEMENT

This resolution would support the continued operation of the IZOD Center. The IZOD Center is a multipurpose indoor arena in the Meadowlands complex, and is consistently rated as one of the top grossing venues in the United States for family shows and concerts and has been rated the sixth highest grossing facility in the world for such events.

Officials of the New Jersey Sports and Exposition Authority (NJSEA), which operates the IZOD Center, support continued operation of the that arena and assert that the recent departure of the Devils and Seton Hall basketball have enabled the NJSEA to sign other lucrative shows which have significantly improved the IZOD Center's income from operations. Additionally, the construction of a rail spur connecting the Meadowlands complex with New Jersey Transit's Pascack Valley Line and the Secaucus Transfer Station is well underway and, when it opens, it will allow most patrons in New Jersey and New York City to access the IZOD Center directly using mass transportation, and will likely further increase event attendance. Furthermore, the IZOD Center's renowned position in the entertainment marketplace will be further enhanced when the Xanadu shopping and entertainment complex opens in 2009. Therefore, the continued operation of the IZOD Center is a viable and sound business decision for the State of New Jersey.

Section 6.1.3
One-House resolution establishing internal House organization or procedure

SENATE RESOLUTION No. 48

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED MARCH 4, 2010

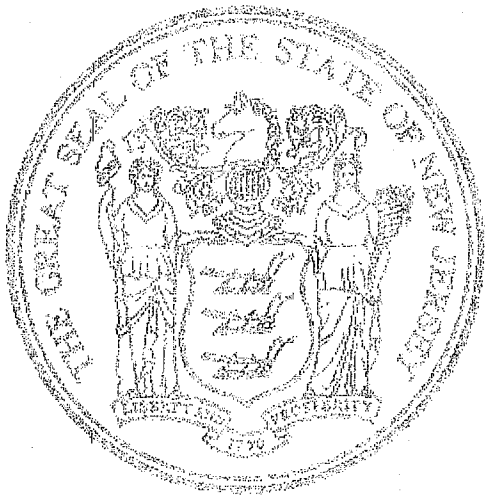
Sponsored by:
Senator STEPHEN M. SWEENEY
District 3 (Salem, Cumberland and Gloucester)
Senator THOMAS H. KEAN, JR.
District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Supplements Senate Rules; concerns "paperless" Senate.

CURRENT VERSION OF TEXT

As introduced.



A SENATE RESOLUTION supplementing the Rules of the Senate to reduce the use of paper copies at meetings of the Senate, Senate committee meetings, and public hearings.

BE IT RESOLVED *by the Senate of the State of New Jersey:*

1. Senate Rule 3:12 is added as follows:

3:12. "Paperless" Senate.

a. The President may take such actions as the President deems advisable to reduce the use of paper at meetings of the Senate in the conduct of its business, including the consideration of bills and resolutions on final reading, and at Senate committee meetings and public hearings through the use of electronic access to bills, resolutions, amendments, and other information.

(1) This electronic access, available to the Senators at their desks, in committee meetings and at public hearings, shall satisfy requirements for paper copies imposed by the Senate Rules.

(2) The constitutional requirement for printed copies of proposed constitutional amendments to be placed on the Senators' desks is not subject to this rule.

b. All original documents traditionally contained in the bill or resolution jackets shall continue to be produced and retained in paper form.

2. This resolution shall take effect immediately.

STATEMENT

This new rule authorizes the Senate President to reduce the use of paper copies at meetings of the Senate, Senate committee meetings, and public hearings through the provision of electronic access by the Senators, at their desks, in committee meetings and at public hearings, to bills, resolutions, amendments, and other information. Electronic access by the Senators, at their desks, shall satisfy Rules-based requirements for paper copies.

Section 9.2.1	*Section 9.3.8*
Basic committee statement	***Committee statement with pre-file paragraph***

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 466

STATE OF NEW JERSEY

DATED: JUNE 14, 2010

The Senate Environment and Energy Committee favorably reports Senate Bill No. 466.

This bill would provide that any incentives made available by the Board of Public Utilities ("BPU") to State residents who purchase and install new, high-efficiency natural gas heating equipment shall also be made available to State residents who purchase and install new, high-efficiency oil heating equipment, having an annual fuel utilization efficiency (AFUE) rating of 85 percent or greater, as a replacement to any existing oil heating equipment. Currently, under the BPU's Clean Energy Program, incentives are only offered to State residents who purchase and install or have installed new, high-efficiency natural gas heating equipment.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

Section 9.2.1	Section 9.3.6
Committee statement to bill with committee amendments	*Assembly committee statement with subheading for committee amendments required by Assembly Rules*

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1692

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 2010

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1692.

As amended, Assembly Bill No. 1692 makes it an unlawful practice for a retail mercantile establishment to advertise merchandise for sale indicating the availability of a manufacturer's rebate by displaying the net price of the item of merchandise, unless either:

- the amount of the manufacturer's rebate is provided to the consumer by the retailer at the time of purchase of the advertised item; or
- the actual selling price of the merchandise is disclosed in the same font and size as the net price and clear and conspicuous notice is provided in the advertisement that a mail-in rebate is required to achieve the lower net price.

An unlawful practice under the Consumer Fraud Act is punishable by a monetary penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. In addition, violations can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

At the sponsor's request, the committee amended the bill to allow retailers to advertise rebates by displaying the net price of the item of merchandise if the actual selling price of the merchandise is disclosed in the same font and size as the net price and clear and conspicuous notice is provided in the advertisement that a mail-in rebate is required to achieve the lower net price.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 80

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2010

The Senate Environment and Energy Committee favorably reports a Senate Committee Substitute for Senate Bill No. 80.

This committee substitute would allow municipalities anywhere in the State outside the Highlands Region (that is, not just in any county that has a municipality in the Highlands Region, as set forth in current law) to voluntarily agree to accommodate receiving zones for development pursuant to the Highlands transfer of development rights (TDR) program.

Under current law, a municipality must have received plan endorsement under the State Planning Act to accommodate receiving zones under the program. The committee substitute would also authorize a municipality to participate if the State Planning Commission, in coordination with the Highlands Water Protection and Planning Council, determines the municipality has designated an appropriate project area as a receiving zone.

Section 9.3.3	*Section 9.3.7*
Committee statement with subheadings for committee amendments and fiscal impact	*Committee statement with subheading for fiscal impact*

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]
ASSEMBLY, No. 2505

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 20, 2011

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2505 (2R), with committee amendments.

As amended, this bill would more closely align the salaries and benefits of officers, employees, and members of independent State authorities and local authorities (collectively, "authorities") with the salaries and benefits of full-time State employees.

The bill requires the chairman of an authority to annually certify, to the Local Finance Board in the case of a local authority or to the State Treasurer in the case of an independent State authority, that the salaries and benefits of its officers, employees, and members do not exceed the limits set forth in the bill, which are as follows:

1) No new executive director of an authority may have compensation higher than the salary of the Governor without the approval of the Local Finance Board or the State Treasurer, as the case may be;

2) No new officer, employee or member of an authority may have compensation higher than the salary of a State Cabinet Officer without the approval of the Local Finance Board or the State Treasurer, as the case may be;

3) Payments by an authority for accumulated unused sick leave, for all current and future officers and employees, may not exceed the greater of $15,000 or whatever they have already accrued on the effective date of the bill, and shall be paid only at the time of retirement. (P.L.2010, c.3 already imposes this limit on officers and employees commencing service with local authorities on or after May 21, 2010);

4) Officers and employees of an authority would have the same paid holidays, 12 in number, as full-time State employees, when current collective bargaining agreements expire;

5) Officers and employees of an authority, not already subject to such statutory requirement, must contribute a minimum of 1.5 percent of base salary for the cost of health care benefits coverage provided by the authority, and new officers and employees must contribute in

retirement a minimum of 1.5 percent of the monthly retirement allowance for health care benefits coverage; and

6) An authority must prohibit the use of six or more consecutive days of accumulated sick leave by any new officer or employee in the year prior to that officer or employee's retirement without a medical necessity verified in writing by a physician. The bill provides for penalties to be imposed on those who violate this prohibition.

The bill defines "compensation" as wages, salaries, commissions, or any other form of remuneration paid to officers or employees for personal services but shall not include supplemental compensation for accumulated unused sick leave.

Also, in granting the approval of the budget of a local authority, the bill requires the Director of the Division of Local Government Services to consider whether the salaries and benefits of the officers and employees of the local authority exceed the limits described above.

This bill would become effective on the 60th day after enactment and be applicable to agreements or contracts entered into or renewed, and salary resolutions adopted, after the effective date.

As amended and reported, this bill is identical to Senate Bill No. 2044, as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

(1) The committee amendments clarify the section of the "Local Authorities Fiscal Control Law" that will require the submission of a certification by a local authority chairman that the local authority budget submitted to the Local Finance Board is in compliance with the limits on compensation imposed by the bill. (2) The amendments also clarify the application of the 1.5% minimum employee contribution rate to the costs of health care benefits coverage, to avoid duplication of the same requirement applicable to certain authorities under P.L.2010, c.2. (3) The amendments also clarify and extend to all local and State independent authorities the limit for payment at retirement of accumulated unused sick leave of the greater of $15,000 or whatever current and future officers and employees have already accrued on the effective date of the bill, and makes the limit applicable to all current and future officers and employees.

FISCAL IMPACT:

In the Legislative Fiscal Estimate for the identical bill the Office of Legislative Services (OLS) notes that it does not have sufficient information concerning the amounts of compensation payable, or the policies on paid leave and sick leave compensation applicable, to State and local authorities' employees, from which to project the amount or timing of savings under this legislation. The OLS notes that in addition to savings that the authorities may realize from reductions in their employees' salaries, the (salary-based) pension liability of the

Public Employees' Retirement System (PERS) will also be reduced. This reduction in liability will in turn be reflected in the employer contribution rate payable by PERS local government employers, with whom both State and local authorities are grouped for actuarial purposes. The OLS also notes that the terms and duration of collective bargaining agreements and employment contracts in effect could limit any projected short-term savings. It is not known, at this time, how many authorities are subject to compensation and benefit agreements and executive employment contracts that would prevail over the provisions contained in this bill.

Section 9.3.6
Senate committee statement with committee amendments (no subheading)

SENATE LAW AND PUBLIC SAFETY AND VETERANS' AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1655

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 2, 2008

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 1655.

As amended and reported by the committee, this bill requires individuals who use a bicycle to deliver food or goods for a commercial business to wear a bicycle helmet. Under current law, no such provisions exist. This bill also updates the helmet standard to the Consumer Product Safety Commission standard, as the standard referenced in the current law has been withdrawn.

The committee amendments remove from the bill the requirement that these individuals use a bicycle equipped with a lamp and reflectors during daytime. Current law (R.S.39:4-10) requires any bicycle being used at nighttime to be equipped with a lamp and reflectors. The amendments also provide that violators of the helmet provision are to be fined a maximum of $25 for a first offense and a maximum of $100 for a subsequent offense.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1692

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 2010

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1692.

As amended, Assembly Bill No. 1692 makes it an unlawful practice for a retail mercantile establishment to advertise merchandise for sale indicating the availability of a manufacturer's rebate by displaying the net price of the item of merchandise, unless either:

- the amount of the manufacturer's rebate is provided to the consumer by the retailer at the time of purchase of the advertised item; or
- the actual selling price of the merchandise is disclosed in the same font and size as the net price and clear and conspicuous notice is provided in the advertisement that a mail-in rebate is required to achieve the lower net price.

An unlawful practice under the Consumer Fraud Act is punishable by a monetary penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. In addition, violations can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

At the sponsor's request, the committee amended the bill to allow retailers to advertise rebates by displaying the net price of the item of merchandise if the actual selling price of the merchandise is disclosed in the same font and size as the net price and clear and conspicuous notice is provided in the advertisement that a mail-in rebate is required to achieve the lower net price.

MINORITY STATEMENT
By Assemblyman DiCicco

While I feel strongly about providing information to the consumer, A–1692 will harm the business community and in the end may provide the consumer with even less information. By requiring our recession battered businesses to provide information at the point of sale regarding a manufacturer's rebate we are adding one more burden to that business. Small businesses which provide 85% of the employment in the state with limited technology will not be equipped to provide the rebate information as intended in the bill. In the end, this bill could put small businesses at a competitive disadvantage forcing them to either lay off employees or stop providing rebates as have businesses in Connecticut.

For these reasons, I must oppose the bill in its present form.

Section 9.5.1

Drafter's version of committee amendments to a resolution amending the WHEREAS clauses

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BPU# SEN_0326.doc
EA 133
SR 091
TR 091

SENATE ENVIRONMENT AND ENERGY COMMITTEE

AMENDMENTS

to

SENATE RESOLUTION No. 83

(Sponsored by Senator RICE)

REPLACE PREAMBLE TO READ:

WHEREAS, Generations of New Jersey residents have enjoyed access to safe, reliable, and accessible public water, but the lack of investment in critical water systems relied upon to bring clean, accessible water to communities and the aging public water infrastructure, including the growing number of old pipes existing 100 years or more and nearing or passing the end of the expected life span, pose a significant threat to the quality, safety, reliability, and accessibility of public water; and

WHEREAS, In New Jersey, water is widely viewed to be a public trust to be managed by the public sector for the common good of the public at large; and

WHEREAS, According to Food & Water Watch, a nonprofit organization advocating for healthy, safe food and access to safe and affordable drinking water, nationally there is an annual shortfall of $22 billion between the amount of money required for necessary water system repairs and the current amount of federal funding available; and

WHEREAS, New Jersey has faced a particular hardship due to the decrease in federal funding for water infrastructure, and Food & Water Watch estimates that the State's publicly owned wastewater systems currently need $4.5 billion to protect water quality and public health; and

WHEREAS, In 2010, New Jersey received $84 million in federal funding, which is only enough to finance less than 2% of the $4.5 billion in necessary spending; and

WHEREAS, The lack of funding will impact future water quality as deteriorating pipes and treatment facilities may result in lower quality water, '[and] at the same time that' increased funding is necessary to pay for improved testing and treatment of the escalating number of contaminants that pose a risk to water supplies; and

Section 9.5.1

Drafter's version of committee amendments to a resolution amending the WHEREAS clauses

WHEREAS, Currently no federal funding is available to update or repair water infrastructure in schools, and with scarce funds available, schools have very limited resources to test the water or make necessary repairs to aging water systems; and

WHEREAS, Small utilities often have a small staff, which may pose challenges to analyzing the system and developing a plan to ensure that it is meeting the federal standards in the "Clean Water Act" and "Safe Drinking Water Act"; and

WHEREAS, Many pollutants are picked up and carried by stormwater runoff that runs into [1][the sewer system before being treated and then] storm sewers and is[1] discharged back into surface waters [1]without treatment[1] , thereby driving up the costs of treating drinking water; and

WHEREAS, Some of the demands on stormwater and sewer systems can be alleviated through the effective use of green infrastructure, such as green roofs, rain gardens, rain barrels, porous construction materials and other projects, and green infrastructure are cost effective measures that can prevent runoff and rainwater from entering sewers and straining existing infrastructure; and

WHEREAS, New Jersey is facing historic unemployment levels, and investing in public drinking water and wastewater systems will create well-paid, career track jobs [1][with] that meet high[1] standards for wages and benefits; and

WHEREAS, The reductions in federal funding [1][towards] for[1] water infrastructure are leading communities across the State to be pressured into leases on, and the privatization of, water resources, in order to close budget holes, despite the inability of these actions to sustainably support local budgets; and

WHEREAS, Public-public partnerships between municipalities can improve public services, reduce costs, and allow communities to retain local control, while water privatization can result in the loss of local control, serious environmental problems, and greater long-term costs; and

WHEREAS, It is altogether fitting and proper and in the public interest for this Legislature to encourage the United States Congress to enact legislation protecting the public interest and ensure that municipalities have adequate resources to maintain public drinking water and wastewater infrastructure, and avoid the potential pitfalls of privatizing or leasing these systems; now, therefore,

REPLACE SECTION 2 TO READ:

2. This House further respectfully urges Congress to enact legislation to: (1) provide an adequate level of federal funding to close funding gaps [1]for water and sewer infrastructure needs[1]; (2) dedicate federal funding to renew America's water infrastructure, and prevent these funds from being used for other purposes; (3) restrict eligibility for the Drinking Water State Revolving Fund to publicly owned, operated, and managed systems, or to municipalities [1][towards the]

Section 9.5.1

Drafter's version of committee amendments to a resolution amending the WHEREAS clauses

Amendments to Senate Resolution No. 83
Page 3

to[1] purchase [1][of][1] privately owned water systems or [1][in order][1] to pay for the canceling of contracts with privately managed and operated systems; (4) provide grants for workforce development to offer targeted training and hiring of local residents, low-skilled workers, and low-income residents, to ensure that all communities receive training in the management and operation of public drinking water and wastewater systems and [1]enjoy[1] the benefits of employment in this sector; (5) allocate federal funding to support a grant program for schools to provide safe, affordable tap water to students; (6) dedicate a portion of the Drinking Water State Revolving Fund and Clean Water State Revolving Fund to green infrastructure projects [1][and][1] to[1] alleviate stress on stormwater infrastructure; (7) provide funding to clean up and mitigate nonpoint source pollution from industrial, urban, and agricultural runoff; (8) provide funding to large systems regularly serving populations of 100,000 of more, and by reserving funding for large systems, further benefitting both large and small systems; (9) support grants to small communities for technological support necessary to meet the requirements of federal laws and regulations concerning surface and drinking water, and specifically dedicating some funds to Native American communities; and (10) provide funds to systems eligible for the Drinking Water State Revolving Fund to facilitate public-public partnerships to meet technological, personnel, and equipment needs.

Section 9.5.1
Official version of committee amendments to a resolution amending the WHEREAS clauses

[First Reprint]

SENATE RESOLUTION No. 83

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED SEPTEMBER 20, 2010

Sponsored by:
Senator RONALD L. RICE
District 28 (Essex)

SYNOPSIS

Memorializes Congress to renew America's water infrastructure by creating dedicated fund to upgrade and repair aging public water and wastewater systems.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on May 19, 2011, with amendments.

A SENATE RESOLUTION memorializing Congress to renew America's water infrastructure by creating a dedicated fund to upgrade and repair aging water and wastewater systems.

WHEREAS, Generations of New Jersey residents have enjoyed access to safe, reliable, and accessible public water, but the lack of investment in critical water systems relied upon to bring clean, accessible water to communities and the aging public water infrastructure, including the growing number of old pipes existing 100 years or more and nearing or passing the end of the expected life span, pose a significant threat to the quality, safety, reliability, and accessibility of public water; and

WHEREAS, In New Jersey, water is widely viewed to be a public trust to be managed by the public sector for the common good of the public at large; and

WHEREAS, According to Food & Water Watch, a nonprofit organization advocating for healthy, safe food and access to safe and affordable drinking water, nationally there is an annual shortfall of $22 billion between the amount of money required for necessary water system repairs and the current amount of federal funding available; and

WHEREAS, New Jersey has faced a particular hardship due to the decrease in federal funding for water infrastructure, and Food & Water Watch estimates that the State's publicly owned wastewater systems currently need $4.5 billion to protect water quality and public health; and

WHEREAS, In 2010, New Jersey received $84 million in federal funding, which is only enough to finance less than 2% of the $4.5 billion in necessary spending; and

WHEREAS, The lack of funding will impact future water quality as deteriorating pipes and treatment facilities may result in lower quality water, **[1][and]** <u>at the same time that</u>**[1]** increased funding is necessary to pay for improved testing and treatment of the escalating number of contaminants that pose a risk to water supplies; and

WHEREAS, Currently no federal funding is available to update or repair water infrastructure in schools, and with scarce funds available, schools have very limited resources to test the water or make necessary repairs to aging water systems; and

WHEREAS, Small utilities often have a small staff, which may pose challenges to analyzing the system and developing a plan to ensure that it is meeting the federal standards in the "Clean Water Act" and "Safe Drinking Water Act"; and

WHEREAS, Many pollutants are picked up and carried by stormwater runoff that runs into **[1][**the sewer system before being treated and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SEN committee amendments adopted May 19, 2011.

then] storm sewers and is[1] discharged back into surface waters [1]without treatment[1], thereby driving up the costs of treating drinking water; and

WHEREAS, Some of the demands on stormwater and sewer systems can be alleviated through the effective use of green infrastructure, such as green roofs, rain gardens, rain barrels, porous construction materials and other projects, and green infrastructure are cost effective measures that can prevent runoff and rainwater from entering sewers and straining existing infrastructure; and

WHEREAS, New Jersey is facing historic unemployment levels, and investing in public drinking water and wastewater systems will create well-paid, career track jobs [1][with] that meet high[1] standards for wages and benefits; and

WHEREAS, The reductions in federal funding [1][towards] for[1] water infrastructure are leading communities across the State to be pressured into leases on, and the privatization of, water resources, in order to close budget holes, despite the inability of these actions to sustainably support local budgets; and

WHEREAS, Public-public partnerships between municipalities can improve public services, reduce costs, and allow communities to retain local control, while water privatization can result in the loss of local control, serious environmental problems, and greater long-term costs; and

WHEREAS, It is altogether fitting and proper and in the public interest for this Legislature to encourage the United States Congress to enact legislation protecting the public interest and ensure that municipalities have adequate resources to maintain public drinking water and wastewater infrastructure, and avoid the potential pitfalls of privatizing or leasing these systems; now, therefore,

BE IT RESOLVED *by the Senate of the State of New Jersey:*

1. This House memorializes the United States Congress to enact legislation to renew America's water infrastructure by creating a dedicated fund to upgrade and repair the nation's aging water and wastewater systems to ensure that the nation has safe, clean and affordable water for all.

2. This House further respectfully urges Congress to enact legislation to: (1) provide an adequate level of federal funding to close funding gaps [1]for water and sewer infrastructure needs[1]; (2) dedicate federal funding to renew America's water infrastructure, and prevent these funds from being used for other purposes; (3) restrict eligibility for the Drinking Water State Revolving Fund to publicly owned, operated, and managed systems, or to municipalities [1][towards the] to[1] purchase [1][of][1] privately owned water systems or [1][in order][1] to pay for the canceling of contracts

with privately managed and operated systems; (4) provide grants for workforce development to offer targeted training and hiring of local residents, low-skilled workers, and low-income residents, to ensure that all communities receive training in the management and operation of public drinking water and wastewater systems and '<u>enjoy</u>' the benefits of employment in this sector; (5) allocate federal funding to support a grant program for schools to provide safe, affordable tap water to students; (6) dedicate a portion of the Drinking Water State Revolving Fund and Clean Water State Revolving Fund to green infrastructure projects '**[**and**]** <u>to</u>' alleviate stress on stormwater infrastructure; (7) provide funding to clean up and mitigate nonpoint source pollution from industrial, urban, and agricultural runoff; (8) provide funding to large systems regularly serving populations of 100,000 of more, and by reserving funding for large systems, further benefitting both large and small systems; (9) support grants to small communities for technological support necessary to meet the requirements of federal laws and regulations concerning surface and drinking water, and specifically dedicating some funds to Native American communities; and (10) provide funds to systems eligible for the Drinking Water State Revolving Fund to facilitate public-public partnerships to meet technological, personnel, and equipment needs.

3. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to the President of the United States, the Majority and Minority leaders of the United States Senate, the Speaker and Majority and Minority leaders of the United States House of Representatives, and each member of Congress elected from this State.

Section 9.5.1
Drafter's version of committee amendments:
Section 1: amending an existing section of the bill
Sections 6 and 7: inserting new amendatory sections

6/17/2011 jlh
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BPU# SEN_0341.doc
EA 133
SR 091
TR 091

SENATE ENVIRONMENT AND ENERGY COMMITTEE

AMENDMENTS

to

SENATE, No. 2888

(Sponsored by Senator SMITH)

REPLACE TITLE TO READ:

AN ACT concerning [1][taxation of][1] commercial [1]and non-commercial[1] renewable energy systems [1][and] ,[1] amending P.L.2008, c.90 [1]and P.L.1985, c.85, and repealing P.L.1977, c.256[1] .

REPLACE SECTION 1 TO READ:

1. Section 1 of P.L.2008, c.90 (C.54:4-3.113a) is amended to read as follows:

1. As used in this act:

"Board of appeals" means the construction board of appeals established under section 9 of P.L.1975, c.217 (C.52:27D-127), having jurisdiction in the municipality in which the property is located.

"Commercial renewable energy system" means a system producing renewable energy onsite for uses other than to provide the electrical, heating, cooling, or general energy needs of an onsite residential, commercial, industrial, or mixed use building [1], but shall not include an on-site generation facility as defined in section 3 of P.L.1999, c.23 (C.48:3-51)[1] .

"Commissioner" means the Commissioner of Community Affairs.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Local enforcing agency" means the enforcing agency in any municipality provided for under the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and rules and regulations adopted pursuant thereto.

"Renewable energy" means: (1) electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, methane gas from landfills, a resource recovery facility, a hydropower facility or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner, and provided further that the Commissioner of Environmental Protection has determined that the resource recovery facility, hydropower facility or biomass facility, as appropriate, meets

the highest environmental standards and minimizes any impacts to the environment and local communities; and (2) energy produced from solar thermal or geothermal technologies.

[["Renewable]] "Non-commercial renewable energy system" means any equipment that is part of, or added to, a residential, commercial, industrial, or mixed use building as an accessory use, and that produces renewable energy onsite to provide all or a portion of the electrical, heating, cooling, or general energy needs of that building.
(cf: P.L.2008, c.90, s.1)

INSERT NEW SECTION 6 TO READ:

[1]6. Section 1 of P.L.1985, c.85 (C.52:27D-130.2) is amended to read as follows:

1. [[No person shall be required to pay a municipal fee or charge in]] In order to secure a construction permit for the installation or alteration of a [[solar]] non-commercial renewable energy [[heating or cooling]] system in any building or part thereof, no person shall be required to pay a municipal fee or charge in excess of the cost of review and issuance of the permit by the municipality. As used in [[this act]] P.L.1985, c.85 (C.52:27D-130.2 et seq.), "[[solar]] non-commercial renewable energy [[heating and cooling]] system" means a system which is certified as eligible for an exemption from property taxation by [[the Department of Community Affairs]] the local enforcing agency pursuant to [[P.L.1977, c.256 (C.54:4-3.113 et seq.)]] section 4 of P.L.2008, c.90 (C.54:4-3.113d).[1]
(cf: P.L.1985, c.85, s.1)

INSERT NEW SECTION 7 TO READ:

[1]7. Section 2 of P.L.1985, c.85 (C.52:27D-130.3) is amended to read as follows:

2. The installation or alteration of a solar energy heating or cooling system in any building shall not be subject to any fee, including any surcharge or training fee, imposed by any department or agency of State government pursuant to any law, or rule or regulation. As used in this section, "solar energy heating or cooling system" means a solar energy heating or cooling system that is certified as eligible for an exemption from property taxation as a commercial renewable energy system or non-commercial renewable energy system by the local enforcing agency pursuant to section 4 of P.L.2008, c.90 (C.54:4-3.113d).[1]
(cf: P.L.1985, c.85, s.2)

INSERT NEW SECTION 8 TO READ:

[1]8. P.L.1977, c.256 (C.54:4-3.113 et al.) is repealed.[1]

RENUMBER SECTION 6 AS SECTION 9

REPLACE SYNOPSIS TO READ:

Establishes uniform real property taxation for commercial renewable energy systems and limits municipal construction permit fees for non-commercial renewable energy systems.

Section 9.5.1
Official version of bill with committee amendments:
Section 1: amending an existing section of the bill
Sections 6 and 7: inserting new amendatory sections

[First Reprint]

SENATE, No. 2888

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED MAY 19, 2011

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)

SYNOPSIS

Establishes uniform real property taxation for commercial renewable energy systems and limits municipal construction permit fees for non-commercial renewable energy systems.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on June 20, 2011, with amendments.

AN ACT concerning [1][taxation of][1] commercial [1]and non-commercial[1] renewable energy systems [1][and] ,[1] amending P.L.2008, c.90 [1]and P.L.1985, c.85, and repealing P.L.1977, c.256[1] .

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

1. Section 1 of P.L.2008, c.90 (C.54:4-3.113a) is amended to read as follows:

1. As used in this act:

"Board of appeals" means the construction board of appeals established under section 9 of P.L.1975, c.217 (C.52:27D-127), having jurisdiction in the municipality in which the property is located.

"Commercial renewable energy system" means a system producing renewable energy onsite for uses other than to provide the electrical, heating, cooling, or general energy needs of an onsite residential, commercial, industrial, or mixed use building [1], but shall not include an on-site generation facility as defined in section 3 of P.L.1999, c.23 (C.48:3-51)[1] .

"Commissioner" means the Commissioner of Community Affairs.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Local enforcing agency" means the enforcing agency in any municipality provided for under the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and rules and regulations adopted pursuant thereto.

"Renewable energy" means: (1) electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, methane gas from landfills, a resource recovery facility, a hydropower facility or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner, and provided further that the Commissioner of Environmental Protection has determined that the resource recovery facility, hydropower facility or biomass facility, as appropriate, meets the highest environmental standards and minimizes any impacts to the environment and local communities; and (2) energy produced from solar thermal or geothermal technologies.

[**"Renewable**] "Non-commercial renewable energy system" means any equipment that is part of, or added to, a residential, commercial, industrial, or mixed use building as an accessory use,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SEN committee amendments adopted June 20, 2011.

and that produces renewable energy onsite to provide all or a portion of the electrical, heating, cooling, or general energy needs of that building.
(cf: P.L.2008, c.90, s.1)

2. Section 2 of P.L.2008, c.90 (C.54:4-3.113b) is amended to read as follows:

2. a. Property that has been certified by a local enforcing agency as a non-commercial renewable energy system shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes. The owner of real property which is equipped with a certified non-commercial renewable energy system may have exempted annually from the assessed valuation of the real property a sum equal to the assessed valuation of the real property with the non-commercial renewable energy system included, minus the assessed valuation of the real property without the non-commercial renewable energy system included.

b. (1) Property that has been certified by a local enforcing agency as a commercial renewable energy system shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes except as otherwise provided pursuant to paragraph (2) of this subsection.

(2) The owner of real property on which a certified commercial renewable energy system is located shall have an assessed value equal to the assessed valuation of the real property without the commercial renewable energy system included, with the additional tax due for the commercial renewable energy system calculated as follows: $7,000 for each 1,000 kilowatts of direct current capacity, or its equivalent, for the first year of commercial operation, with the amount due increasing by one percent in each subsequent year of commercial operation of the commercial renewable energy system and until the decommissioning of the commercial renewable energy system. The alternative assessment pursuant to this paragraph shall be paid in the same manner as taxation under chapter 4 of Title 54 of the Revised Statutes. The owner of the real property on which a certified commercial renewable energy system is located shall provide to the assessor of the taxing district in which the commercial renewable energy system is located documentation of the nameplate capacity of the commercial renewable energy system.
(cf: P.L.2008, c.90, s.2)

3. Section 4 of P.L.2008, c.90 (C.54:4-3.113d) is amended to read as follows:

4. The local enforcing agency, when requested for a certification pursuant to [this act] P.L.2008, c.90 (C.54:4-3.113a et seq.), shall certify a system as being a non-commercial renewable energy system or a commercial renewable energy system, as appropriate, whenever the local enforcing agency finds that the

system installed was designed primarily as a non-commercial renewable energy system or a commercial renewable energy system, as appropriate, in accordance with rules and regulations adopted by the commissioner pursuant to subsection b. of section 7 of [this act] P.L.2008, c.90 (C.54:4-3.113g). The certificate shall contain information identifying the non-commercial renewable energy system or the commercial renewable energy system, as appropriate, and the cost thereof and shall be in such form and detail as the director shall prescribe. The certificate shall be provided to the applicant therefor, with a copy retained on file by the local enforcing agency, and a copy of the certificate shall be sent to the assessor of the taxing district in which the property containing the non-commercial renewable energy system or commercial renewable energy system, as appropriate, is located and has been installed. The exemption from taxation for the non-commercial renewable energy system or commercial renewable energy system, as appropriate, shall become effective for the tax year following the year in which certification has been granted and thereafter during its use primarily for such purposes.
(cf: P.L.2008, c.90, s.4)

4. Section 5 of P.L.2008, c.90 (C.54:4-3.113e) is amended to read as follows:

5. The local enforcing agency, after giving notice to the holder of a [renewable energy system] certificate for a non-commercial renewable energy system or a commercial renewable energy system, as appropriate , may revoke a certificate whenever any of the following appears or occurs:

a. the certificate was obtained by fraud or misrepresentation;

b. the claimant for tax exemption has failed substantially to proceed with the construction, reconstruction, installation or acquisition of a non-commercial renewable energy system or commercial renewable energy system, as appropriate ;

c. in the case of a non-commercial renewable energy system, the structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of providing renewable energy to provide all or a portion of the electrical, heating, cooling, or general energy needs of the structure and is being used for a different primary purpose; [or]

d. in the case of a non-commercial renewable energy system, the claimant for the tax exemption has so departed from the equipment, design and construction previously certified by the local enforcing agency that, in the opinion of the local enforcing agency, the non-commercial renewable energy system is not suitable and reasonably adequate for the purpose of using renewable energy to provide all or a portion of the electrical, heating, cooling, or general energy needs of the structure ; or

e. in the case of a commercial renewable energy system, the structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of providing renewable energy for use offsite or the claimant for the tax exemption has so departed from the equipment, design and construction previously certified by the local enforcing agency that, in the opinion of the local enforcing agency, the commercial renewable energy system is not suitable and reasonably adequate for the purpose of producing renewable energy for use offsite.

(cf: P.L.2008, c.90, s.5)

5. Section 7 of P.L.2008, c.90 (C.54:4-3.113g) is amended to read as follows:

7. a. The director, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt any rules and regulations necessary for the proper certification of any tax exemption pursuant to [this act] P.L.2008, c.90 (C.54:4-3.113a et seq.), the form of any certificate to be issued, [and] any other matter related to the exemption , and any documentation necessary to determine the capacity of a commercial renewable energy system for the purposes of paragraph (2) of subsection b. of section 2 of P.L.2008, c.90 (C.54:4-3.113b).

b. The commissioner, in consultation with the Board of Public Utilities, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), standards with respect to the technical sufficiency of non-commercial renewable energy systems and commercial renewable energy systems for the purposes of qualification for exemption pursuant to P.L.2008, c.90 (C.54:4-3.113a et seq.).

(cf: P.L.2008, c.90, s.7)

[1]6. Section 1 of P.L.1985, c.85 (C.52:27D-130.2) is amended to read as follows:

1. [No person shall be required to pay a municipal fee or charge in] In order to secure a construction permit for the installation or alteration of a [solar] non-commercial renewable energy [heating or cooling] system in any building or part thereof, no person shall be required to pay a municipal fee or charge in excess of the cost of review and issuance of the permit by the municipality. As used in [this act] P.L.1985, c.85 (C.52:27D-130.2 et seq.), "[solar] non-commercial renewable energy [heating and cooling] system" means a system which is certified as eligible for an exemption from property taxation by [the Department of Community Affairs] the local enforcing agency pursuant to [P.L.1977, c.256 (C.54:4-3.113 et seq.)] section 4 of P.L.2008, c.90 (C.54:4-3.113d).[1]

(cf: P.L.1985, c.85, s.1)

[1]7. Section 2 of P.L.1985, c.85 (C.52:27D-130.3) is amended to read as follows:

2. The installation or alteration of a solar energy heating or cooling system in any building shall not be subject to any fee, including any surcharge or training fee, imposed by any department or agency of State government pursuant to any law, or rule or regulation. As used in this section, "solar energy heating or cooling system" means a solar energy heating or cooling system that is certified as eligible for an exemption from property taxation as a commercial renewable energy system or non-commercial renewable energy system by the local enforcing agency pursuant to section 4 of P.L.2008, c.90 (C.54:4-3.113d).[1]

(cf: P.L.1985, c.85, s.2)

[1]8. P.L.1977, c.256 (C.54:4-3.113 et al.) is repealed.[1]

[1][6.] 9.[1] This act shall take effect immediately.

Section 9.5.1
Drafter's version of committee amendments (excerpt): Section 2: inserting a new supplemental section

1/20/2011 rg BPU# _____
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Suggested allocation: Secs. 2 and 3: C.2A:4A-71.1 et seq. SR 103
TR 103

ASSEMBLY JUDICIARY COMMITTEE

AMENDMENTS

to

ASSEMBLY, No. 1561

(Sponsored by Assemblywoman LAMPITT)

REPLACE TITLE TO READ:

AN ACT creating a diversionary program for certain juveniles[1], amending P.L.1982, c.81[1] and supplementing Title 2A of the New Jersey Statutes.

INSERT NEW SECTION 1 TO READ:

[1]1. Section 2 of P.L.1982, c.81 (C.2A:4A-71) is amended to read as follows:

2. Review and processing of complaints. a. The jurisdiction of the court in any complaint filed pursuant to section 11 of P.L. 1982, c. 77 (C. 2A:4A-30) shall extend to the juvenile who is the subject of the complaint and his parents or guardian.

b. Every complaint shall be reviewed by court intake services for recommendation as to whether the complaint should be dismissed, diverted, or referred for court action. Where the complaint alleges a crime which, if committed by an adult, would be a crime of the first, second, third or fourth degree, or alleges a repetitive disorderly persons offense or any disorderly persons offense defined in chapter 35 or chapter 36 of Title 2C, the complaint shall be referred for court action, unless the prosecutor otherwise consents to diversion. Court intake services shall consider the following factors in determining whether to recommend diversion:

(1) The seriousness of the alleged offense or conduct and the circumstances in which it occurred;

(2) The age and maturity of the juvenile;

(3) The risk that the juvenile presents as a substantial danger to others;

(4) The family circumstances, including any history of drugs, alcohol abuse or child abuse on the part of the juvenile, his parents or guardian;

(5) The nature and number of contacts with court intake services and the court that the juvenile or his family have had;

(6) The outcome of those contacts, including the services to which the juvenile or family have been referred and the results of those referrals;

(7) The availability of appropriate services outside referral to the court;

(8) Any recommendations expressed by the victim or complainant, or arresting officer, as to how the case should be resolved; [and]

(9) Any recommendation expressed by the county prosecutor; and

(10) The offense alleged is an eligible offense pursuant to section 3 of P.L. , c. (C.)(pending before the Legislature as this bill) and the juvenile is eligible to participate in the educational reform program set forth section 3 of P.L. ,c. (C.)(pending before the Legislature as this bill).[1]

(cf: P.L.1988, c.44, s.17)

INSERT NEW SECTION 2 TO READ:

[1]2. (New section) Where a complaint against a juvenile pursuant to section 11 of P.L.1982, c.77 (C.2A:4A-30) alleges that the juvenile has committed an eligible offense satisfying the criteria set forth in subsection c. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) and the court has approved diversion of the complaint pursuant to section 4 of P.L.1982, c.81 (C.2A:4A-73) the resolution of the complaint shall include participation in an educational program set forth in 3 of P.L. , c. (C.) (pending before the Legislature as this bill).[1]

Section 9.5.1
Official version of bill with committee amendments (excerpt):
Section 2: inserting a new supplemental section

[First Reprint]

ASSEMBLY, No. 1561

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblywoman PAMELA R. LAMPITT
District 6 (Camden)
Assemblywoman CELESTE M. RILEY
District 3 (Salem, Cumberland and Gloucester)
Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)

Co-Sponsored by:
Assemblyman McKeon

SYNOPSIS

Creates diversionary program for juveniles who are criminally charged for "sexting" or posting sexual images.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on January 24, 2011, with amendments.

(Sponsorship Updated As Of: 2/11/2011)

Section 9.5.1
Official version of bill with committee amendments (excerpt):
Section 2: inserting a new supplemental section

AN ACT creating a diversionary program for certain juveniles[1], amending P.L.1982, c.81[1] and supplementing Title 2A of the New Jersey Statutes.

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

[1]1. Section 2 of P.L.1982, c.81 (C.2A:4A-71) is amended to read as follows:

2. Review and processing of complaints. a. The jurisdiction of the court in any complaint filed pursuant to section 11 of P.L.1982, c.77 (C. 2A:4A-30) shall extend to the juvenile who is the subject of the complaint and his parents or guardian.

b. Every complaint shall be reviewed by court intake services for recommendation as to whether the complaint should be dismissed, diverted, or referred for court action. Where the complaint alleges a crime which, if committed by an adult, would be a crime of the first, second, third or fourth degree, or alleges a repetitive disorderly persons offense or any disorderly persons offense defined in chapter 35 or chapter 36 of Title 2C, the complaint shall be referred for court action, unless the prosecutor otherwise consents to diversion. Court intake services shall consider the following factors in determining whether to recommend diversion:

(1) The seriousness of the alleged offense or conduct and the circumstances in which it occurred;

(2) The age and maturity of the juvenile;

(3) The risk that the juvenile presents as a substantial danger to others;

(4) The family circumstances, including any history of drugs, alcohol abuse or child abuse on the part of the juvenile, his parents or guardian;

(5) The nature and number of contacts with court intake services and the court that the juvenile or his family have had;

(6) The outcome of those contacts, including the services to which the juvenile or family have been referred and the results of those referrals;

(7) The availability of appropriate services outside referral to the court;

(8) Any recommendations expressed by the victim or complainant, or arresting officer, as to how the case should be resolved; **[**and**]**

(9) Any recommendation expressed by the county prosecutor; and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AJU committee amendments adopted January 24, 2011.

Section 9.5.1
Official version of bill with committee amendments (excerpt):
Section 2: inserting a new supplemental section

(10) The offense alleged is an eligible offense pursuant to section 3 of P.L. , c. (C.)(pending before the Legislature as this bill) and the juvenile is eligible to participate in the educational reform program set forth section 3 of P.L. ,c. (C.) (pending before the Legislature as this bill).[1]

(cf: P.L. 1988, c.44, s.17)

[1]2. (New section) Where a complaint against a juvenile pursuant to section 11 of P.L.1982, c.77 (C.2A:4A-30) alleges that the juvenile has committed an eligible offense satisfying the criteria set forth in subsection c. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) and the court has approved diversion of the complaint pursuant to section 4 of P.L.1982, c.81 (C.2A:4A-73) the resolution of the complaint shall include participation in an educational program set forth in 3 of P.L. , c. (C.) (pending before the Legislature as this bill).[1]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1918

STATE OF NEW JERSEY

213th LEGISLATURE

ADOPTED JUNE 5, 2008

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)

SYNOPSIS

Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of cases of failure to provide workers' compensation coverage.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Labor Committee.

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L.1998, c.21.

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

1. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to read as follows:

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.

(cf: P.L.1998, c.21, s.34)

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor.

3. This act shall take effect immediately.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Section 9.5.7
Pre-filed bill introduced pending technical review
(section 2 needs to be updated to reflect recent enactment(s))

ASSEMBLY, No. 330

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblywoman DIANNE C. GOVE
District 9 (Atlantic, Burlington and Ocean)
Assemblyman BRIAN E. RUMPF
District 9 (Atlantic, Burlington and Ocean)

Co-Sponsored by:
Assemblyman Biondi

SYNOPSIS

Creates offense of financial exploitation of the elderly.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

Section 9.5.7
Pre-filed bill introduced pending technical review
(section 2 needs to be updated to reflect recent enactment(s))

AN ACT creating the offense of financial exploitation of the elderly, amending N.J.S.2C:20-1 and N.J.S.2C:20-2 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

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

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

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

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

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

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

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

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

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

g. "Property" means anything of value, including real estate, tangible and intangible personal property, trade secrets, contract

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

rights, choses in action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric, gas, steam or other power, financial instruments, information, data, and computer software, in either human readable or computer readable form, copies or originals.

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

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

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

k. "Traffic" means:

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

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

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

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

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

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

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

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

entity, and any union or group of individuals associated in fact, although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

r. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor, if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

s. "Access device" means property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human readable or computer readable form, either copy or original, that can be used to obtain telephone service. Access device also means property consisting of a card, code or other means of access to an account held by a financial institution, or any combination thereof, that may be used by the account holder for the purpose of initiating electronic fund transfers.

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

u. "Domestic companion animal" means any animal commonly referred to as a pet or one that has been bought, bred, raised or otherwise acquired, in accordance with local ordinances and State and federal law for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes.

v. "Personal identifying information" means any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual and includes, but is not limited to, the name, address, telephone number, date of birth, social security number, official State issued identification number, employer or taxpayer number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number, mother's maiden name, unique biometric data, such as fingerprint, voice print, retina or iris image or other unique physical representation, or unique electronic identification number, address or routing code of the individual.

w. "Elderly" means any person who is 60 years of age or older and is suffering from a disease or infirmity associated with advanced age or suffers from a mental disease, defect or condition which renders the person incapable of deciding whether to give or

withhold consent to taking, obtaining or withholding of his property.

x. "Person in a position of trust" means a person who:

(a) is the parent, spouse, adult child or other relative by blood or affinity of an elderly person; or

(b) is a joint tenant or tenant in common with an elderly person; or

(c) has a fiduciary obligation to an elderly person; or

(d) receives monetary or other valuable consideration for providing care for the elderly person; or

(e) lives with or provides some component of home care services on a continuing basis to an elderly person including, but not limited to, a neighbor or friend who does not provide such services on a compensated basis but has access to an elderly person based on such relationship.

(cf: P.L. 2004, c.11)

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

2C:20-2 Consolidation of Theft Offenses; Grading; Provisions Applicable to Theft Generally.

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 or more; or

(e) The property stolen is human remains or any part thereof.

(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;

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

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

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

(3) Theft constitutes a crime of the fourth degree if:

(a) the amount involved is at least $200.00 but does not exceed $500.00; except that if the theft involved financial exploitation of the elderly pursuant to section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill), the theft constitutes a crime of the third degree. If the amount involved was less than $200.00 the offense constitutes a disorderly persons offense; except that if the theft involved financial exploitation of the elderly pursuant to section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill), the theft constitutes a crime of the fourth degree.

(4) 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

Section 9.5.7
Pre-filed bill introduced pending technical review
(section 2 needs to be updated to reflect recent enactment(s))

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.

(cf: P.L.2003, c.39, s.7)

Needs to be updated to reflect the enactments of P.L.2005, c.207, P.L.2007, c.36, and P.L.2008, c.50, all of which amended N.J.S.2C:20-2

3. (New section). Financial exploitation of the elderly.

a. A person obtains property by financial exploitation of the elderly when, being a person in a position of trust, he compels or induces an elderly person to deliver such property to him or to a third person by means of fraud, false promise, extortion or intimidation.

b. No provision of this paragraph shall be deemed to impose criminal liability upon any person who in good faith seeks to assist an elderly person in the management of his property, but through no fault of such person is unable to assist the elderly person.

c. In any prosecution for theft committed by financial exploitation of the elderly, it is an affirmative defense that the defendant did not know, or could not have known, the facts or conditions which render the person an elderly person as defined in subsection w. of N.J.S.2C:20-1.

4. This act shall take effect immediately.

STATEMENT

This bill creates the offense of Financial Exploitation of the Elderly. Under the bill, a person obtains property by financial exploitation of the elderly when, being a person in a position of trust, he compels or induces an elderly person to deliver such property to him or to a third person by means of fraud, false promise, extortion or intimidation. "Elderly person" is defined as any person who is 60 years of age or older and is suffering from a disease or infirmity associated with advanced age or who suffers

from a mental disease, defect or condition which renders the person incapable of deciding whether to give or withhold consent to taking, obtaining or withholding of his or her property.

A "person in a position of trust"means a person who:

(a) is the parent, spouse, adult child or other relative by blood or affinity of an elderly person; (b) is a joint tenant or tenant in common with an elderly person; (c) has a fiduciary obligation to an elderly person; (d) receives monetary or other valuable consideration for providing care for the elderly person; (e) lives with or provides some component of home care services on a continuing basis to the elderly person including, but not limited to, a neighbor or friend who does not provide such services but has access to the elderly person based on such relationship.

The offense is graded as a crime of the third degree punishable by three to five years imprisonment, a fine of up to $15,000, or both when the amount involved is at least $200.00 but does not exceed $500.00. Ordinarily thefts of this amount are graded as crimes of the fourth degree. The bill also upgrades theft when the amount is less than $200.00 to a crime of the fourth degree. Currently this constitutes a disorderly persons offense.

Theft from an elderly person when the amount involved exceeds $500.00 but is less than $75,000.00 continues to be a crime of the third degree.

Section 9.5.7

"Not Amendments" to pre-filed bill that was introduced pending technical review (updating section 2 to reflect recent enactment(s))

3/1/2010 dp
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BPU# _____

HS 058
SR 068
TR 241

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

NOT AMENDMENTS

to

ASSEMBLY, No. 330

(Sponsored by Assemblywoman GOVE and Assemblyman RUMPF)

REPLACE SECTION 2 TO READ:

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

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

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

Language from bill as introduced (do not indicate any committee amendments on "Not Amendment" sheet)

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least $200.00 but does not exceed $500.00; except that if the theft involved financial exploitation of the elderly pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the theft constitutes a crime of the third degree. If the amount involved was less than $200.00 the offense constitutes a disorderly persons offense; except that if the theft involved financial exploitation of the elderly pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the theft constitutes a crime of the fourth degree.

(4) 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.

(cf: P.L.2008, c.50, s.21)

Plain text (no bracket and underlines) reflects all legislative enactments that amended N.J.S.2C:20-2 up to P.L.2008, c.50, the most recent version of the section when A330 was introduced

Section 9.5.7
Bill reported by committee after technical review
(includes update of section 2 to reflect recent enactment(s))

ASSEMBLY, No. 330

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblywoman DIANNE C. GOVE
District 9 (Atlantic, Burlington and Ocean)
Assemblyman BRIAN E. RUMPF
District 9 (Atlantic, Burlington and Ocean)
Assemblywoman CELESTE M. RILEY
District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:
Assemblyman Biondi, Assemblywomen Rodriguez, Greenstein, Assemblymen Schaer, Moriarty, Ramos, Prieto and Assemblywoman Wagner

SYNOPSIS

Creates offense of financial exploitation of the elderly.

CURRENT VERSION OF TEXT

As reported by the Assembly Health and Senior Services Committee with technical review.

(Sponsorship Updated As Of: 1/7/2011)

AN ACT creating the offense of financial exploitation of the elderly, amending N.J.S.2C:20-1 and N.J.S.2C:20-2 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

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

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

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

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

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

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

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

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

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

g. "Property" means anything of value, including real estate, tangible and intangible personal property, trade secrets, contract

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

rights, choses in action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric, gas, steam or other power, financial instruments, information, data, and computer software, in either human readable or computer readable form, copies or originals.

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

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

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

k. "Traffic" means:

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

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

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

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

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

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

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

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

entity, and any union or group of individuals associated in fact, although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

r. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor, if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

s. "Access device" means property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human readable or computer readable form, either copy or original, that can be used to obtain telephone service. Access device also means property consisting of a card, code or other means of access to an account held by a financial institution, or any combination thereof, that may be used by the account holder for the purpose of initiating electronic fund transfers.

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

u. "Domestic companion animal" means any animal commonly referred to as a pet or one that has been bought, bred, raised or otherwise acquired, in accordance with local ordinances and State and federal law for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes.

v. "Personal identifying information" means any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual and includes, but is not limited to, the name, address, telephone number, date of birth, social security number, official State issued identification number, employer or taxpayer number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number, mother's maiden name, unique biometric data, such as fingerprint, voice print, retina or iris image or other unique physical representation, or unique electronic identification number, address or routing code of the individual.

w. "Elderly" means any person who is 60 years of age or older and is suffering from a disease or infirmity associated with advanced age or suffers from a mental disease, defect or condition which renders the person incapable of deciding whether to give or

withhold consent to taking, obtaining or withholding of his property.

x. "Person in a position of trust" means a person who:

(a) is the parent, spouse, adult child or other relative by blood or affinity of an elderly person; or

(b) is a joint tenant or tenant in common with an elderly person; or

(c) has a fiduciary obligation to an elderly person; or

(d) receives monetary or other valuable consideration for providing care for the elderly person; or

(e) lives with or provides some component of home care services on a continuing basis to an elderly person including, but not limited to, a neighbor or friend who does not provide such services on a compensated basis but has access to an elderly person based on such relationship.

(cf: P.L.2004, c.11)

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

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

(l) 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; except that if the theft involved financial exploitation of the elderly pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the theft constitutes a crime of the third degree. If the amount involved was less than $200.00 the offense constitutes a disorderly persons offense; except that if the theft involved financial exploitation of the elderly pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the theft constitutes a crime of the fourth degree.

(4) 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.

(cf: P.L.2008, c.50, s.21)

3. (New section). Financial exploitation of the elderly.

a. A person obtains property by financial exploitation of the elderly when, being a person in a position of trust, he compels or induces an elderly person to deliver such property to him or to a third person by means of fraud, false promise, extortion or intimidation.

b. No provision of this paragraph shall be deemed to impose criminal liability upon any person who in good faith seeks to assist an elderly person in the management of his property, but through no fault of such person is unable to assist the elderly person.

c. In any prosecution for theft committed by financial exploitation of the elderly, it is an affirmative defense that the defendant did not know, or could not have known, the facts or conditions which render the person an elderly person as defined in subsection w. of N.J.S.2C:20-1.

4. This act shall take effect immediately.

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HS 122
SR 068
TR 150

SENATE AMENDMENTS
(Proposed by Senator WEINBERG)

to

[First Reprint]
ASSEMBLY, No. 3158

(Sponsored by Assemblywoman VAINIERI HUTTLE, Assemblyman DIEGNAN, JR. Assemblywoman GREENSTEIN)

REPLACE SECTION 2 TO READ:

2. a. The task force shall consist of ¹[16] 17¹ members, as follows:

(1) the Commissioners of Children and Families, Community Affairs, Health and Senior Services, and Human Services, or their designees, who shall serve ex officio;

(2) ¹[four] five¹ public members appointed by the Governor as follows: one representative each from the Center for Non-Profit Corporations; the Area Agencies on Aging; a Statewide social service organization offering women's support services; ¹a Statewide social service organization providing services to persons with adult onset disabilities;¹ and a Statewide social service organization offering emergency food and nutrition services;

(3) three public members appointed by the President of the Senate as follows: one representative each from the National Alliance on Mental Illness of New Jersey; the New Jersey Coalition for Battered Women; and a Statewide social service organization offering substance abuse treatment ¹and prevention services¹;

(4) three public members appointed by the Speaker of the General Assembly as follows: one representative each from The Arc of New Jersey; the Court Appointed Special Advocates (CASA) of New Jersey; and a Statewide organization providing environmental advocacy services; and

(5) two public members as follows: one appointed by the Minority Leader of the Senate who is a representative of a Statewide social ¹[services] service¹ organization providing services to the homeless; and one appointed by the Minority Leader of the General Assembly who is a representative from a Statewide organization advocating for the arts.

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

b. The task force shall organize as soon as practicable following the appointment of its members and shall select 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.

c. 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.

d. 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.

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

f. The [2][Department of Human Services] School of Social Work of Rutgers, The State University of New Jersey[2] shall provide professional and clerical staff [2]services[2] to the task force.

STATEMENT

This floor amendment mandates that the School of Social Work of Rutgers, The State University of New Jersey shall provide professional and clerical staff services to the task force, rather than the Department of Human Services, as the bill currently provides.

[Second Reprint]

ASSEMBLY, No. 3158

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED SEPTEMBER 13, 2010

Sponsored by:
Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)
Assemblyman PATRICK J. DIEGNAN, JR.
District 18 (Middlesex)
Assemblywoman LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Assemblyman Fuentes

SYNOPSIS

Establishes NJ Task Force on Coordination Among Nonprofit Social Service Organizations.

CURRENT VERSION OF TEXT

As amended by the Senate on September 26, 2011.

(Sponsorship Updated As Of: 10/1/2010)

AN ACT establishing the New Jersey Task Force on Coordination Among Nonprofit Social Service Organizations.

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

1. There is established the New Jersey Task Force on Coordination Among Nonprofit Social Service Organizations.

The purpose of the task force shall be to develop recommendations, through collaboration among representatives of State government and social service organizations in the State, to support efforts to effectively coordinate and streamline services provided by social service organizations in the State by:

a. promoting shared services to reduce administrative costs;

b. forming alliances among social service organizations to eliminate duplication of services; and

c. establishing procedures for the uniform reporting of expenditures by social service organizations to policy makers and the public.

2. a. The task force shall consist of [1]**[**16**]** 17[1] members, as follows:

(1) the Commissioners of Children and Families, Community Affairs, Health and Senior Services, and Human Services, or their designees, who shall serve ex officio;

(2) [1]**[**four**]** five[1] public members appointed by the Governor as follows: one representative each from the Center for Non-Profit Corporations; the Area Agencies on Aging; a Statewide social service organization offering women's support services; [1]a Statewide social service organization providing services to persons with adult onset disabilities;[1] and a Statewide social service organization offering emergency food and nutrition services;

(3) three public members appointed by the President of the Senate as follows: one representative each from the National Alliance on Mental Illness of New Jersey; the New Jersey Coalition for Battered Women; and a Statewide social service organization offering substance abuse treatment [1]and prevention services[1];

(4) three public members appointed by the Speaker of the General Assembly as follows: one representative each from The Arc of New Jersey; the Court Appointed Special Advocates (CASA) of New Jersey; and a Statewide organization providing environmental advocacy services; and

(5) two public members as follows: one appointed by the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AHU committee amendments adopted September 16, 2010.
[2]Senate floor amendments adopted September 26, 2011.

Minority Leader of the Senate who is a representative of a Statewide social [1][services] service[1] organization providing services to the homeless; and one appointed by the Minority Leader of the General Assembly who is a representative from a Statewide organization advocating for the arts.

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

b. The task force shall organize as soon as practicable following the appointment of its members and shall select 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.

c. 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.

d. 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.

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

f. The [2][Department of Human Services] School of Social Work of Rutgers, The State University of New Jersey[2] shall provide professional and clerical staff [2]services[2] to the task force.

3. The task force shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), no later than 12 months after the initial meeting of the task force, on its findings and recommendations concerning efforts to effectively coordinate and streamline services provided by social service organizations in the State.

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

Section 9.6.1
Statement to floor amendments

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 3158

with Senate Floor Amendments
(Proposed by Senator WEINBERG)

ADOPTED: SEPTEMBER 26, 2011

This floor amendment mandates that the School of Social Work of Rutgers, The State University of New Jersey shall provide professional and clerical staff services to the task force, rather than the Department of Human Services, as the bill currently provides.

Section 9.6.2
Floor substitute (drafter's version)

9/28/2010 jlh
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BPU# FEA_0073.doc
EA 133
SR 091
TR 091

Suggested Allocation:
58:10A-23.11g13

SENATE SUBSTITUTE
(Proposed by Senator Smith)
FOR
SENATE, No. 2108

STATE OF NEW JERSEY

Sponsored by Senators SMITH and BATEMAN

AN ACT concerning liability for discharges that enter State waters, and supplementing P.L.1976, c.141 (C.58:10-23.11 et seq.).

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

1. a. Any person who discharges a hazardous substance, or is in any way responsible for a hazardous substance that is discharged, into the waters outside the jurisdiction of the State, that enters the waters of the State, shall be liable, strictly, jointly and severally, without regard to fault, for:

(1) cleanup and removal costs;

(2) damages for injury to, destruction of, loss of, or loss of use of natural resources, including costs of assessing the damage;

(3) damages for injury to, or economic losses resulting from, destruction of real or personal property; and

(4) damages for loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real or personal property, or natural resources.

b. Nothing in this section shall limit the liability pursuant to any other State law, or rule or regulation, or federal law of any person who discharges a hazardous substance, or is in any way responsible for a hazardous substance that is discharged, that enters the waters of the State.

2. This act shall take effect immediately.

STATEMENT

This floor substitute would provide that any person who discharges a hazardous substance, or is in any way responsible for a hazardous substance that is discharged, into the waters outside the jurisdiction of the State, that enters the waters of the State, shall be liable, strictly, jointly and severally, without regard to fault: for cleanup and removal costs; damages for injury to, destruction of, loss of, or loss of use of natural resources; damages for injury to, or economic losses resulting from, destruction of real or personal property; and damages for loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real or personal property, or natural resources. In addition, the floor substitute would provide that the liability imposed pursuant to this bill would not in any way limit liability that otherwise may be imposed under any other State or federal law.

Clarifies liability for discharges of hazardous substances that enter NJ waters.

Section 9.6.2	*Section 9.6.3*
Floor substitute (official version)	*Statement to floor substitute*

SENATE SUBSTITUTE FOR

SENATE, No. 2108

STATE OF NEW JERSEY

214th LEGISLATURE

ADOPTED NOVEMBER 22, 2010

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator CHRISTOPHER "KIP" BATEMAN
District 16 (Morris and Somerset)

Co-Sponsored by:
Senators Greenstein and Stack

SYNOPSIS

Clarifies liability for discharges of hazardous substances that enter NJ waters.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.

(Sponsorship Updated As Of: 12/14/2010)

AN ACT concerning liability for discharges that enter State waters, and supplementing P.L.1976, c.141 (C.58:10-23.11 et seq.).

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

1. a. Any person who discharges a hazardous substance, or is in any way responsible for a hazardous substance that is discharged, into the waters outside the jurisdiction of the State, that enters the waters of the State, shall be liable, strictly, jointly and severally, without regard to fault, for:

(1) cleanup and removal costs;

(2) damages for injury to, destruction of, loss of, or loss of use of natural resources, including costs of assessing the damage;

(3) damages for injury to, or economic losses resulting from, destruction of real or personal property; and

(4) damages for loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real or personal property, or natural resources.

b. Nothing in this section shall limit the liability pursuant to any other State law, or rule or regulation, or federal law of any person who discharges a hazardous substance, or is in any way responsible for a hazardous substance that is discharged, that enters the waters of the State.

2. This act shall take effect immediately.

STATEMENT

This floor substitute would provide that any person who discharges a hazardous substance, or is in any way responsible for a hazardous substance that is discharged, into the waters outside the jurisdiction of the State, that enters the waters of the State, shall be liable, strictly, jointly and severally, without regard to fault: for cleanup and removal costs; damages for injury to, destruction of, loss of, or loss of use of natural resources; damages for injury to, or economic losses resulting from, destruction of real or personal property; and damages for loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real or personal property, or natural resources. In addition, the floor substitute would provide that the liability imposed pursuant to this bill would not in any way limit liability that otherwise may be imposed under any other State or federal law.

STATEMENT TO

SENATE, No. 1764

with Senate Floor Amendments
(Proposed by Senator BATEMAN)

ADOPTED: DECEMBER 13, 2010

These Senate amendments make it a petty disorderly persons offense to knowingly resell, offer for sale, distribute, transfer, purchase, receive, or possess any merchandise, knowing that the merchandise is designed or intended to be used to conceal, degrade the legibility, or otherwise obstruct or obscure any part of any marking imprinted upon a vehicle's license plate.

The bill as introduced, made it a violation of the consumer fraud act to knowingly sell, offer for sale, or possess merchandise that is specifically designed to conceal, degrade the legibility of, or obstruct a vehicle's license plate. This amendment removed this penalty provision from the bill.

Any person who violates the provisions of the bill shall be subject to a fine not exceeding $500 or imprisonment for not more than 60 days.

Section 9.6.4
Bill amended after conditional veto pursuant to Governor's recommendations

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1918

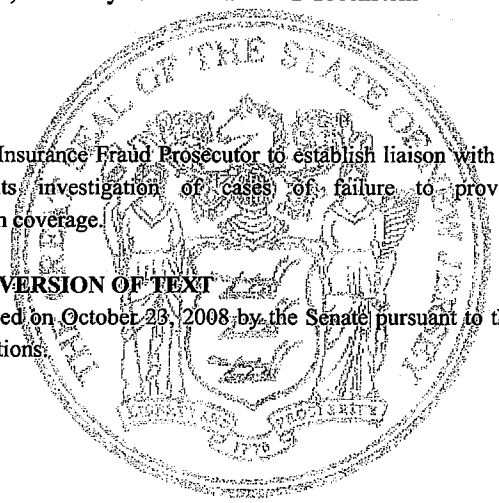
STATE OF NEW JERSEY

213th LEGISLATURE

ADOPTED JUNE 5, 2008

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)
Assemblyman JOSEPH V. EGAN
District 17 (Middlesex and Somerset)
Assemblyman THOMAS P. GIBLIN
District 34 (Essex and Passaic)
Assemblyman PETER J. BARNES, III
District 18 (Middlesex)

Co-Sponsored by:
Senator Ruiz, Assemblywomen Evans and Greenstein



SYNOPSIS

Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of cases of failure to provide workers' compensation coverage.

CURRENT VERSION OF TEXT

As amended on October 23, 2008 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 12/16/2008)

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L.1998, c.21.

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

1. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to read as follows:

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.

(cf: P.L.1998, c.21, s.34)

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage **[**[1]after being given a reasonable opportunity to obtain that coverage[1]**]**, or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. [2]The Commissioner of Labor and Workforce Development shall not refer any case of failure to provide required

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SLA committee amendments adopted June 19, 2008.
[2] Senate amendments adopted in accordance with Governor's recommendations October 23, 2008.

workers' compensation insurance coverage, or self-insurance for such coverage, for criminal prosecution unless the employer has been afforded a reasonable opportunity to obtain that coverage. The provisions of this section are not jurisdictional, and the failure to afford such opportunity shall not in any manner be construed as a prerequisite to a criminal prosecution or conviction.[2] Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor[2] or any other prosecutorial entity[2].

3. This act shall take effect immediately.

Section 10.1.1
Constitutional amendment

ASSEMBLY CONCURRENT RESOLUTION No. 209

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED NOVEMBER 21, 2011

Sponsored by:
Assemblyman RONALD S. DANCER
District 30 (Burlington, Mercer, Monmouth and Ocean)

SYNOPSIS

Proposes constitutional amendment giving Legislature authority to establish slot machine gambling at horse racetracks.

CURRENT VERSION OF TEXT

As introduced.

Section 10.1.1
Constitutional amendment

A CONCURRENT RESOLUTION proposing to amend Article IV, Section VII, paragraph 2 of the New Jersey Constitution.

BE IT RESOLVED *by the General Assembly of the State of New Jersey (the Senate concurring):*

1. The following proposed amendment to the Constitution of the State of New Jersey is agreed to:

PROPOSED AMENDMENT

Amend Article IV, Section VII, paragraph 2 to read as follows:

2. No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore submitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election, except that, without any such submission or authorization:

A. It shall be lawful for bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct, under such restrictions and control as shall from time to time be prescribed by the Legislature by law, games of chance of, and restricted to, the selling of rights to participate, the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, 5 or more in one line, the holder covering numbers as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by the Legislature by law, shall authorize the conduct of such games of chance therein;

B. It shall be lawful for the Legislature to authorize, by law, bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct games of chance of, and restricted to, the selling of rights

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

to participate, and the awarding of prizes, in the specific kinds of games of chance sometimes known as raffles, conducted by the drawing for prizes or by the allotment of prizes by chance, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which such law shall be adopted by a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by law and for the Legislature, from time to time, to restrict and control, by law, the conduct of such games of chance;

C. It shall be lawful for the Legislature to authorize the conduct of State lotteries restricted to the selling of rights to participate therein and the awarding of prizes by drawings when the entire net proceeds of any such lottery shall be for State institutions and State aid for education; provided, however, that it shall not be competent for the Legislature to borrow, appropriate or use, under any pretense whatsoever, lottery net proceeds for the confinement, housing, supervision or treatment of, or education programs for, adult criminal offenders or juveniles adjudged delinquent or for the construction, staffing, support, maintenance or operation of an adult or juvenile correctional facility or institution;

D. It shall be lawful for the Legislature to authorize by law the establishment and operation, under regulation and control by the State, of gambling houses or casinos within the boundaries, as heretofore established, of the city of Atlantic City, county of Atlantic, and to license and tax such operations and equipment used in connection therewith. Any law authorizing the establishment and operation of such gambling establishments shall provide for the State revenues derived therefrom to be applied solely for the purpose of providing funding for reductions in property taxes, rental, 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, in accordance with such formulae as the Legislature shall by law provide. The type and number of such casinos or gambling houses and of the gambling games which may be conducted in any such establishment shall be determined by or pursuant to the terms of the law authorizing the establishment and operation thereof;

E. It shall be lawful for the Legislature to authorize, by law, (1) the simultaneous transmission by picture of running and harness horse races conducted at racetracks located within or outside of this State, or both, to gambling houses or casinos in the city of Atlantic City and (2) the specific kind, restrictions and control of wagering at those gambling establishments on the results of those races. The State's share of revenues derived therefrom shall be applied for

services to benefit eligible senior citizens as shall be provided by law; [and]

F. It shall be lawful for the Legislature to authorize, by law, the specific kind, restrictions and control of wagering on the results of live or simulcast running and harness horse races conducted within or outside of this State. The State's share of revenues derived therefrom shall be used for such purposes as shall be provided by law; and

G. It shall be lawful for the Legislature to authorize, by law, the specific kind, restrictions, and control of gambling through the operation of slot machines at racetracks at which running or harness horse races are conducted. The State's share of revenues derived therefrom shall be used for those purposes as shall be provided by law.

(cf: Art. IV, Sec. VII, par. 2, amended effective December 2, 1999)

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (✔) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✔) in the square opposite the word "No."

b. In every municipality the following question:

	YES	CONSTITUTIONAL AMENDMENT ALLOWING LEGISLATURE TO ESTABLISH SLOT MACHINE GAMBLING AT HORSE RACETRACKS Do you approve amending Article IV, Section VII, paragraph 2 of the New Jersey Constitution, as agreed to by the Legislature, to allow the Legislature, by law, to permit slot machine gambling at New Jersey horse racetracks?
	NO	INTERPRETIVE STATEMENT This constitutional amendment would allow the Legislature to pass laws permitting slot machine gambling at New Jersey horse racetracks. The laws would provide for the specific kinds of slot machines used, and the restrictions and control over their use. The laws would also provide for how the State would spend its share of revenue generated by the slot machine gambling. Currently, under the New Jersey Constitution, slot machine gambling is only permitted in Atlantic City.

STATEMENT

This constitutional amendment would give the Legislature authority to establish slot machine gambling at horse racetracks. Upon approval of this amendment, the specific kind, restrictions, and control of operations of such slot machine gambling, as well as the use of the State's share of revenues derived from such gambling, would be provided by law.

The operation of slot machines at horse racetracks would be mutually beneficial to both the casino industry and the horse racing industry. Racetrack slot machine gambling would provide an opportunity for casino industry operators to expand beyond the boundaries of Atlantic City and reach patrons who may not otherwise consider travelling to that city to engage in gambling activities. For the racetrack industry, the slot machines would increase attendance, drawing patrons who may not otherwise consider travelling to racetracks at which horse racing is the sole activity on which to wager. Both would therefore see increased revenues generated by the operation of racetrack slot machines. Additionally, the State would benefit from this mutually beneficial casino industry-racing industry relationship, due to the increased

tax revenue generated directly and indirectly by new racetrack slot machine operations.

Any legislation developed by the Legislature would provide opportunities to preserve or enhance the mutually beneficial casino industry-racing industry relationship in connection with the slot machine operations, particularly so with respect to the development of methods to equitably distribute revenues generated between the casino industry operators and horse industry associations.

ASSEMBLY, No. 3611

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED DECEMBER 13, 2012

Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Hunterdon and Mercer)
Assemblyman UPENDRA J. CHIVUKULA
District 17 (Middlesex and Somerset)

SYNOPSIS

Authorizes marriage by same-sex couples, and provides for issuance of marriage license to same-sex couples, including those previously joined in civil union, subject to voter approval.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 1/29/2013)

AN ACT concerning marriage, subject to voter approval, supplementing Title 37 of the Revised Statutes, and amending R.S.37:1-4.

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

1. (New section) "Marriage" means the legally recognized union of two consenting persons in a committed relationship. Whenever the term "marriage" occurs or the term "man," "woman," "husband," or "wife" occurs in the context of marriage or any reference is made thereto in any law, statute, rule, regulation, or order, the same shall be deemed to mean or refer to the union of two persons.

2. (New section) On and after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill):

a. no further civil unions shall be established under P.L.2006, c.103 (C.37:1-28 et al.); and

b. the partners in any civil union previously established under P.L.2006, c.103 (C.37:1-28 et al.):

(1) shall remain in a recognized civil union, unless dissolved as provided for under section 64 of P.L.2006, c.103 (C.2A:34-2.1); and

(2) may apply for a marriage license in accordance with the provisions of R.S.37:1-4 and all other applicable provisions of law for the purpose of marrying, thereby converting their civil union into a marriage.

3. R.S.37:1-4 is amended to read as follows:

37:1-4. **[**Issuance of marriage or civil union license, emergencies, validity.**]**

a. Except as provided in R.S.37:1-6 and subsection b. of this section, the marriage **[**or civil union**]** license shall not be issued by a licensing officer sooner than 72 hours after the application therefor has been made; provided, however, that the Superior Court may, by order, waive all or any part of said 72-hour period in cases of emergency, upon satisfactory proof being shown to it. Said order shall be filed with the licensing officer and attached to the application for the license.

b. On and after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), a licensing officer shall issue a marriage license immediately to partners in a civil union established pursuant to P.L.2006, c.103 (C.37:1-28 et al.) who apply for the license.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

c. A marriage [or civil union] license, when properly issued as provided in this article, shall be good and valid only for 30 days after the date of the issuance thereof.
(cf: P.L.2006, c.103, s.9)

4. (New section) The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1) shall adopt rules and regulations to effectuate the purposes of P.L. , c. (C.) (pending before the Legislature as this bill).

5. This act shall be submitted to the people for their approval or rejection at the next general election to be held at least 70 days following the date of its enactment for the purpose of complying with Article II, Section I, paragraph 2 of the New Jersey Constitution.

6. This voter referendum shall be submitted to the people in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (✔) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✔) in the square opposite the word "No."

b. In every municipality the following question:

	YES	AUTHORIZING MARRIAGE BY SAME-SEX COUPLES Do you approve a law enacted by the Legislature that permits marriage by same-sex couples in this State and grants marriage licenses to these couples? This law will not take effect unless approved by the voters.
	NO	INTERPRETIVE STATEMENT Currently, New Jersey law does not permit same-sex couples to marry. Instead, it allows same-sex couples to establish civil unions. Civil unions were first allowed under a 2006 law. This question asks if you approve a new law passed by the Legislature, P.L. , c. (C.), which allows same-sex couples to marry and to obtain marriage licenses. This new law will not take effect unless it is approved by the voters. The new law defines marriage as a union of two consenting persons, regardless of their gender. The new law also allows same-sex couples in existing civil unions to obtain marriage licenses and convert their civil unions into marriages if they so choose. Finally, the new law ends the formation of future civil unions in favor of allowing marriages for all couples.

7. This act shall take effect on the 60th day following voter approval at the designated general election, except that the Commissioner of Health may take such anticipatory administrative action in advance of the effective date, following voter approval, as shall be necessary for the implementation of this act.

STATEMENT

This bill authorizes marriage by same-sex couples, and provides for the issuance of marriage licenses to same-sex couples, including those previously joined in a civil union, subject to voter approval.

Under the bill, marriage is defined as "the legally recognized union of two consenting persons in a committed relationship," without reference to gender. Thus, the definition incorporates marriage between a man and a woman or a same-sex couple.

The bill further provides that whenever the term "marriage"

occurs or the term "man," "woman," "husband," or "wife" occurs in the context of marriage, or any reference is made thereto in any law, statute, rule, regulation, or order, the same would be deemed to mean or refer to the union of two persons pursuant to the bill.

Based upon the statutory definition of marriage set forth in the bill, same-sex couples would be eligible to obtain marriage licenses. Additionally, same-sex couples who previously established a civil union under the provisions of P.L.2006, c.103 (C.37:1-28 et al.) would be permitted to obtain marriage licenses for the purpose of converting their relationship into a marriage. Civil union couples who did not convert their relationship into a marriage would remain in a legally recognized civil union, unless dissolved as provided for under section 64 of P.L.2006, c.103 (C.2A:34-2.1).

Although previously established civil unions would continue to be recognized unless dissolved or converted to marriages, no further civil unions could be established under the law beginning on the effective date of the bill.

The bill would take effect only if approved by the voters in a Statewide referendum. That referendum would be held at the next available general election, which in accordance with Article II, Section I, paragraph 2 of the New Jersey Constitution must be a general election held at least 70 days following the date of the bill's enactment.

ASSEMBLY, No. 4101

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED JUNE 11, 2009

Sponsored by:
Assemblyman LOUIS D. GREENWALD
District 6 (Camden)

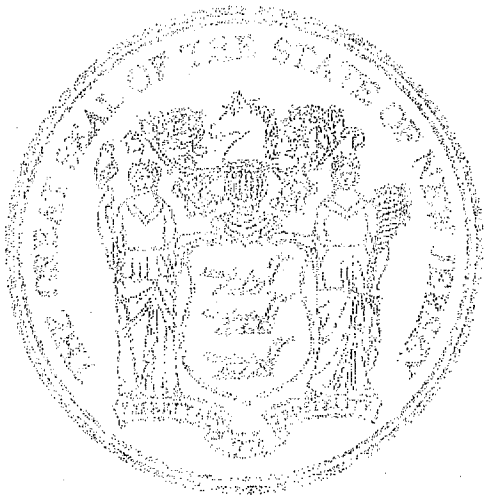
Co-Sponsored by:
Senator Buono

SYNOPSIS

Makes FY 2009 supplemental appropriations totaling $20,768,000, reduces FY 2009 appropriations by $27,500,000, and amends and supplements various language provisions affecting appropriations in FY 2009.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/26/2009)

AN ACT amending and supplementing the Fiscal Year 2009 annual appropriation act, P.L.2008, c.35, and amending P.L.2009, c.22.

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

1. The following items and language provisions in section 1 of P.L.2008, c.35, the fiscal year 2009 annual appropriation act, are amended to read as follows:

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management
41 Community Development Management

DIRECT STATE SERVICES

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.

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	[$129,962,000]	$104,462,000
Total Grants-in-Aid Appropriation, Health Planning and Evaluation	[$129,962,000]	$104,462,000

Grants-in-Aid:

07 Health Care Subsidy Fund Payments	[$129,962,000]	($104,462,000)

Notwithstanding the provisions of any law or regulation to the contrary, the appropriation for Health Care Subsidy Fund Payments shall be conditioned upon the following provisions: (1) in State Fiscal Year (SFY) 2009, Charity Care subsidies shall be calculated pursuant to section 3 of P.L.2004, c.113 (C.26:2H-18.59i), except that: (2) in paragraph (1) of subsection b., source data used shall be from calendar year 2007 for Charity Care Claims data and total revenue, and for Acute Care Hospital Cost Report total revenue as defined by Form E4, Line 1, Column E data according to Department of Health and Senior Services (DHSS) advance submission request dated March 14, 2008, and source data used shall be from calendar year 2006 for Medicare Cost Report data; (3) for eligible hospitals that failed to submit Acute Care Hospital Cost Report total revenue as defined by

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Form E4, Line 1, Column E data according to DHSS advance submission request dated March 14, 2008, in paragraph (1) of subsection b. source data from calendar year 2006 shall be used for Charity Care Claims total revenue and for Acute Care Hospital Cost Report total revenue as defined by Form E4, Line 1, Column E; (4) each eligible hospital shall be assigned to one of three groups or tiers based on their initial RCCP as calculated in paragraph (1) of subsection b. with Tier 1 hospitals having an initial RCCP greater than 8%, Tier 2 hospitals having an initial RCCP less than Tier 1 and greater than 3.6% and Tier 3 hospitals having an initial RCCP less than Tier 2; (5) the hospital-specific subsidy initially calculated in accordance of subsections a. and b. for each eligible hospital shall be reduced by 5% for Tier 1 hospitals, 37% for Tier 2 hospitals and 100% for Tier 3 hospitals; (6) for each eligible hospital the difference shall be calculated between its initial calculated SFY 2009 charity care subsidy and its total SFY 2008 charity care allocation; (7) if an eligible hospital's initial calculated SFY 2009 charity care subsidy is more than its total State fiscal year 2008 amount and it has been assigned to Tier 1 or Tier 2, the hospital-specific subsidy calculation for each eligible hospital shall be its total State fiscal year 2008 amount plus 20% of the difference calculated above; (8) if an eligible hospital's initial calculated SFY 2009 charity care subsidy is less than its total SFY 2008 amount and it has been assigned to Tier 1 or Tier 2, the hospital-specific subsidy calculation for each eligible hospital shall be its total SFY 2008 amount minus 40% of the difference calculated above; (9) if an eligible hospital's initial calculated SFY 2009 charity care subsidy is more than its total SFY 2008 amount and it has been assigned to Tier 1 or Tier 2, an amount equal to 4% of the difference calculated above for each eligible hospital shall be assigned to a redistribution pool designated for Tier 1 hospitals; (10) if the hospital-specific SFY 2009 subsidy calculated thus far for an eligible hospital assigned to Tier 2 is calculated to be more than 50 percent of its documented charity care for calendar year 2007, the hospital-specific subsidy for each hospital shall be reduced to 50 percent of its documented charity care and the total amount reduced shall be assigned to a redistribution pool designated for Tier 1 hospitals; (11) if an eligible hospital's SFY 2009 subsidy calculated thus far is less than its total SFY 2008 amount and it has been assigned to Tier 1, that hospital shall participate in the redistribution pool designated for Tier 1 hospitals; (12) the total of all amounts assigned to the redistribution pool designated for Tier 1hospitals shall be distributed to Tier 1 hospitals identified as participating in the redistribution pool; (13) the amount redistributed to each participating Tier 1 hospital shall be equal to the percentage calculated as the difference calculated above for that hospital divided by the total of all the differences calculated above for all Tier 1 hospitals participating in the redistribution pool, and multiplied by the total of all amounts assigned to the redistribution pool designated for Tier 1hospitals; (14) the amount redistributed to each hospital identified as participating in the redistribution pool designated for Tier 1 shall be added to each hospital's hospital-specific subsidy calculation; (15) if the hospital-specific subsidy calculated thus far for an eligible hospital assigned to

Tier 1 is calculated to be less than 60 percent of its documented charity care for calendar year 2007, the hospital-specific subsidy for each hospital shall be increased to 60 percent of its documented charity care; (16) if the hospital-specific subsidy calculated thus far for an eligible hospital assigned to Tier 1 is calculated to be more than 100 percent of its documented charity care for calendar year 2007, the hospital-specific subsidy for each hospital shall be reduced to 100 percent of its documented charity care; (17) if the hospital-specific subsidy calculated thus far for an eligible hospital assigned to Tier 3 is calculated to be less than 10 percent of its documented charity care for calendar year 2007, the hospital-specific subsidy for each hospital shall be increased to 10 percent of its documented charity care. The resulting number will constitute each eligible hospital's SFY 2009 Charity Care subsidy allocation. A proportionate reduction will be applied to all hospitals if necessary such that the SFY 2009 Charity Care subsidy allocation for all hospitals totaled shall not exceed $605,000,000. Each eligible hospital's SFY 2009 Charity Care subsidy allocation, as calculated above, shall be reduced by one-twelfth so that total payments to the eligible hospitals equal no more than $556,823,000.

Of the amount hereinabove appropriated for Health Care Subsidy Fund Payments, any amounts not allocated to a hospital-specific SFY 2009 Charity Care subsidy shall be assigned to the Health Care Stabilization Fund to be established within the Department of Health and Senior Services for the purpose of maintaining access to essential health care services in the community. The eligibility and participation requirements shall be developed by the Commissioner of the Department of Health and Senior Services and set forth in separate legislation. Combined funding for Charity Care and the Health Care Stabilization Fund shall not exceed [$649,000,000] $600,823,000. The commissioner shall provide notice to the Joint Budget Oversight Committee of each distribution made from the Health Care Stabilization Fund within 5 business days of the distribution. Each facility that receives funding from the Health Care Stabilization Fund shall be subject to an audit by the State Comptroller to be initiated 12 months after the date of payment.

Department of Health and Senior Services,		
Total State Appropriation	[$1,596,328,000]	$1,570,828,000

82 DEPARTMENT OF THE TREASURY

30 Educational, Cultural, and Intellectual Development

36 Higher Educational Services

GRANTS-IN-AID

The unexpended balance at the end of the preceding fiscal year in the New Jersey Stem Cell Research Institute account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting [, and] . Notwithstanding the provisions of any law or regulation to the contrary, of the amount so appropriated, there is appropriated $1,750,000 for a grant to the New Jersey Economic Development Authority for payment of

predevelopment costs as approved by the New Jersey Economic Development Authority in June 2007, incurred in connection with the proposed stem cell research institute in New Brunswick as set forth in P.L. 2006, c.102. The remaining amounts shall be expended subject to the approval of the State Treasurer in consultation with the New Jersey Commission on Science and Technology.

30 Educational, Cultural, and Intellectual Development
36 Higher Educational Services
STATE AID

48-2155 Aid to County Colleges	$221,630,000
(From General Fund .....$183,604,000)	
(From Property Tax Relief Fund ..... 38,026,000)	
Total State Aid Appropriation, Higher Educational Services	$221,630,000
(From General Fund ..... $183,604,000)	
(From Property Tax Relief Fund ..... 38,026,000)	
Less:	
Supplemental Workforce Fund -- Basic Skills .... [$14,000,000] $16,000,000	
Total Income Deductions ..... [$14,000,000]	**$16,000,000**
Total State Appropriation, Higher Educational Services ..... [$207,630,000]	$205,630,000
(From General Fund ..... [$169,604,000] ($167,604,000)	
(From Property Tax Relief Fund ..... 38,026,000)	
State Aid:	
48 Operational Costs	($149,093,000)
Less:	
Income Deductions .....[$14,000,000]	**$16,000,000**

In addition to the amount hereinabove appropriated for operational costs, there is appropriated [$14,000,000] $16,000,000 from the Supplemental Workforce Fund for Basic Skills for the same purpose.

50 Economic Planning, Development and Security
51 Economic Planning and Development
GRANTS-IN-AID

There is appropriated from the Enterprise Zone Assistance Fund established pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88) such sums as are necessary for administrative services provided by the New Jersey Commerce Commission or any entity succeeding to the duties and functions of the New Jersey Commerce Commission, [pursuant to separate legislation and] the Office of Economic Growth in accordance with the provisions of section 11 of P.L.1993, c.367 (C.52:27H-65.1) and the Department of Community Affairs, subject to the approval of the Director of the Division of Budget and Accounting, and in addition there may be transferred to the General Fund from the portion of the Enterprise Zone Assistance Fund

designated for the costs of those administrative services pursuant to subsection g. of section 29 of P.L.1983, c.303 (C.52:27H-88), an amount not in excess of $6,000,000, subject to the approval of the Director.

70 Government Direction, Management, and Control
75 State Subsidies and Financial Aid
STATE AID

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, except that notwithstanding the provisions of any law or regulation to the contrary, from the unexpended balances at the end of the preceding fiscal year in the Highlands Protection Fund – Highlands Property Tax Stabilization Aid, $8,000,000 shall be transferred to the Department of Law and Public Safety for the purpose of offsetting the cost of the provision of State Police protection to the inhabitants of rural sections pursuant to R.S.53:2-1, 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, the Highlands Protection Fund - Regional Master Plan Compliance Aid account, and the Highlands Protection Fund - Watershed Moratorium Offset Aid account, subject to the approval of the Director of the Division of Budget and Accounting.

Department of the Treasury,		
Total State Appropriation	[$3,220,651,000]	$3,215,651,000
Total State Appropriation,		
All Funds	[$32,868,471,000]	$32,840,971,000

(cf: P.L.2008, c.35, s.1)

2. In addition to the amounts appropriated under P.L.2008, c.35, the fiscal year 2009 annual appropriation act, there are appropriated out of the General Fund the following sums for the purposes specified:

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management
42 Natural Resource Management
DIRECT STATE SERVICES

13-4880 Hunters' and Anglers' License Fund		$345,000
Total Direct State Services Appropriation, Natural Resource Management		$345,000
Direct State Services:		
Personal Services:		
Salaries and Wages	($345,000)	
Department of Environmental Protection, Total State Appropriation		$345,000

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		$1,500,000
Total Grants-in-Aid Appropriation, Health Planning and Evaluation		$1,500,000
Grants-in-Aid:		
07 Health Care Subsidy Fund Payments	($1,500,000)	
Department of Health and Senior Services, Total State Appropriation		$1,500,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice
12 Law Enforcement
DIRECT STATE SERVICES

06-1200 State Police Operations		$9,596,000
Total Direct State Services Appropriation, Law Enforcement		$9,596,000
Direct State Services:		
Personal Services:		
Salaries and Wages	($9,596,000)	
Department of Law and Public Safety, Total State Appropriation		$9,596,000

74 DEPARTMENT OF STATE

30 Educational, Cultural, and Intellectual Development
37 Cultural and Intellectual Development Services
DIRECT STATE SERVICES

06-2535 Museum Services		$166,000
Total Direct State Services Appropriation, Cultural and Intellectual Development Services		$166,000
Direct State Services:		
Services Other Than Personal	($166,000)	
Department of State, Total State Appropriation		$166,000

82 DEPARTMENT OF THE TREASURY

70 Government Direction, Management, and Control
73 Financial Administration
DIRECT STATE SERVICES

19-2120 Management of State Investments		$2,000,000
Total Direct State Services Appropriation, Financial Administration		$2,000,000
Direct State Services:		
Services Other Than Personal	($2,000,000)	

80 Special Government Services
82 Protection of Citizens' Rights
DIRECT STATE SERVICES

57-2021 Trial Services to Indigents and Special Programs		$7,085,000
Total Direct State Services Appropriation, Protection of Citizens' Rights		$7,085,000
Direct State Services:		
Services Other Than Personal	($7,085,000)	
Department of the Treasury, Total State Appropriation		$9,085,000

94 INTER-DEPARTMENTAL ACCOUNTS

70 Government Direction, Management, and Control

74 General Government Services

CAPITAL CONSTRUCTION

08-9450 Capital Projects — Statewide		$76,000
Total Capital Construction Appropriation, General Government Services		$76,000
Capital Projects:		
New Jersey Building Authority		
Debt Service — General State Projects:		
08 Other State Projects	($76,000)	
Inter-Departmental Accounts, Total State Appropriation		$76,000
Total State Appropriation, General Fund		$20,768,000
Total State Appropriation, All Funds		$20,768,000

3. Section 4 of P.L.2009, c.22 is amended to read as follows:

4. Notwithstanding the provisions of section 5 and 6 of P.L.1990, c.44 (C.52:9H-18 and 52:9H-19) or any law or regulation to the contrary, [there may be transferred from] the uncommitted balance in the Surplus Revenue Fund, including any interest earned during the current fiscal year, may be transferred to the Property Tax Relief Fund [an amount not in excess of $275,000,000,] as revenue to support appropriations in the Property Tax Relief Fund, subject to the approval of the Director of the Division of Budget and Accounting.

(cf: P.L.2009, c.22, s.4)

4. Section 3 of P.L.2009, c.22 is amended to read as follows:

3. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the debt defeasance account established pursuant to section 3 of P.L.2008, c.22 and various capital accounts established pursuant to section 4 of P.L.2008, c.22 in the Long Term Obligation and Capital Expenditure Fund to the Property Tax Relief Fund an amount not in excess of [$371,000,000] $378,372,378, as revenue to support appropriations in the Property Tax Relief Fund, subject to the approval of the Director of the Division of Budget and Accounting.

(cf: P.L.2009, c.22, s.3)

5. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Temporary Disability Insurance Fund to the General Fund an amount not in excess of

$50,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

6. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Workforce Development Partnership Fund to the General Fund an amount not in excess of $15,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

7. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the New Home Warranty Security Fund to the General Fund an amount not in excess of $10,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

8. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Unemployment Compensation Auxiliary Fund to the General Fund an amount not in excess of $3,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

9. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Enterprise Zone Assistance Fund, established pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88), to the General Fund an amount not in excess of $21,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

10. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the State Recycling Fund, established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96), to the General Fund an amount not in excess of $7,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

11. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Emergency Services Fund, established pursuant to section 5 of P.L.1972, c.133 (C.52:14E-5), to the General Fund an amount not in excess of $6,313,000, subject to the approval of the Director of the Division of Budget and Accounting.

12. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Body Armor Replacement fund, established pursuant to section 1 of P.L.1997, c.177 (C.52:17B-4.4), to the General Fund an amount not in excess of $5,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

13. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Catastrophic Illness in Children Relief Fund, established pursuant to section 3 of P.L.1987, c.370 (C.26:2-150), to the General Fund an amount not in excess of $5,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

14. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Emergency Medical Technician Training Fund, established pursuant to section 3 of P.L.1992, c.143 (C.26:2K-56), to the General Fund an amount not in excess of $4,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

15. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Unclaimed County Deposits Trust Fund, established pursuant to R.S.46:30B-74, to the General Fund an amount not in excess of $3,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

16. Notwithstanding the provisions of any law or regulation to the contrary, there may be transferred from the Worker and Community Right to Know Fund, established pursuant to section 26 of P.L.1983, c.315 (C.34:5A-26), to the General Fund an amount not in excess of $2,600,000, subject to the approval of the Director of the Division of Budget and Accounting.

17. This act shall take effect immediately.

STATEMENT

This bill amends and supplements the Fiscal Year 2008-2009 appropriations act, making supplemental appropriations of $20,768,000, reducing enacted appropriations by $27,500,000, and amending and adding various language provisions affecting appropriations.

A) The supplemental appropriations are as follows:

Department of Environmental Protection: $345,000 appropriation for Salaries and Wages to offset a revenue shortfall resulting from the provision of free hunting and fishing licenses to members of the National Guard.

Department of Health and Senior Services: $1.5 million appropriation for Health Care Subsidy Fund Payments to offset decreased interest earnings within the Health Care Subsidy Fund.

Department of Law and Public Safety: $9,596,000 appropriation for State Police Operations, in addition to $8 million transferred

from surplus balances in the Department of the Treasury Highlands Protection Fund – Highlands Property Tax Stabilization Aid account, to provide State Police protection to the inhabitants of rural sections of this State.

Department of State: $166,000 appropriation to support non-recurring costs associated with the phased reopening of the State Museum.

Department of the Treasury: 1) $2 million appropriation to reimburse the Division of Investment for operating costs associated with the investment of General Fund assets; and

2) $7,085,000 appropriation to support the increased costs in the Office of the Public Defender for pool attorney services.

Inter-Departmental Accounts: $76,000 appropriation to support increased debt service costs for New Jersey Building Authority bonds.

B) The reductions in enacted appropriations and the supplements or amendments to various language provisions are as follows:

Department of Community Affairs: revises language to permit revenue shortfalls in one code enforcement program, including Housing Code Enforcement, Uniform Construction Code, Uniform Fire Code, and Codes and Standards, to be offset by receipts in excess of the amount required to support another code enforcement program.

Department of Health and Senior Services: reduces Health Care Subsidy Fund Payments appropriation by $25.5 million in recognition of the one-time savings that will result from aligning Charity Care payments with the State fiscal year.

Department of the Treasury: 1) authorizes a grant of $1.75 million to the NJEDA from reappropriated balances in the New Jersey Stem Cell Research Institute account for the reimbursement of predevelopment costs incurred in connection with the Stem Cell Research Institute in New Brunswick; 2) supplants $2 million of the General Fund appropriation for Operational Costs of the County Colleges with a $2 million increase in funding from the Supplemental Workforce Fund for Basic Skills.

2) transfers $8 million from surplus balances in the Department of the Treasury Highlands Protection Fund – Highlands Property Tax Stabilization Aid account to the Department of Law and Public Safety to provide State Police protection to the inhabitants of rural sections of this State.

General Language Provisions affecting Appropriations and Revenues:

1) permits transfer of balances from the Surplus Revenue Fund to the Property Tax Relief Fund.

2) permits transfer of $7,732,378 from surplus capital balances in the Long Term Obligation and Capital Expenditure Fund to the Property Tax Relief Fund.

3) permits transfer of $50 million from surplus balances in the Temporary Disability Insurance Fund to the General Fund.

4) permits transfer of $15 million from surplus balances in the Workforce Development Partnership Fund to the General Fund.

5) permits transfer of $10 million from surplus balances in the New Home Warranty Security Fund to the General Fund.

6) permits transfer of $3 million from surplus balances in the Unemployment Compensation Auxiliary Fund to the General Fund.

7) permits transfer of $6 million from surplus balances in the portion of the Enterprise Zone Assistance Fund designated for state administrative costs and $21 million from the non-designated portion of the Enterprise Zone Assistance Fund to the General Fund.

8) permits transfer of $7 million from surplus balances in the State Recycling Fund to the General Fund.

9) permits transfer of $6,313,000 from surplus balances in the Emergency Services Fund to the General Fund.

10) permits transfer of $5 million from surplus balances in the Body Armor Replacement fund to the General Fund.

11) permits transfer of $5 million from surplus balances in the Catastrophic Illness in Children Relief Fund to the General Fund.

12) permits transfer of $4 million from surplus balances in the Emergency Medical Technician Training Fund to the General Fund.

13) permits transfer of $3 million from surplus balances in the Unclaimed County Deposits Trust Fund to the General Fund.

14) permits transfer of $2.6 million from surplus balances in the Worker and Community Right to Know Fund to the General Fund.

Section 10.2.1
Example of boilerplate in template for supp. approp. bill

SENATE, No. 2028

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED JUNE 12, 2006

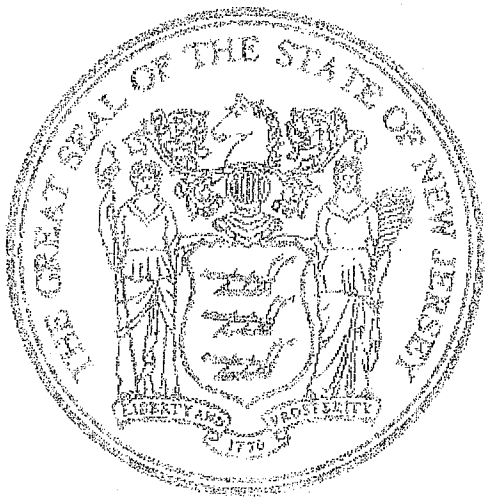
Sponsored by:
Senator BARBARA BUONO
District 18 (Middlesex)

SYNOPSIS

Makes fiscal year 2006 General Fund supplemental appropriations totaling $180,000 for various purposes.

CURRENT VERSION OF TEXT

As introduced.



A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2006 and regulating the disbursement thereof," approved July 2, 2005 (P.L.2005, c.132).

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

1. In addition to the amounts appropriated under P.L.2005, c.132, there is appropriated out of the General Fund the following sum for the purpose specified:

22 DEPARTMENT OF COMMUNITY AFFAIRS

50 Economic Planning, Development and Security
55 Social Services Programs
GRANTS-IN-AID

05-8050	Community Resources		$80,000
	Total Grants-in-Aid Appropriation, Social Services Program		$80,000
Funding Category:			
05	Edison SOS	($10,000)	
05	Township of Edison – SOS	(20,000)	
05	Spotswood Borough, Capital Road Improvements	(25,000)	
05	Borough of South River – Office on Aging	(25,000)	

Total Appropriation, Department of Community Affairs..... $80,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development
31 Direct Educational Services and Assistance
STATE AID

03-5120	Miscellaneous Grants-In-Aid		$75,000
	Total State Aid Appropriation, Direct Educational Services and Assistance		$75,000
State Aid:			
03	South Plainfield Board of Education	($25,000)	
03	East Brunswick Board of Education, Capital Road Improvements	(50,000)	

Total Appropriation, Department of Education $75,000

74. DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services
GRANTS-IN-AID

05-2530	Support of the Arts	$25,000
	Total Grants-in-Aid Appropriation, Cultural and Intellectual Development Services	$25,000
Funding Category:		
05	George Street Playhouse	($25,000)

Total Appropriation, Department of State $25,000

Total Appropriation, General Fund $180,000

2. This act shall take effect immediately.

STATEMENT

The bill amends the current fiscal year 2006 appropriations act to provide a total supplemental appropriation of $180,000 from the General Fund for various purposes.

Specifically, the supplemental appropriations are as follows:

Department of Community Affairs: A total of $80,000 in Grants-in-Aid funding is appropriated to provide $10,000 to Edison SOS (Edison Senior Outreach Services, a non-profit organization); $25,000 to the Township of Edison--SOS; $25,000 to Spotswood Borough, Capital Road Improvements; and $25,000 to the Borough of South River--Office of Aging.

Department of Education: A total of $75,000 in State Aid funding is appropriated to provide $25,000 to the South Plainfield Board of Education and $50,000 to the East Brunswick Board of Education, Capital Improvements.

Department of State: A Grant-in-Aid appropriation of $25,000 is provided for a grant to the George Street Playhouse, New Brunswick.

Section 10.2.1
"Poison Pill" -Discontinuation of specific revenue collections upon violation of related dedication

Title 54.
Chapter 32D. (New)
State Hotel, Motel
Occupancy Fee
§§1,2 - C.54:32D-1
& 54:32D-2
Title 40.
Chapter 48F. (New)
Municipal Hotel,
Motel Occupancy
Tax.
§§3-7 -
C.40:48F-1
to 40:48F-5

P.L. 2003, CHAPTER 114, ***approved July 1, 2003***
Assembly Committee Substitute for
Assembly Committee Substitute for
Assembly, No. 3710

AN ACT imposing a State hotel and motel occupancy fee and authorizing imposition of a municipal hotel and motel occupancy tax by certain municipalities, supplementing Titles 54 and 40 of the Revised Statutes.

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

1. a. In addition to any other tax, assessment or use fee authorized by law, there is imposed and shall be paid a hotel and motel occupancy fee of 7% for occupancies on and after August 1, 2003 but before July 1, 2004, and of 5% for occupancies on and after July 1, 2004, upon the rent for every occupancy of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of P.L. 1966, c.30 (C:54:32B-3), which every person required to collect tax shall collect from the customer when collecting the rent to which it applies; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection d. of section 2 of P.L. , c. (C.) (now pending before the Legislature as this bill), no such fee shall be paid or collected; and provided further that:

(1) the combined rates of the fee imposed under this section, plus the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947, c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 13%, and to the extent that the total combined rate of taxation for the listed fees and taxes would exceed 13%, the fee imposed under this section shall be reduced so that the total combined rate equals 13%;

(2) the combined rates of the fee imposed under this section, plus

the tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a total rate of 13%, and to the extent that the total combined rate of taxation for the listed fees and taxes would exceed 13%, the fee imposed under this section shall be reduced so that the total combined rate equals 13%; and

(3) the fee imposed under this section shall be at the rate of 1% in a city in which the tax authorized under P.L.1981, c. 77 (C.40:48E-1 et seq.) is imposed.

b. The hotel and motel occupancy fee imposed by subsection a. of this section shall not be imposed on the rent for an occupancy if the purchaser, user or consumer is an entity exempt from the tax imposed on an occupancy under the "Sales and Use Tax Act" pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9).

c. Terms used in this section shall have the meaning given those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

2. a. The Director of the Division of Taxation shall collect and administer the fee imposed pursuant to section 1 of P.L. , c. (C.) (now pending before the Legislature as this bill). The fees collected shall be deposited to the General Fund, and shall be allocated as follows:

(1) of the fees collected for occupancies during State Fiscal Year 2004: $16,000,000 shall be allocated for appropriation to the New Jersey State Council on the Arts for cultural projects; $2,700,000 shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3); $9,000,000 shall be allocated for appropriation to the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion; and $500,000 shall be allocated for appropriation to the New Jersey Cultural Trust; and

(2) of the fees collected for occupancies during State Fiscal Year 2005 and thereafter: 22.68 percent shall be annually allocated for appropriation to the New Jersey State Council on the Arts for cultural projects, provided that the amount allocated shall not be less than $22,680,000; 3.84 percent shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3), provided that the amount allocated shall not be less than $3,840,000; 12.76 percent shall be allocated for appropriation to the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion, provided that the amount allocated shall not be less than $12,760,000; and .72 percent shall be allocated for appropriation to the New Jersey Cultural Trust, provided that the amount allocated shall not be less than $720,000.

b. In carrying out the provisions of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) and this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be filed and paid in a manner prescribed by the Director of the Division of Taxation. The director shall promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of sections 1 and 2 of P.L., c. (C.) (pending before the Legislature as this bill) and this section.

c. The annual appropriations act for each State Fiscal Year, commencing with fiscal year 2005, shall appropriate and distribute during that fiscal year amounts not less than the amounts otherwise specified for State Fiscal Year 2004 in paragraph (1) of subsection a. of this section for the purposes specified in paragraph (1) of subsection a. of this section.

d. If the provisions of subsection c. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate the provisions of subsection c. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates the provisions of subsection c. of this section, certify to the Director of the Division of Taxation that the requirements of subsection c. of this section have not been met.

e. The Director of the Division of Taxation shall, no later than five days after certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection d. of this section that the provisions of subsection c. of this section have not been met or have been violated by an amendment or supplement to the annual appropriations act, notify each person required to collect tax of the certification and that the fee imposed pursuant to section 1 of P.L. , c. (C.) (now pending before the Legislature as this bill) shall no longer be paid or collected.

3. The governing body of a municipality, other than a city of the first class or a city of the second class in which the tax authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a a city of the fourth class in which the tax authorized under P.L.1947, c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which the tax and assessment authorized under section 4 of P.L.1992, c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a tax, at a uniform percentage rate not to exceed 1% on charges of rent for every occupancy on or after July 1, 2003 but before July 1, 2004, and not to exceed 3% on charges of rent for every occupancy on or after July 1, 2004, of a room or rooms in a hotel subject to taxation pursuant to subsection (d) of section 3 of P.L.1966, c.30

(C.54:32B-3).

A tax imposed under this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the occupancy of a hotel room.

A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption or amendment to the State Treasurer. An ordinance so adopted or any amendment thereto shall provide that the tax provisions of the ordinance or any amendment to the tax provisions shall take effect on the first day of the first full month occurring 30 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2003 and on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer for ordinances adopted in calendar year 2004 and thereafter.

4. An ordinance imposing a tax adopted pursuant to the provisions of section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill) shall contain the following provisions:

a. All taxes imposed by the ordinance shall be paid by the purchaser;

b. A vendor shall not assume or absorb any tax imposed by the ordinance;

c. A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.

d. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense; and

e. Penalties as fixed in the ordinance, for violation of the foregoing provisions.

5. a. A tax imposed pursuant to a municipal ordinance adopted under the provisions of section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill) shall be collected on behalf of the municipality by the person collecting the rent from the hotel customer.

b. Each person required to collect a tax imposed by the ordinance shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the tax.

Section 10.2.1
"Poison Pill" -Discontinuation of specific revenue collections upon violation of related dedication

6. a. A person required to collect a tax imposed pursuant to the provisions of section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill) shall, on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the Director of the Division of Taxation in the Department of the Treasury the tax collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the director shall prescribe as necessary to determine liability for the tax in the preceding month during which the person was required to collect the tax.

b. The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of tax liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the director 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.

c. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

7. a. The Director of the Division of Taxation shall collect and administer any tax imposed pursuant to the provisions of section 3 of P.L. , c. (C.)(now pending before the Legislature as this bill). In carrying out the provisions of this section, the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of revenues collected in each municipality pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a quarterly or more frequent basis, as prescribed by the State Treasurer, to each municipality the amount of revenues determined and certified under subsection b. of this section.

d. A tax imposed pursuant to the provisions of section 3 of P.L., c. (C.) (now pending before the Legislature as this bill) shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

8. This act shall take effect immediately.

Imposes a State hotel and motel occupancy fee; authorizes a municipal hotel and motel occupancy tax by certain municipalities.

Section 10.3.1 *Section 10.3.2* *A one-House study or advisory panel designated as a "committee"*	*Section 10.3.10* *Membership of a one-House study or advisory committee*

ASSEMBLY RESOLUTION No. 140

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED MARCH 11, 2004

Sponsored by:
Assemblyman PETER C. EAGLER
District 34 (Essex and Passaic)

SYNOPSIS

Creates an Assembly Study Committee on Presidential Primaries.

CURRENT VERSION OF TEXT

As introduced.

AN ASSEMBLY RESOLUTION creating an Assembly Study Committee on Presidential Primaries.

WHEREAS, The presidential primary is part of the process by which the candidates for President and Vice-President of the United States for the Democratic and Republican parties are chosen; and

WHEREAS, New Hampshire, a state not demographically representative of the United States, holds the earliest primary; and

WHEREAS, New Jersey has a diverse population, demographically representative of the United States, and is the most densely populated state, but holds one of the two last primaries; and

WHEREAS, By the time New Jersey's primary is held in June, the number of presidential candidates may be reduced or the candidate virtually decided, leaving voters to ratify someone else's choice; and

WHEREAS, New Jersey, despite its density and diversity, is essentially not a factor in the presidential race; and

WHEREAS, New Jersey's lack of input may severely compromise its power and influence in national politics; and

WHEREAS, It is fitting and proper for this House to explore the feasibility of moving the date for the New Jersey presidential primary to an earlier date; now, therefore,

BE IT RESOLVED *by the General Assembly of the State of New Jersey:*

1. There is created an Assembly Study Committee on Presidential Primaries, hereinafter referred to as the study committee. The purpose of the committee shall be to study early primaries and evaluate the process and examine the experience, both positive and negative, of states that have early primaries. The committee shall also study the feasibility of changing the date of New Jersey's primary, evaluate whether the presidential primary should be held separate from primaries for other offices, estimate the economic impact of changing the primary date and separating the primaries, and ascertain the impact upon the counties of a special primary election. Following the study, the committee shall submit a report of findings and recommendations.

2. The study committee shall consist of 15 members. The Speaker of the General Assembly shall appoint: the superintendents of elections of the most populous and next most populous counties of the State, according to the most recent federal decennial census; one person affiliated with the New Jersey Election Law Enforcement Commission; one county clerk; one person affiliated with New Jersey Common Cause; one person affiliated with the League of Women Voters; one member from the general public who has an expertise or interest in the area of elections; and one member of the General

Assembly, who shall be a member of the same political party as the Speaker. No more than four of these appointees shall be members of the same political party.

The Minority Leader of the General Assembly shall appoint: one person affiliated with the New Jersey Election Law Enforcement Commission; one county clerk; one person who is affiliated with the New Jersey chapter of the American Association of Retired Persons; one person affiliated with New Jersey Citizen Action; one person from a public institution of higher education in this State with an academic department or institute dedicated to the study of politics and elections; one member from the general public who has an expertise or interest in the area of elections; and one member of the General Assembly, who will be a member of the same political party as the Assembly Minority Leader. No more than four of these appointees shall be members of the same political party.

The members of the committee will serve without compensation. A vacancy in the membership of the committee will be filled in the same manner as the original appointment.

3. Members of the committee shall be appointed within 30 days after the effective date of this resolution and shall hold their initial organizational meeting within 30 days after their appointment. The members shall elect one of the members to serve as chair and one of the members to serve as vice-chair. The chair and vice-chair shall not be of the same political party. The chair may appoint a secretary, who need not be a member of the committee.

4. The committee shall meet at the call of the chair. The committee shall conduct a minimum of three public hearings, in various parts of the State, and elicit the testimony of interested groups and the general public at such times and places as it shall designate. A meeting of the committee shall be called upon the request of eight of the committee members and eight members of the committee shall constitute a quorum at any meeting thereof.

5. The committee shall prepare and submit a final report containing its findings and recommendations, including any recommendations for legislation, to the Governor, the Senate President, the Minority Leader of the Senate, the Speaker of the General Assembly and the Minority Leader of the General Assembly no later than ten months following its initial organizational meeting.

6. This assembly resolution shall take effect upon its adoption by this House and shall expire upon submission of the committee's final report as prescribed in section 5 of this resolution.

STATEMENT

This resolution creates an Assembly Study Committee on Presidential Primaries. The purpose of the committee shall be to study early primaries and evaluate the process and examine the experience, both positive and negative, of states that have early primaries. The committee shall also study the feasibility of changing the date of New Jersey's primary, evaluate whether the presidential primary should be held separate from primaries for other offices, estimate the economic impact of changing the primary date and separating the primaries, and ascertain the impact upon the counties of a special primary election.

The study committee will consist of 15 members, to be appointed by the Speaker of the General Assembly and the Minority Leader. The members will include: the superintendents of elections of the most populous and next most populous counties of the State; two county clerks; two members from the New Jersey Election Law Enforcement Commission; two persons from the general public; two members of the General Assembly and one person from each of the following: New Jersey Common Cause; New Jersey chapter of the American Association of Retired Persons; New Jersey Citizen Action; League of Women Voters and a public institution of higher education in this State with an academic department or institute dedicated to the study of politics and elections.

The committee will prepare and submit a final report containing its findings and recommendations to the Governor, the Senate President, the Minority Leader of the Senate, the Speaker of the General Assembly and the Minority Leader of the General Assembly no later than ten months following its initial organizational meeting.

Section 10.3.1
Section 10.3.10
A commission established by concurrent resolution, expiring at the end of the two-year legislative term

ASSEMBLY CONCURRENT RESOLUTION No. 96

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:
Assemblywoman CAROLINE CASAGRANDE
District 12 (Mercer and Monmouth)

SYNOPSIS

Establishes temporary "Public Employee Pension Fund Investment Practices Study Commission."

CURRENT VERSION OF TEXT

As introduced.

Section 10.3.1
Section 10.3.10
A commission established by concurrent resolution, expiring at the end of the two-year legislative term

A CONCURRENT RESOLUTION establishing the temporary "Public Employee Pension Fund Investment Practices Study Commission."

BE IT RESOLVED *by the General Assembly of the State of New Jersey (the Senate concurring):*

1. A temporary commission to be known as the "Public Employee Pension Fund Investment Practices Study Commission" is established in the Legislative Branch of state government to study the rules and procedures guiding the investment of moneys in the public employee retirement funds in the custody of the Director of the Division of Investment in the Department of the Treasury. It shall be the duty of the commission to review and analyze investment policies and processes, and to make recommendations to the Legislature pertaining thereto. The review and analysis shall include, but shall not be limited to, the roles and the interplay of the State Treasurer, the State Investment Council, the Division of Investment, and the State Legislature in effectuating and overseeing the investment of public employee retirement funds moneys; the composition of the State Investment Council; the performance of public employee retirement funds investments; the asset allocation plan governing the investment of public employee retirement funds; the checks, balances, and internal controls built into the investment process to safeguard the integrity of the public employee retirement funds before specific investments are placed; and whether the compensation paid to investment analysts is sufficient to attract candidates with the necessary skill sets.

2. The commission shall consist of 12 voting members, to be appointed as follows: six members of the Senate, three members of the majority party to be appointed by the President of the Senate and three members of the minority party to be appointed by the Minority Leader of the Senate; and six members of the General Assembly, three members of the majority party to be appointed by the Speaker of the General Assembly and three members of the minority party to be appointed by the Minority Leader of the General Assembly. Any vacancy in the membership of the commission shall be filled in the same manner provided for the original appointments.

The commission shall be entitled to and avail itself of the assistance of the Office of Legislative Services as it may require and as may be available to it for its purposes.

3. Members of the commission shall be appointed within 30 days after the effective date of this act, P.L. , c. (pending before the Legislature as this bill), and shall hold their initial organizational meeting as soon as practicable, but no later than 30

days following the appointment of its members, and shall select a chairperson and vice-chairperson, who shall be of different political parties. The chairperson shall appoint a secretary who need not be a member of the commission.

4. The commission may meet and hold hearings at the places it designates throughout the State during the sessions or recesses of the Legislature. The commission shall meet at the call of the chairperson. A meeting of the commission shall be called upon the request of seven of the commission's members, and the presence of seven members of the commission shall constitute a quorum at any meeting thereof.

5. Within 45 days from the date of its organization, the commission shall report its findings, along with any recommendations and legislative proposals it may make, to the Governor, and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). The commission shall expire upon issuance of its final report.

6. This concurrent resolution shall take effect immediately and shall expire upon the commission's issuance of its report.

STATEMENT

This concurrent resolution establishes in the Legislative Branch of State government the temporary "Public Employee Pension Fund Investment Practices Study Commission" to study the rules and procedures guiding the investment of moneys in the public employee retirement funds. The commission has 12 members: six from the Senate in equal number from both parties and six from the General Assembly also in equal number from both parties.

The commission will issue a report with its findings and recommendations within 45 days from the date of its organization and will expire upon the report's issuance.

The turmoil in world financial markets in the second half of 2008 produced monumental losses to the public employee pension funds. On November 28, 2008, their total value was $60.6 billion, which was over 22 percent less than on July 1, 2008. While this plunge reflects overall market trends and is not attributable to improprieties or incompetency, it is prudent in light of the staggering losses to now review and analyze the policies, rules, and procedures for the investment of pension fund assets so as to best ensure the funds' integrity in the future.

Section 10.3.1
Section 10.3.10
A commission established by joint resolution

SENATE JOINT RESOLUTION
No. 62

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JANUARY 11, 2011

Sponsored by:
Senator RONALD L. RICE
District 28 (Essex)

SYNOPSIS

Establishes "Casino Gaming Study Commission" to evaluate impact of enacted casino gaming regulatory reforms and explore future prospects for casino gaming in Bergen County.

CURRENT VERSION OF TEXT

As introduced.

Section 10.3.1
Section 10.3.10
A commission established by joint resolution

A JOINT RESOLUTION establishing the "Casino Gaming Study Commission."

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

1. There is hereby established the "Casino Gaming Study Commission."

a. The commission shall consist of 13 public members, to be appointed as follows:

(1) four members to be appointed by the Senate President;

(2) two members to be appointed by the Senate Minority Leader;

(3) four members to be appointed by the Assembly Speaker;

(4) two members to be appointed by the Assembly Minority Leader; and

(5) one member to be appointed by the Governor.

Any vacancy in the membership of the commission shall be filled in the same manner in which the original appointment was made.

b. It shall be the duty of the commission to evaluate the impact of recently enacted statutory and regulatory reforms with respect to casino gaming in this State, and to explore future prospects for the establishment of casino gaming in Bergen County. For the purposes of the commission, recently enacted statutory and regulatory reforms shall include all legislation and reform measures enacted and implemented since the beginning of calendar year 2010 with respect to the casino gaming industry in this State, except that this time period requirement shall not prevent the commission from evaluating these recently enacted legislative measures and regulatory reforms in historical perspective. Specifically, the commission shall:

(1) evaluate the impact that recently enacted casino gaming legislation, regulatory reforms, and technological reforms have had on the conduct of casino gaming in this State, with special attention to matters such as, but not limited to, whether the enacted legislation and reforms have benefited or not the economic viability and integrity of casino gaming in this State, and whether the enacted legislation and reforms have had any negative impact on such component of the gaming industry and on the State, its gaming revenue funds, and its population; and

(2) consider whether casino gaming should be expanded beyond the geographic boundaries of Atlantic City, specifically to Bergen County, which consideration shall include research and discussion of the benefits and drawbacks of such expansion for the gaming industry, the State's economy, and the State's population.

c. The members of the commission shall be appointed within 60 days following the date of enactment of this act, P.L. , c. (pending before the Legislature as this bill). The commission shall

organize as soon as practicable after the appointment of its members, and shall select a chairperson from among its membership, and a secretary who need not be a member of the commission. The presence of four members of the commission shall constitute a quorum. The commission may conduct business without a quorum, but may only vote on recommendations when a quorum is present. 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, authority, or agency as it may require and as may be available to it for its purposes. Members of the commission shall serve without compensation, but shall be entitled to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes. The commission may meet at the call of its chairperson at the times and in the places it may deem appropriate and necessary to fulfill its duties, and may conduct public hearings at such place or places as it shall designate.

d. The commission shall, within one year of its organization, issue a report of its findings and conclusions, together with any recommendations it may have for legislative or regulatory action, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The commission shall expire on the 30th day after the date of the issuance of its final report.

2. This joint resolution shall take effect immediately.

STATEMENT

This joint resolution establishes the "Casino Gaming Study Commission," to consist of 13 public members. Of the total membership, four would be appointed by the President of the Senate; two by the Senate Minority Leader; four by the Speaker of the General Assembly; two by the Assembly Minority Leader; and one member would be appointed by the Governor.

Under the resolution, the commission would evaluate the impact of recently enacted casino gaming statutory revisions, regulatory reforms, and technological reforms, and would explore the future prospects for casino expansion to Bergen County. The commission would review the impact of all casino industry legislation and reform measures enacted and implemented in this State since the beginning of calendar year 2010, but this time period requirement would not prevent the commission from evaluating these recently enacted legislative measures and reforms in historical perspective.

The resolution further provides that the members of the commission would be appointed within 60 days from the enactment

of the resolution, and would issue a report one year from the date of its organization. The commission would submit the report, together with any recommendations it may have for legislative or regulatory action, to the Governor and the Legislature, and would expire 30 days after the issuance of its final report.

Section 10.3.1
Section 10.3.10
A commission established by a bill: members represent both legislative and executive branches or commission will continue beyond two-year term

ASSEMBLY, No. 178

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblyman GARY R. CHIUSANO
District 24 (Sussex, Hunterdon and Morris)
Assemblywoman ALISON LITTELL MCHOSE
District 24 (Sussex, Hunterdon and Morris)
Assemblywoman PAMELA R. LAMPITT
District 6 (Camden)

Co-Sponsored by:
Assemblymen Polistina, Amodeo, Assemblywoman Vainieri Huttle and Assemblyman Coutinho

SYNOPSIS

Establishes "New Jersey Commission on Government Efficiency and Cost Control" to recommend measures for efficiency and cost reduction in State government.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 6/11/2010)

Section 10.3.1
Section 10.3.10
A commission established by a bill: members represent both legislative and executive branches or commission will continue beyond two-year term

AN ACT establishing the "New Jersey Commission on Government Efficiency and Cost Control" to recommend measures for efficiency and cost reduction in State government.

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

1. The Legislature finds and declares:

a. The cost of State government operations in New Jersey continues to increase in every fiscal year, eroding the State's ability to create and maintain a strong financial footing; and

b. In these difficult economic times, when the residents of this State carry a significant tax burden, the State must find creative ways to reduce the cost of running State government and increase the efficiency of its operations without further burdening the taxpayers of this State; and

c. In the process of identifying concrete, specific measures that would yield significant cost reductions and increases in efficiency, it is necessary to thoroughly and deliberately evaluate the operations of each State government department, to view these operations through a private-sector perspective, and to include the input of experienced State government employees and experts; and

d. A commission composed of successful private-sector members and the State Comptroller, directed to conduct such thorough evaluation of State government operations while soliciting the advice of experienced State government employees and experts, would greatly inform the Legislature and the Governor on how to reduce costs and increase State government efficiency for the benefit of this State without an increase in taxes.

2. There is hereby established the "New Jersey Commission on Government Efficiency and Cost Control."

a. The commission shall consist of 21 voting members. Twenty members shall be residents of this State who are active or retired employees of private-sector companies, who through their performance in the private sector have demonstrated an exceptional ability to conduct business operations in an efficient and cost-effective manner. One member shall be the State Comptroller, ex officio, or a designee. Of the private-sector members of the commission, 12 shall be appointed by the Governor, with the advice and consent of the Senate, within 60 days following the effective date of this act, P.L. , c. (C.) (pending before the Legislature as this bill), and not more than six of these members shall be of the same political party. Eight of the private-sector members shall be appointed by the legislative leadership, as follows: two members shall be appointed by the Senate President, two members shall be appointed by the Senate Minority Leader, two members shall be

appointed by the Speaker of the General Assembly, and two members shall be appointed by the Assembly Minority Leader.

b. If the Governor fails to appoint the 12 private-sector members of the commission designated for his appointment within 60 days following the effective date of this act, these members shall be appointed by the legislative leadership, as follows: three members shall be appointed by the Senate President, three members shall be appointed by the Senate Minority Leader, three members shall be appointed by the Speaker of the General Assembly, and three members shall be appointed by the Assembly Minority Leader.

c. The members shall serve until the commission submits its final report to the Governor and the Legislature. Any vacancy in the membership of the commission shall be filled in the same manner as the original appointment was made.

3. The "New Jersey Commission on Government Efficiency and Cost Control" shall organize as soon as practicable after the appointment of its members and shall select a chair and a treasurer from among its members, and a secretary who need not be a member of the commission. The presence of 11 members of the commission shall constitute a quorum. The commission may conduct business without a quorum, but may only vote on recommendations when a quorum is present. The commission may incur traveling and other miscellaneous expenses as it may deem necessary, within the limits of funds made available to it for its purposes. Members of the commission shall serve without compensation, but shall be reimbursed for expenses actually incurred in the performance of their duties, except that no public funds shall be allocated or appropriated to the commission. To cover the expenses actually incurred by the commission in the performance of its official duties the commission shall have the power to accept contributions from the private sector and from members of the general public, and to apply for and receive private foundation grants. The commission may meet and hold hearings at the places it designates throughout the State during the sessions or recesses of the Legislature.

4. The "New Jersey Commission on Government Efficiency and Cost Control" shall be staffed by volunteers who shall be private company employees and members of the general public who reside in this State. The commission shall widely distribute an announcement calling for volunteers to the public and to private companies located in this State or that employ New Jersey residents. The announcement shall solicit resumes from interested persons as part of the volunteer search process. The commission shall select volunteers based on each candidate's possession of

sufficient and relevant experience and skills necessary for the work of the commission. In addition, the commission shall be entitled to and avail itself of the assistance and services of the staff of the Office of the State Comptroller, and of the employees of any other State department, board, bureau, commission, or agency, as it may require and as may be available to it for its purposes.

5. It shall be the duty of the "New Jersey Commission on Government Efficiency and Cost Control" to identify ways to improve efficiency in State government operations and to recommend concrete measures that would result in significant cost reductions and savings to the State.

a. In performing this duty, the commission shall:

(1) Establish a sufficient number of commission task forces, to be directed by at least one member of the commission and staffed by the commission's volunteers. Each task force shall evaluate the operations of one Executive Branch department in this State and determine ways in which the operations of each department can be improved by the adoption of various efficiency and cost reduction measures.

(2) Solicit input, ideas and recommendations from current and retired State government employees about how State government could improve efficiency and reduce costs. For this purpose, the commission shall establish an Internet site, and shall utilize the county-based 211 telephone system.

(3) Hear testimony and solicit recommendations from experts and professionals who could significantly contribute to the commission's work.

(4) Undertake any other activities that would aid the commission in the performance of its tasks and the fulfillment of its duties.

b. The commission's recommendations shall seek to accomplish an improvement in the efficiency of State government operations and a reduction in the cost of these operations without necessitating an increase in any taxes.

6. The "New Jersey Commission on Government Efficiency and Cost Control" shall issue an interim report of its progress to the Governor and the Legislature no later than 12 months following the initial appointment of its members, and shall submit its final report and recommendations to the Governor and the Legislature no later than 24 months following the appointment of all of its initial members. Both the interim and the final report shall be submitted in accordance with the provisions of section 2 of P.L.1991, c.164 (C.52:14-19.1). The commission shall expire upon issuance of its final report.

Section 10.3.1
Section 10.3.10
A commission established by a bill: members represent both legislative and executive branches or commission will continue beyond two-year term

7. This act shall take effect immediately, and shall expire upon the commission's issuance of its final report and recommendations to the Governor and the Legislature.

STATEMENT

This bill establishes the "New Jersey Commission on Government Efficiency and Cost Control" to recommend measures for efficiency and cost reduction in State government operations.

The commission would consist of 21 voting members. Twenty of its members would be residents of this State who are active or retired employees of private-sector companies and who through their performance in the private sector have demonstrated an exceptional ability to conduct business operations in an efficient and cost-effective manner. Eight of the private-sector members would be appointed by the legislative leadership of each party, and 12 would be appointed by the Governor with the advice and consent of the Senate, but the bill provides for the legislative leadership of each party to appoint these members if the Governor does not make the appointments within 60 days following enactment. One member of the commission would be the State Comptroller, ex officio, or a designee.

Under the bill, the commission would carry out its duty by establishing several task forces. Each task force would be chaired by at least one commission member, and each would evaluate the efficiency and cost-effectiveness of the operations of a specific State government department. The commission would be staffed by volunteers from private-sector companies and members of the public who are New Jersey residents, but would be entitled to avail itself of the staff and services of the Office of the State Comptroller and other State agencies, as appropriate. The bill requires the commission to also solicit input, ideas, and recommendations from current and retired State government workers, through a website and through the county-based 211 telephone system, on how to achieve greater efficiency and cost reduction in State government. The commission would also listen to testimony and receive input from experts and professionals who could significantly contribute to the work of the commission.

The members of the commission would serve without compensation and, in contrast to other commissions that may be funded through government funds, the bill requires that the work of "New Jersey Commission on Government Efficiency and Cost Control" will not be funded by government or taxpayer dollars. The bill authorizes the commission to receive contributions from the private sector, the general public, and private foundation grants to

cover the reasonable costs that may be incurred by the commission in the performance of its official duties.

The commission would issue an interim report within 12 months following initial appointment of its members, and a final report within 24 months of enactment of its enabling legislation. The commission, and its enabling legislation, would expire upon issuance of its final report to the Governor and the Legislature.

Section 10.3.1
Section 10.3.10
Bill establishing commission and making an appropriation

ASSEMBLY, No. 1154

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:
Assemblywoman SHEILA Y. OLIVER
District 34 (Essex and Passaic)

SYNOPSIS

Creates a New Jersey Commission on Work and Family and a State Agency Work and Family Program; appropriates $1,000,000.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

AN ACT establishing the New Jersey Commission on Work and Family and the State Agency Work and Family Program and making an appropriation.

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

1. The Legislature finds and declares:

a. New Jersey families have undergone rapid change in recent decades, resulting in, for the first time in our history, more than 50% of two-parent families with children having both parents working and 66% of two-parent families with children less than six years old having both parents working;

b. The share of families consisting of the traditional male "breadwinner" with a "stay-at-home" spouse has declined to 10% of families, while more than 75% of women with children now work outside of the home, and the share of single-parent families has increased dramatically from 12% in 1970 to 28% in 1998;

c. The growing stress of balancing family and work responsibilities is reflected in national opinion polls showing that one third of working people believe that the difficulty of combining work and family is a woman's biggest work-related problem and nearly three fourths believe that government should do more to help;

d. Americans have extended their willingness to give care for those in need beyond just their children, with 54 million Americans taking on care-giving responsibility for elderly, disabled and chronically ill relatives and friends;

e. In addition to growing family responsibilities, American workers face growing burdens in the workplace, with a typical married couple working 700 hours more per year in 1998 than a comparable couple did in 1969;

f. Many forward-thinking private-sector employers in New Jersey have already begun to acknowledge these problems and take innovative steps, such as providing flexible scheduling, referral programs to help workers with elder care and child care, job sharing and gradual return to work, and counseling and assistance on health, finances and education;

g. It is therefore an appropriate public policy for the State of New Jersey to bring together public and private sector employers and employee organizations to foster initiatives to make our State a leader in helping working families successfully reconcile their work and family responsibilities, with special emphasis on fostering an effective work and family program in State agencies to serve as a model for innovative approaches to family and work issues.

2. There is created in the Department of Labor a commission

which shall be known as the New Jersey Commission on Work and Family.

3. a. The commission shall consist of 12 members, two of whom shall be the Commissioners of Labor and Personnel, and 10 of whom shall be appointed by the Governor with the advice and consent of the Senate for terms of three years, except that of the members first appointed by the Governor, four shall be appointed for three years, three shall be appointed for two years, and three shall be appointed for one year. Not more than half of the members appointed by the Governor shall be of the same political party. Of the 10 members appointed by the Governor, four shall be individuals who represent private-sector employers or employer organizations; four shall be individuals who represent private-sector labor organizations; and two shall be individuals who represent public-sector labor organizations.

b. Each member appointed by the Governor shall hold office for the term of appointment and until his successor is appointed and qualified. A member appointed to fill a vacancy occurring in the membership of the commission for any reason other than the expiration of the term shall have a term of appointment for the unexpired term only. All vacancies shall be filled in the same manner as the original appointment. A member may be appointed for any number of successive terms. Any member appointed by the Governor may be removed from office by the Governor, for cause, after a hearing and may be suspended by the Governor pending the completion of the hearing. Members of the commission shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties as members. The commission shall select a chairperson who shall be a member of the commission.

c. Action may be taken and motions and resolutions may be adopted by the commission at a commission meeting by an affirmative vote of a majority of the members. Advanced notification for, and copies of the minutes of, each meeting of the commission shall be filed with the Governor, and the minutes shall be subject to the approval of the Governor. If the minutes are not approved or disapproved by the Governor within fifteen business days, they shall be deemed approved.

4. a. Upon recommendation of the commission, the Governor shall, with the advice and consent of the Senate, appoint an executive director who shall report to the chairperson of the commission and be responsible for administering the daily operations of the commission. The commission may also, subject to the availability of funds, hire and employ, pursuant to Title 11A, Civil Service, of the New Jersey Statutes, other professional, technical, and clerical staff as may be necessary to perform the

functions assigned to the commission.

b. The commission may call to its assistance and avail itself of the services of the employees of any other State agencies as it may require and as may be available to it for that purpose, and the other State agencies shall provide the commission with such information as may be necessary for the commission to perform its functions.

c. The commission shall recommend to the Commissioner of Labor the adoption of any rules and regulations that the commission finds necessary to effectuate the provisions of this act and the commissioner may adopt those rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5. a. The purpose of the commission shall be to bring together public and private sector employer and employee organizations to make New Jersey a leader in the establishment of work and family programs in both the private and public sectors, with special emphasis on fostering an effective work and family program in State agencies and extending that program to benefit as many State employees as possible so that the State may serve as a model for effective approaches on family and work issues. To implement that purpose, the commission shall:

(1) Act as a clearinghouse for all New Jersey work and family programs;

(2) Highlight the most effective programs of New Jersey private and public employers regarding work and family issues and publicize successful workplace-based and community-based work and family programs and policies by disseminating current information through regular newsletters, the internet and other media;

(3) Provide expertise and technical assistance to private and public sector employers and unions, community-based organizations, State agencies and individuals seeking to initiate or improve work and family programs;

(4) Provide technical assistance for, seek grant applications from, and award grants to, locally-based consortia, which are joint local public sector employer-union grant applicants or joint private sector employer-union grant applicants, and may include local government agencies, school districts and community-based organizations, to initiate and foster programs to help working families, including affordable, high-quality dependent care, emergency sick care for children, and after-school and summer programs;

(5) Create an employer-to-employer mentoring program;

(6) Provide assistance to the State Agency Work and Family Program established pursuant to section 6 of this act; evaluate the effectiveness of that program within each participating State agency, including each of the three departments initially designated

to participate by this act; and provide technical assistance for similar initiatives or proposals of other State agencies and review them for consideration as additional participants in the State Agency Work and Family Program;

(7) Gather data about the best practices in private-sector and public-sector work and family programs and issue an annual report of its summary of the data collected to the Commissioner of Labor, which shall include any recommendations the commission finds appropriate for changes in laws or regulations concerning programs and policies regarding public sector work and family programs, including recommendations to expand the scope of the State Agency Program by increasing the number of participating State agencies.

b. To implement its purpose, the commission is authorized, subject to the provisions of this act, to contract for and to accept any gifts, grants or loans of funds, property or financial or other aid in any form from the United States of America or any of its agencies or instrumentalities, or from any other source.

c. The commission shall submit an annual budget to the Commissioner of Labor for inclusion in the budget of the Department of Labor, which shall include any proposals of the commission for additional State agencies to participate in the State Agency Work and Family Program.

d. For the purposes of this act, "work and family program" means a program which assists employees in successfully balancing their work and family responsibilities in order to perform with optimal efficiency and effectiveness in the workplace, and which provides support and resources to employees to enhance their ability to meet family responsibilities.

6. a. There is established the State Agency Work and Family Program. The purpose of the State Agency Work and Family Program is to implement, in each participating State agency, with the assistance of the commission established pursuant to section 2 of this act, an effective, comprehensive work and family program and thereby provide a demonstration of a fully developed family-friendly workplace in that agency in a manner that is not detrimental to other employees. The State Agency Work and Family Program shall emulate existing successful work and family programs in the private and public sectors and strive to create innovative new programs.

b. The initial participating agencies in the State Agency Work and Family Program are the State Department of Labor, the State Department of Environmental Protection, and the State Department of Health and Senior Services.

c. Within each department the State Agency Work and Family Program shall:

(1) Be administered by the commissioner of the department in

cooperation with the employee organizations representing the employees of the department, provided that services under the program shall be available to all employees of the department;

(2) Establish and coordinate new and existing work and family programs for the employees of the department, including, but not limited to, programs for flexible work scheduling and location arrangements, stress management, financial management, health screening, and career development;

(3) Provide resource and referral services and direct counseling related to work and family issues for department employees;

(4) Train managers, supervisors and employees regarding work and family issues; and

(5) Conduct regular surveys of employees to determine employee needs and measure the effectiveness of work and family programs and policies in the department.

d. Not less than five full-time staff shall be allocated to the State Agency Work and Family Program in each of the three departments, including a manager in charge of program operations in the department, two professionals responsible for directing the development and implementation of work and family programs and policies throughout the department, and two counselors responsible for providing resource and referral services and counseling to individual employees of the department. The two professionals and two counselors shall be hired and employed pursuant to Title 11A, Civil Service, of the New Jersey Statutes.

7. There is appropriated from the General Fund $1,000,000 for work and family programs as follows:

a. $300,000 for expenses incurred by the New Jersey Commission on Work and Family created pursuant to section 2 of this act in the performance of its duties;

b. $100,000 for grants awarded by the commission to local consortia pursuant to paragraph (4) of subsection a. of section 5 of this act;

c. $600,000 for expenses incurred by the State Agency Work and Family Program, to be allocated equally among the Department of Labor, the Department of Environmental Protection, and the Department of Health and Senior Services.

8. At the end of three years after the date of enactment of this act, the New Jersey Commission on Work and Family shall come before the Legislature for review and renewal.

9. This act shall take effect immediately.

STATEMENT

This bill creates a New Jersey Commission on Work and Family, with 12 members, including the State Commissioners of Labor and Personnel to represent public sector employers and 10 members appointed by the Governor. The members appointed by the Governor will include four members representing private-sector employers, four representing private-sector labor unions and two representing public-sector labor unions.

The purpose of the commission is to bring together public and private sector employers and unions to make New Jersey a leader in the establishment of work and family programs in both the private and public sectors, with special emphasis on fostering an effective work and family program in State agencies and extending that program to benefit as many State employees as possible so that the State may serve as a model for effective approaches on family and work issues. The bill requires the commission to:

1. Act as a clearinghouse for work and family programs;

2. Highlight the most effective programs of New Jersey private and public employers regarding work and family issues and publicize successful workplace-based and community-based work and family programs and policies;

3. Provide expertise and technical assistance to private and public sector employers and unions, community-based organizations, State agencies and individuals seeking to initiate or improve work and family programs;

4. Provide technical assistance for, seek grant applications from, and award grants to, locally-based consortia, to initiate and foster programs to help working families, including affordable, high-quality dependent care, emergency sick care for children, and after-school and summer programs;

5. Create an employer-to-employer mentoring program;

6. Provide assistance to the State Agency Work and Family Program, evaluate the effectiveness of that program, and provide technical assistance for similar initiatives or proposals of other State agencies and review them for consideration as additional participants in the program; and

7. Gather data about the best practices in private-sector and public-sector work and family programs and issue an annual report to the Commissioner of Labor.

The bill creates a State Agency Work and Family Program to implement in each participating State agency a program to provide a demonstration of a fully developed family-friendly workplace.

The first three State agencies to participate in the program are the Departments of Labor, Environmental Protection, and Health and Senior Services. In each department, the program is required to:

1. Be administered by the commissioner of the department in

cooperation with the unions representing department employees, and make its services available to all employees of the department;

2. Establish and coordinate new and existing work and family programs for department employees, including but not limited to programs for flexible work scheduling and location arrangements, stress management, financial management, health screening, and career development;

3. Provide resource and referral services and direct counseling related to work and family issues for department employees;

4. Train managers, supervisors and employees regarding work and family issues; and

5. Conduct regular surveys of employees to determine employee needs and measure the effectiveness of work and family programs and policies in the department.

The bill appropriates $1,000,000 from the General Fund as follows: $300,000 for commission expenses; $100,000 for grants to local consortia; and $600,000 for the expenses of the State Agency Work and Family Program, divided equally among the Department of Labor, the Department of Environmental Protection, and the Department of Health and Senior Services.

Section 10.3.8
Resolution granting subpoena power to a standing reference committee

ASSEMBLY RESOLUTION No. 57

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED FEBRUARY 11, 2010

Sponsored by:
Assemblywoman NANCY F. MUNOZ
District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:
Assemblymen Albano and Milam

SYNOPSIS

Constitutes Assembly Budget Committee as special committee to investigate management of the "Special Municipal Aid Act" State aid program by DCA; grants committee subpoena power.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/1/2010)

AN ASSEMBLY RESOLUTION constituting the Assembly Budget Committee as a special committee of the General Assembly to investigate the management of the "Special Municipal Aid Act" State aid program by the Department of Community Affairs and prescribing the committee's powers and duties, including the power to compel the production of documents through subpoena.

WHEREAS, The public has the right to expect transparency and objectivity in the management of State government programs that distribute large sums of State taxpayers' dollars to a few municipalities meeting specialized criteria; and

WHEREAS, The Governor's Budget Recommendations for State fiscal year 2009 include significant reductions in programs providing State aid to municipalities, the most severe of which are aimed at smaller municipalities that are then expected to develop efficiencies through shared services, while only token reductions are proposed for the long-standing State appropriations of large sums that are allocated by administrative fiat to support only a certain limited number of municipal governments claiming to be facing "short-term," severe fiscal problems; and

WHEREAS, More than $642 million has been made available by the Legislature to award State aid pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), (formerly known as Aid to Distressed Municipalities) during the period from fiscal year 2000 through fiscal year 2008 to municipalities claiming to be struggling to meet immediate budgetary needs and regain financial stability; and

WHEREAS, The "Special Municipal Aid Act," states that "short-term State assistance, in the form of State grants and loans, may provide the temporary revenue bridge these few municipalities need in order to overcome their current difficulties and regain their financial stability." However, under this program, Camden has been receiving aid for nine years, Paterson and Union City for nine years, Harrison Town for eight years, and Bridgeton for three years, and the greatest concentration of funds that have been awarded on a recurring basis through this program have been consistently awarded to a small number of municipalities without an adequate explanation of, or rationale for, aid amounts; and

WHEREAS, The Department of Community Affairs has publicly reported that, until recently, no standard applications were ever used to gauge financial needs of municipalities seeking aid pursuant to the "Special Municipal Aid Act"; and

WHEREAS, The Department of Community Affairs has publicly reported that there exists no written objective standards that guide aid awards pursuant to the "Special Municipal Aid Act"; and

WHEREAS, The Department of Community Affairs has failed to make publicly available written documentation explaining how

amounts of aid were awarded in past years to particular municipalities pursuant to the "Special Municipal Aid Act"; and

WHEREAS, The failure to provide written documentation explaining why specific amounts were awarded to particular municipalities is troubling, but particularly troubling in cases where certain municipalities, as with Paterson, received an almost $30 million increase in aid; and

WHEREAS, The "Special Municipal Aid Act" requires hearings to determine if certain repeat recipients of aid, including Union City and Paterson, should be subject to greater State fiscal oversight and such hearings have not occurred; and

WHEREAS, It is entirely fitting in the exercise by the Legislature of its exclusive constitutional power over appropriations, and to protect the financial interests of the taxpayers of the State, for the General Assembly to authorize a thorough investigation into the management of the Special Municipal Aid program, a review of the criteria employed in making annual awards under the "Special Municipal Aid Act" and a full and complete investigation of the administration of local government oversight mandated by the program; now, therefore,

BE IT RESOLVED *by the General Assembly of the State of New Jersey:*

1. The Assembly Budget Committee is constituted a special committee of the General Assembly. The membership of the committee as previously constituted is reconstituted and continued.

2. The committee shall investigate the management of the Special Municipal Aid program, review the criteria employed in making annual awards under the "Special Municipal Aid Act" and make a full and complete investigation of the administration of local government oversight mandated by that program for municipalities receiving awards of State aid under that program.

3. For the purposes of carrying out its charge under this resolution, the committee shall have all the powers conferred pursuant to chapter 13 of Title 52 of the Revised Statutes.

4. The committee shall be entitled to call to its assistance and avail itself of the services of the employees of the State of New Jersey, or any political subdivision of the State, or any agency thereof, as may be required and as may be available for that purpose, and to employ stenographic and clerical assistants and incur traveling and other miscellaneous expenses as may be deemed necessary, in order to perform the duties provided herein, and within the limit of funds appropriated or otherwise made available for that purpose.

5. The committee shall report its findings and recommendations, including any legislative proposals, to the General Assembly and the people of this State.

STATEMENT

This Assembly Resolution constitutes the Assembly Budget Committee as a special committee to investigate the management of the Special Municipal Aid program, review the criteria employed in making annual awards under the "Special Municipal Aid Act" and make a full and complete investigation of the administration of local government oversight mandated by that program for municipalities receiving awards of State aid under that program. The committee would have the power to subpoena witnesses and documents.

Section 10.3.8
Resolution granting subpoena power to a legislative task force

ASSEMBLY RESOLUTION No. 130

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED JUNE 22, 2000

Sponsored by:
Assemblyman BOB SMITH
District 17 (Middlesex, Somerset and Union)
Assemblyman PETER J. BARNES, JR.
District 18 (Middlesex)

SYNOPSIS

Establishes the General Assembly Task Force on the Enhanced Inspection and Maintenance System with subpoena power.

CURRENT VERSION OF TEXT

As introduced.

AN ASSEMBLY RESOLUTION establishing the General Assembly Task Force on the Enhanced Inspection and Maintenance System and conferring subpoena power on the task force.

WHEREAS, The federal "Clean Air Act Amendments of 1990," 42 U.S.C. sec. 7403 et seq., require states such as New Jersey to implement Statewide an enhanced inspection and maintenance program for motor vehicles; and

WHEREAS, To implement the federally required enhanced inspection and maintenance program for motor vehicles, the State entered into a contract with Parsons Infrastructure, Inc. to establish and operate the enhanced inspection and maintenance system; and

WHEREAS, Although the contractor began implementing the program on December 13, 1999, Parsons Infrastructure, Inc. was unable to fulfill certain provisions of the contract, and concern over malfunctioning equipment and long wait times at the inspection lanes led to investigation of the contractor; and

WHEREAS, It came to light that Parsons Infrastructure, Inc. has been involved in several laws suits alleging spurious business practices, including the overcharging of clients; and

WHEREAS, The enhanced inspection and maintenance system is an extremely expensive undertaking for the State that has cost more than $25 million since December 1999 alone and should be examined carefully to avoid waste of the huge amounts of State tax dollars being dedicated to fulfilling this federal requirement; and

WHEREAS, The evolving public discussions concerning this contract have not resolved the questions surrounding the awarding and implementation of the contract, nor has the contractor fully rectified the problems that prompted public scrutiny of the contract and the design of the system itself; and

WHEREAS, The examination that appears to be required leads to the fair-minded conclusion that the task force may reasonably need the subpoena power to complete its work; now, therefore,

BE IT RESOLVED *by the General Assembly of the State of New Jersey:*

1. There is hereby established the special General Assembly Task Force on the Enhanced Inspection and Maintenance System. The task force shall consist of five members of the General Assembly, with three members of the task force to be appointed by the Speaker of the General Assembly and two members to be appointed by Speaker of the General Assembly upon recommendation of the Minority Leader of the General Assembly. In addition, the task force shall have two public members, one appointed by the Speaker of the General Assembly and one appointed by the Minority Leader of the General Assembly, who

shall be conversant by education or experience with the public contracting laws and policies of the State. These two public members shall have no involvement with the enhanced inspection and maintenance system, the design and award of the contract implementing that system, or companies involved with developing or operating motor vehicle emissions testing technology. The task force may appoint a secretary who need not be a member of the committee. The Speaker of the General Assembly shall designate one of the members to serve as chairman.

2. It is the duty of the task force to examine the development and implementation of the enhanced inspection and maintenance system for motor vehicles mandated by the federal "Clean Air Act Amendments of 1990," and the development, design and award of the contract implementing the system. Further, the task force shall review the ongoing monitoring of the contract, with the goal of improving the public contracting laws of the State as may be appropriate.

3. For the purposes of carrying out its charge, the task force shall be deemed a "special committee" and shall have all the powers conferred under Chapter 13 of Title 52 of the Revised Statutes.

4. a. The task force may meet and hold hearings at the times and places it designates and shall be entitled to call to its assistance and avail itself of the services of officials and employees of any State, county or municipal department, board, bureau, commission, or agency as it may require.

b. The task force shall further be entitled to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

5. The task force shall report its findings in a report to the Speaker and the General Assembly as soon as practicable upon completion of its work.

STATEMENT

This resolution establishes the special General Assembly Task Force on the Enhanced Inspection and Maintenance System and confers subpoena power on the task force to give it that power, if needed, to pursue its mission as stated in the resolution.

Section 10.4
Special legislation concerning a specific business entity

CHAPTER 95 LAWS OF N.J. 19 86
APPROVED 8-27-86

SENATE, No. 1955

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1986

By Senator DiFRANCESCO

Referred to Committee on Law, Public Safety and Defense

AN ACT to authorize the borough of Fanwood, in the county of Union, to issue a new plenary retail consumption license under certain circumstances, notwithstanding the limitation on new licenses imposed by P. L. 1947, c. 94.

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

1. Pursuant to the provisions of P. L. 1948, c. 199 (C. 1:6-10 et seq.) and R. S. 1:6-1, under which a petition for a special law has been filed with the Legislature, the borough of Fanwood, in the county of Union is authorized to issue a new plenary retail consumption license to the owner or operator of a hotel containing at least 70 guest sleeping rooms and operated in connection with a restaurant having the capacity to seat 50 or more persons, providing the owner or operator meets the general licensing qualifications set out in R. S. 33:1-25, and notwithstanding the existing number of plenary retail consumption licenses in the borough exceed the limitation imposed by section 2 of P. L. 1947, c. 94 (C. 33:1-12.14).

2. The issue of a new plenary retail consumption license by the borough of Fanwood pursuant to this act, shall not prevent the borough from the future acquisition and retirement of retail consumption licenses pursuant to the provisions of P. L. 1968, c. 277 (C. 40:48-2.49 et seq.).

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

ASSEMBLY, No. 4079

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MARCH 12, 2007

Sponsored by:
Assemblyman SAMUEL D. THOMPSON
District 13 (Middlesex and Monmouth)

SYNOPSIS

Special legislation to permit appointment of Guillermo Rivera, Jr. to the Keansburg Police Department and enrollment in PFRS.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/11/2007)

AN ACT authorizing the Borough of Keansburg in the County of Monmouth to appoint Guillermo Rivera, Jr. to the Borough Police Department and authorizing his enrollment in PFRS.

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

1. Pursuant to the provisions of P.L.1948, c.199 (C.1:6-10 et seq.), under which a petition for a special law has been filed with the Legislature, the Borough of Keansburg in the County of Monmouth is authorized to appoint Guillermo Rivera, Jr. to the Borough of Keansburg Police Department notwithstanding that his age is greater than the maximum age for appointments thereto set forth in N.J.S.40A:14-127.

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

3. This act shall take effect upon due adoption of an ordinance of the Borough of Keansburg for the purpose of adopting same.

STATEMENT

This bill is special legislation that would authorize the Borough of Keansburg in Monmouth County to appoint Guillermo Rivera, Jr. to its police department although his age is greater than the maximum age allowed under N.J.S.40A:14-127. The Borough of Keansburg has petitioned the Legislature to pass this bill.

The bill would also require the Board of Trustees of the Police and Fireman's Retirement System of New Jersey to accept Mr. Guillermo into the retirement system provided that he pays into the system the contribution due and payable from the date of his original appointment. The bill would take effect upon its adoption by ordinance of the Borough of Keansburg.

Mr. Rivera, then not having exceeded the maximum age limitation provided in N.J.S.40A:14-127, duly made application for appointment to the Police Department of the Borough of Keansburg, satisfactorily passed the various examinations given therefore, and was placed on a list of qualified applicants promulgated as a result of those examinations. However, Mr. Rivera was not able to secure full-time appointment to the

borough's police department prior to exceeding the maximum age limitation provided in N.J.S.40A:14-127.

During Mr. Rivera's 13 years in law enforcement, he has effectuated over 600 criminal arrests, 40 driving while intoxicated arrests, and has issued over 1,000 motor vehicle summons. He has received numerous commendations for excellence from the borough's police department and other law enforcement agencies, including the Monmouth County Prosecutor's office. Mr. Rivera, who has lived in the Borough of Keansburg for over 25 years and is also a member of the New Point Comfort Fire Company in the Borough, currently serves as a special officer for the borough's police department. The Mayor and Council of the Borough of Keansburg, as well as the Keansburg Borough Chief of Police, are in favor of this appointment and believe that Mr. Rivera's appointment, in light of his outstanding credentials and experience, would help to ensure the safety and welfare of the borough's citizens.

Val.

P.L. 2003, CHAPTER 49, ***approved April 23, 2003***
Senate, No. 1762 ***(First Reprint)***

AN ACT to validate marriages heretofore solemnized by certain persons who were not authorized to solemnize marriages.

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

1. All marriages [1]<u>,if otherwise valid,</u>[1] heretofore solemnized by a person who purported to be a minister of religion but who was not at the time of such solemnization authorized as a minister by the rules or customs of a religious society, institution or organization shall [1][, if otherwise valid,][1] be as valid as if the same had been solemnized by a minister of religion.

[1]<u>This validating act in no way changes the requirement that marriages covered by this act required the persons intending to be married to obtain marriage licenses in compliance with the provisions of chapter 1 of Title 37 of the Revised Statutes.</u>[1]

2. This act shall take effect immediately.

Validates certain marriages solemnized by persons who were not authorized to solemnize marriages.

[CORRECTED COPY]
CHAPTER 117

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of $400,000,000 for the purpose of providing moneys for acquisition and development of lands for public recreation and conservation purposes, for farmland development easement and fee simple acquisitions, for Blue Acres projects, and for historic preservation projects; providing the ways and means to pay and discharge the principal of and interest on the bonds; providing for the submission of this act to the people at a general election; and making an appropriation therefor.

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

1. This act shall be known and may be cited as the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009."

2. The Legislature finds and declares that enhancing the quality of life of the citizens of New Jersey is a paramount policy of the State; that the acquisition and preservation of open space, farmland, and historic properties in New Jersey protects and enhances the character and beauty of the State and provides its citizens with greater opportunities for recreation, relaxation, and education; that the lands and resources now dedicated to these purposes will not be adequate to meet the needs of an expanding population in years to come; that the open space and farmland that is available and appropriate for these purposes will gradually disappear as the costs of preserving them correspondingly increase; and that it is necessary and desirable to provide funding for the development of parks and other open space for recreation and conservation purposes.

The Legislature further finds and declares that agriculture plays an integral role in the prosperity and well-being of the State as well as providing a fresh and abundant supply of food for its citizens; that much of the farmland in the State faces an imminent threat of permanent conversion to non-farm uses; and that the retention and development of an economically viable agricultural industry is of high public priority.

The Legislature further finds and declares that the Delaware River, the Passaic River, and the Raritan River, and their respective tributaries, and other areas throughout the State have been subject to serious flooding over the years, causing on some occasions loss of life and significant property damage; that to best ensure the public health, safety, and welfare while also accomplishing the desired objectives of (1) restoring, enhancing, and preserving water quality as well as ecosystems throughout the State for the public benefit, and (2) utilizing public funds in the most economical manner, it behooves the State to continue to fund the program to acquire throughout the State from willing sellers those properties that are prone to flooding and to dedicate those lands that are purchased for recreation and conservation; and that the issuance of bonds is necessary and desirable to provide funds for such purposes.

The Legislature further finds and declares that there is an urgent need to preserve the State's historic heritage to enable present and future generations to experience, understand, and enjoy the landmarks of New Jersey's role in the birth and development of this nation; that the restoration and preservation of properties of historic character and importance in the State is central to meeting this need; and that a significant number of these historic properties are located in urban centers, where their restoration and preservation will advance urban revitalization efforts of the State and local governments.

The Legislature further finds and declares that there is growing public recognition that the quality of life, economic prosperity, and environmental quality in New Jersey are served by the protection and timely preservation of open space and farmland and better management of

the lands, resources, historic properties, and recreational facilities that are already under public ownership or protection; that the protection and preservation of New Jersey's water resources, including the quality and quantity of the State's limited water supply, is essential to the quality of life and the economic health of the citizens of the State; that the acquisition of flood-prone areas is in the best interests of the State to prevent the loss of life and property; that the preservation of the existing diversity of animal and plant species is essential to sustaining both the environment and the economy of the Garden State, and the conservation of adequate habitat for endangered, threatened, and other rare species is necessary to preserve this biodiversity; that there is a need to continue the funding provided by the "Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007" (P.L.2007, c.119), the 1998 constitutional amendment, the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995" (P.L.1995, c.204), and the nine previous similar bond acts enacted in 1961, 1971, 1974, 1978, 1981, 1983, 1987, 1989, and 1992, and various implementing laws.

The Legislature therefore determines that it is in the public interest to issue bonds to ensure the continuation of funding for the State's programs for the acquisition and development of lands for recreation and conservation purposes, for the preservation of farmland for agricultural or horticultural use and production, for the purchase, for recreation and conservation purposes, of flood-prone lands, and for historic preservation.

3. As used in this act:

"Acquisition" or "acquire" means the obtaining of a fee simple or lesser interest in land, including but not limited to a development easement, a conservation restriction or easement, or any other restriction or easement permanently restricting development, by purchase, installment purchase agreement, gift, donation, eminent domain by the State or a local government unit, or devise; except that any acquisition of lands by the State for recreation and conservation purposes by eminent domain shall be only as authorized pursuant to section 28 of P.L.1999, c.152 (C.13:8C-28).

"Blue Acres cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition by the State, for recreation and conservation purposes, of lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage; the execution of any agreements or franchises deemed by the Department of Environmental Protection to be necessary or useful and convenient in connection with any Blue Acres project authorized by this act; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the services of a bond registrar or an authenticating agent; the purchase of title insurance; the undertaking of feasibility studies; the demolition of structures, the removal of debris, and the restoration of lands to a natural state or to a state useful for recreation and conservation purposes; the issuance of bonds, or any interest or discount thereon; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may

have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act.

"Blue Acres project" means any project of the State to acquire, for recreation and conservation purposes, lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage, and which is funded with moneys made available pursuant to section 7 of this act.

"Bonds" mean the bonds authorized to be issued, or issued, under this act.

"Commission" means the New Jersey Commission on Capital Budgeting and Planning.

"Commissioner" means the Commissioner of Environmental Protection.

"Cost" means the expenses incurred in connection with: all things deemed necessary or useful and convenient for the acquisition or development of lands for recreation and conservation purposes, the acquisition of development easements or fee simple titles to farmland, or the preservation of historic properties, as the case may be; the execution of any agreements or franchises deemed by the Department of Environmental Protection, State Agriculture Development Committee, or New Jersey Historic Trust, as the case may be, to be necessary or useful and convenient in connection with any project authorized by this act; the procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies; the purchase of title insurance; the undertaking of feasibility studies; the issuance of bonds, or any interest or discount thereon; organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by this act, or any moneys that may have been expended therefrom for, or in connection with, this act.

"Development" or "develop" means, except as used in the definitions of "acquisition" and "development easement" in this section, any improvement made to a land or water area designed to expand and enhance its utilization for recreation and conservation purposes, and shall include the construction, renovation, or repair of any such improvement, but shall not mean shore protection or beach nourishment or replenishment activities.

"Development easement" means an interest in land, less than fee simple title thereto, which interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential.

"Farmland" means land identified as having prime or unique soils as classified by the Natural Resources Conservation Service in the United States Department of Agriculture, having soils of Statewide importance according to criteria adopted by the State Soil Conservation Committee, established pursuant to R.S.4:24-3, or having soils of local importance as identified by local soil conservation districts, and which land qualifies for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on the farm that is necessary to accommodate farm practices as determined by the State Agriculture Development Committee.

"Farmland preservation," "farmland preservation purposes" or "preservation of farmland" means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land.

"Garden State Preservation Trust" means the Garden State Preservation Trust established pursuant to section 4 of P.L.1999, c.152 (C.13:8C-4).

"Government securities" means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency, to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or unconditionally guaranteed by, the United States of America or in specified portions which may consist of the principal of, or the interest on, those obligations.

"Historic preservation," "historic preservation purposes," or "preservation of historic properties" means any work relating to the conservation, improvement, interpretation, preservation, protection, rehabilitation, renovation, repair, restoration, or stabilization of any historic property, and shall include any work related to providing access thereto for disabled or handicapped persons.

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

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

"Local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof; except, with respect to the acquisition and development of lands for recreation and conservation purposes, "local government unit" means a county, municipality, or other political subdivision of the State, or any agency, authority, or other entity thereof the primary purpose of which is to administer, protect, acquire, develop, or maintain lands for recreation and conservation purposes.

"New Jersey Historic Trust" means the entity established pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111).

"Qualifying tax exempt nonprofit organization" means a nonprofit organization that is exempt from federal taxation pursuant to section 501 (c)(3) of the federal Internal Revenue Code, 26 U.S.C.s.501 (c)(3), and which meets the same qualifications as those required for a grant pursuant to section 27, 39, or 41 of P.L.1999, c.152 (C.13:8C-27, C.13:8C-39, or C.13:8C-41), as the case may be.

"Recreation and conservation purposes" means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both.

"Secretary" means the Secretary of Agriculture.

4. a. (1) At least twice during each State fiscal year, the Department of Environmental Protection, the State Agriculture Development Committee, and the New Jersey Historic Trust shall each submit to the Garden State Preservation Trust a list of projects that are recommended to receive funding from the proceeds of the bonds authorized to be issued pursuant to this act, based upon the respective priority systems, ranking criteria, and funding

policies established pursuant to sections 23, 24, 26, 27, and 37 through 41 of P.L.1999, c.152 (C.13:8C-23, C.13:8C-24, C.13:8C-26, C.13:8C-27, and C.13:8C-37 through 41), section 7 of P.L.2005, c.178 (C.13:8C-38.1), and sections 1 and 2 of P.L.2001, c.405 (C.13:8C-40.1 and C.13:8C-40.2), and any rules or regulations adopted pursuant to those laws. The Department of Environmental Protection shall also submit to the Garden State Preservation Trust at least twice during each State fiscal year a list of projects that are recommended to receive funding from the proceeds of the bonds authorized to be issued pursuant to section 7 of this act.

(2) The Garden State Preservation Trust shall review each such list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established for such deletions pursuant to section 23 of P.L.1999, c.152 (C.13:8C-23), whereupon the Garden State Preservation Trust shall approve the list and submit to the Governor and to the President of the Senate and the Speaker of the General Assembly for introduction in the Legislature, proposed legislation appropriating moneys from the proceeds of the bonds authorized to be issued pursuant to this act, for appropriation for the purposes set forth in this act.

b. The Commissioner of Environmental Protection, the Secretary of Agriculture, and the New Jersey Historic Trust shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $218,000,000 for the purposes of: providing moneys to meet the cost of public acquisition and development of lands by the State for recreation and conservation purposes; providing State grants and loans to assist local government units to meet the cost of acquiring and developing lands for recreation and conservation purposes; and providing State matching grants to assist qualifying tax exempt nonprofit organizations to meet the cost of acquiring lands for recreation and conservation purposes, to be allocated as follows:

(1) $90,000,000 for the acquisition and development of lands by the State for recreation and conservation purposes;

(2) $110,000,000 for State grants and loans to assist local government units to acquire and develop lands for recreation and conservation purposes; and

(3) $18,000,000 for State grants, on an up to 50% matching basis, to qualifying tax exempt nonprofit organizations to acquire and develop lands for recreation and conservation purposes.

b. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes, or the acquisition and ownership by qualifying tax exempt nonprofit organizations of lands in fee simple for recreation and conservation purposes that become certified exempt from property taxes pursuant to P.L.1974, c.167 (C.54:4-3.63 et seq.) or similar laws, under the provisions of this section, the State shall make payments annually in the same manner as payments are made pursuant to section 29 of P.L.1999, c.152 (C.13:8C-29).

c. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

6. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $146,000,000 for the purpose of the preservation of farmland. The proceeds from the sale of the bonds shall be for appropriation to the State Agriculture

Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4), and shall be used for the purposes set forth in paragraphs (1) through (4) of subsection a. of section 37 of P.L.1999, c.152 (C.13:8C-37).

b. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

7. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $24,000,000 for the purposes of providing moneys to meet the Blue Acres cost of acquisition by the State, for recreation and conservation purposes, of lands that have been damaged by, or may be prone to incurring damage caused by, storms or storm-related flooding, or that may buffer or protect other lands from such damage.

b. To the end that municipalities may not suffer a loss of taxes by reason of the acquisition and ownership by the State of lands in fee simple for recreation and conservation purposes under the provisions of this section, the State shall make payments annually in the same manner as payments are made pursuant to section 29 of P.L.1999, c.152 (C.13:8C-29).

c. The State shall not utilize the power of eminent domain in any manner to acquire lands utilizing funds made available pursuant to the Blue Acres bond program; such lands shall be acquired only from willing sellers.

d. The Department of Environmental Protection shall establish an advisory committee composed of experts and appropriate interested parties concerned with flood management through land acquisition and preservation efforts to advise the department with respect to the acquisition of lands by the State utilizing funds made available pursuant to the Blue Acres bond program. The advisory committee shall recommend Blue Acres project priority lists to the Department of Environmental Protection to be submitted by the department to the Garden State Preservation Trust for funding approval as required pursuant to section 4 of this act.

e. The Office of Green Acres in the Department of Environmental Protection shall administer the Blue Acres bond program.

f. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

8. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $12,000,000 for the purpose of providing State matching grants to assist State agencies or entities, local government units, and qualifying tax exempt nonprofit organizations to meet the cost of preservation of historic properties.

b. Of the amount authorized pursuant to this section, not more than 5% shall be utilized for organizational, administrative and other work and services, including salaries, equipment and materials necessary to administer the applicable provisions of this act.

9. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "2009 New Jersey Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

10. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

11. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

12. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing official shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

13. a. The bonds shall recite that they are issued for the purposes set forth in section 5, 6, 7, or 8 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election next occurring at least 70 days after enactment as specified in section 29 of this act, and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election. This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

b. The bonds shall be issued in those denominations and in the form or forms, whether coupon, fully-registered or book-entry, and with or without provisions for interchangeability thereof, as may be determined by the issuing officials.

14. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

15. The bonds shall be issued and sold at the price or prices and under the terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in this State, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in this State or in the city of New York, the first notice to appear at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of the advertised sale, may sell the bonds at a private sale at such price or prices under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at a private sale, without advertisement.

16. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in the form and with those privileges as to their registration and exchange for permanent bonds as may be determined by the issuing officials.

17. a. The State Treasurer shall establish a fund, to be known as the "2009 Green Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for acquisitions and developments for recreation and conservation purposes as set forth in section 5 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 5 of this act. Moneys derived from the payment of interest and principal on the loans to local government units authorized in section 5 of this act shall also be held in the fund. Such grants, contributions, donations, and reimbursements from federal aid programs as may be lawfully used for the purposes set forth in section 5 of this act may also be held in the "2009 Green Acres Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Green Acres Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor, except as permitted otherwise in accordance with the exceptions specified in subsection a. of section 23 of P.L.1999, c.152 (C.13:8C-23).

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

18. a. The State Treasurer shall establish a fund to be known as the "2009 Farmland Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the acquisition of development easements or fee simple titles on farmland, all as set forth in section 6 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of the purposes set forth in section 6 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided,

notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Farmland Preservation Fund" shall identify the particular project or projects to be funded with the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor, except as permitted otherwise in accordance with the exceptions specified in subsection b. of section 23 of P.L.1999, c.152 (C.13:8C-23).

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

19. a. The State Treasurer shall establish a fund, to be known as the "2009 Blue Acres Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of the bonds issued by the State under this act for acquisitions for recreation and conservation purposes as set forth in section 7 of this act. The moneys in the fund are specifically dedicated and shall be applied to the Blue Acres cost of the purposes set forth in section 7 of this act. Such grants, contributions, donations, and reimbursements from federal aid programs as may be lawfully used for the purposes set forth in section 7 of this act may also be held in the "2009 Blue Acres Fund." Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Blue Acres Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

20. a. The State Treasurer shall establish a fund to be known as the "2009 Historic Preservation Fund," and the moneys therein are to be held in those depositories as the State Treasurer may select. The State Treasurer shall deposit into the fund all proceeds from the sale of bonds issued by the State under this act for the funding of historic preservation projects as set forth in section 8 of this act. The moneys in the fund are specifically dedicated and shall be applied to the cost of preservation of historic properties as set forth in section 8 of this act. Moneys in the fund shall not be expended except in accordance with appropriations from the fund made by law, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys.

b. Any act appropriating moneys from the "2009 Historic Preservation Fund" shall identify the particular project or projects to be funded by the moneys, and any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

c. Unexpended moneys due to project withdrawals, cancellations, or cost savings shall be returned to the fund to be used for the purposes of the fund.

21. a. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "2009 Green Acres Fund," the "2009 Farmland Preservation Fund," the "2009 Blue Acres Fund," or the "2009 Historic Preservation Fund," those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

b. Pending their application to the purposes provided in the applicable provisions of this act, the moneys in the "2009 Green Acres Fund," the "2009 Farmland Preservation Fund," the "2009 Blue Acres Fund," and the "2009 Historic Preservation Fund," may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Net earnings received from the investment or deposit of moneys in these funds shall be redeposited therein and become part of the respective funds.

22. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

23. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

24. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

25. Any bond or bonds issued hereunder which are subject to refinancing pursuant to the "Refunding Bond Act of 1985," P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.), shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents, as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of the Treasury of the United States, the principal

of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein: a. the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

26. Refunding bonds issued pursuant to P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.) may be consolidated with bonds issued pursuant to section 5, 6, 7, or 8 of this act or with bonds issued pursuant to any other act for purposes of sale.

27. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to pay the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal, redemption premium, if any, and interest provided for in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered and treated as part of the General Fund, available for general purposes.

28. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

29. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election next occurring at least 70 days after enactment. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein and to notify the clerk of each county of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

If you approve of the act entitled below, make a cross (x), plus (+), or check (✔) mark in the square opposite the word "Yes."

If you disapprove of the act entitled below, make a cross (x), plus (+), or check (✔) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

YES	GREEN ACRES, WATER SUPPLY AND FLOODPLAIN PROTECTION, AND FARMLAND AND HISTORIC PRESERVATION BOND ACT OF 2009 Shall the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009," which authorizes the State to issue bonds in the amount of $400 million to provide moneys for (1) the acquisition and development of lands for recreation and conservation purposes, including lands that protect water supplies, (2) the preservation of farmland for agricultural or horticultural use and production, (3) the acquisition, for recreation and conservation purposes, of properties that are prone to or have incurred flood or storm damage, and (4) funding historic preservation projects; and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof, with full public disclosure of all spending, be approved?
NO	INTERPRETIVE STATEMENT Approval of this act would authorize $400 million in funding for Green Acres, water supply and floodplain protection, and farmland and historic preservation projects through the sale of State general obligation bonds. The Green Acres program acquires land that protects water supplies and preserves open space, including parks, fish and wildlife habitat, and flood prone or affected areas. It also funds park improvements and facilities. Of the total sum authorized: (1) $218 million will be used for Green Acres; (2) $146 million will be used for farmland preservation purposes; (3) $24 million will be used for the "Blue Acres" program by which the State may purchase from willing sellers, for open space preservation purposes, properties that are prone to or have incurred flood or storm damage; and (4) $12 million will be used for historic preservation purposes. All spending of the authorized bond proceeds will be subject to full public disclosure.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all the votes cast for and against it at the election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

30. There is appropriated the sum of $5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 29 of this act.

31. The commissioner, the secretary, and the New Jersey Historic Trust, as the case may be, shall submit to the State Treasurer and the commission with each respective department's or agency's annual budget request a plan for the expenditure of funds from the "2009 Green Acres Fund," the "2009 Farmland Preservation Fund," the "2009 Blue Acres Fund," and the "2009 Historic Preservation Fund," as the case may be, for the upcoming fiscal year. Each plan shall include the following information: a performance evaluation of the expenditures made from the appropriate fund to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by moneys from the particular fund; and an estimate of expenditures for the upcoming fiscal year.

32. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner, the secretary, and the New Jersey Historic Trust shall submit to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the Joint Budget Oversight Committee, or its successor, copies of the appropriate plan called for under section 31 of this act, together with such changes therein as may have been required by the Governor's budget message.

33. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner, the secretary, or the New Jersey Historic Trust, as appropriate, shall report to and consult with the Joint Budget Oversight Committee, or its successor.

34. Except as otherwise provided by this act, all appropriations from the bond funds established by this act shall be by specific allocation for each project, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee or its successor. Except as otherwise provided by this act, any expenditure for a project for which the location is not identified by municipality and county in the appropriation shall require the approval of the Joint Budget Oversight Committee or its successor.

35. This section and sections 29 and 30 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 29.

Approved August 18, 2009.

Title 17B.
Subtitle 3.
Chapter 37. (New)
Interstate
Insurance Product
Regulation
Compact.
§§1-17 -
C.17B:37-1 to
17B:37-17
§18 - Note

P.L.2010, CHAPTER 120, ***approved January 5, 2011***
Assembly, No. 483 ***(First Reprint)***

AN ACT establishing the "Interstate Insurance Product Regulation Compact," and supplementing subtitle 3 of Title 17B of the New Jersey Statutes.

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

1. a. This act shall be known and may be cited as the "Interstate Insurance Product Regulation Compact."

b. The Legislature finds and declares that the purposes of this act, through means of joint and cooperative action among the compacting states, are to:

(1) promote and protect the interests of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products;

(2) develop uniform standards for insurance products covered under this act;

(3) establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states;

(4) give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

(5) improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and the review of insurance products covered under the compact;

(6) create the Interstate Insurance Product Regulation Commission; and

(7) perform these and any other related functions as may be

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SCM committee amendments adopted October 7, 2010.

consistent with the State's regulation of the business of insurance.

2. For the purposes of this act:

"Advertisement" means any material designed to create public interest in an insurance product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the rules and operating procedures of the Interstate Insurance Product Regulation Commission established by section 3 of this act.

"Bylaws" mean those bylaws established by the Interstate Insurance Product Regulation Commission for its governance, or for directing or controlling the commission's actions or conduct.

"Commission" means the Interstate Insurance Product Regulation Commission established by section 3 of this act.

"Commissioner" means the chief insurance regulatory official of a state including, but not limited to the commissioner, superintendent, director or administrator.

"Compact" means the "Interstate Insurance Product Regulation Compact" established by this act.

"Compacting state" means any state which has enacted this or similar compact legislation and which has not withdrawn or been terminated pursuant to section 14 of this act.

"Domiciliary state" means the state in which an insurer is incorporated or organized; or, in the case of an alien insurer, its state of entry.

"Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this act.

"Member" means the person chosen by a compacting state as its representative to the commission, or his designee.

"Non-compacting state" means any state which is not a compacting state.

"Operating procedures" means procedures promulgated by the commission implementing a rule, uniform standard, or a provision of this act.

"Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.

"Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to section 7 of this act, designed to implement, interpret, or prescribe law or policy, or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.

"State" means any state, district, or territory of the United States

of America.

"Third party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

"Uniform standard" means a standard adopted by the commission for a product line, pursuant to section 7 of this act, and shall include all of the product requirements in aggregate; provided, that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product, and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

3. a. The compacting states hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to section 4 of this act, the commission shall develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards; however, it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing in this act shall prohibit an insurer from filing its product in any state in which the insurer is licensed to conduct the business of insurance, which filing shall be subject to the laws of the state where filed.

b. The commission is a body corporate and politic, and an instrumentality of the compacting states.

c. The commission is solely responsible for its liabilities except as otherwise specifically provided in this act.

d. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

4. The commission shall have the following powers:

a. To promulgate rules, pursuant to section 7 of this act, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this act;

b. To exercise its rule-making authority and establish reasonable uniform standards for products covered under this act, and advertisements related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided, that a compacting state shall have the right to opt out of those uniform standards pursuant to section 7 of this act, to the extent and in the manner provided in this act, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for

consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' (NAIC) Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amendment of the uniform standards established by the commission for long-term care insurance products;

c. To receive and review in an expeditious manner, products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, which approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in this act;

d. To receive and review in an expeditious manner, advertisements relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisements that satisfy the applicable uniform standard. For any product covered under the compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this section shall have the force and effect of law, and shall be binding in the compacting states to the extent and in the manner provided in this act;

e. To exercise its rule-making authority and designate products and advertisements that may be subject to a self-certification process without the need for prior approval by the commission;

f. To promulgate operating procedures, pursuant to section 7 of this act, which shall be binding in the compacting states to the extent and in the manner provided in this act;

g. To bring and prosecute legal proceedings or actions in its name as the commission; however, the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

h. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

i. To establish and maintain offices;

j. To purchase and maintain insurance and bonds;

k. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compacting state;

l. To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties,

and give them appropriate authority to carry out the purposes of this act, and determine their qualifications; and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

m. To accept any appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided, at all times the commission shall strive to avoid any appearance of impropriety;

n. To lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed; provided, at all times the commission shall strive to avoid any appearance of impropriety;

o. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

p. To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures;

q. To enforce compliance by compacting states with rules, uniform standards, operating procedures and bylaws;

r. To provide for dispute resolution among compacting states;

s. To advise compacting states on issues relating to insurers domiciled or doing business in non-compacting jurisdictions, consistent with the purposes of this act;

t. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;

u. To establish a budget and make expenditures;

v. To borrow money;

w. To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and any other interested persons as may be designated in the bylaws;

x. To provide and receive information from, and to cooperate with, law enforcement agencies;

y. To adopt and use a corporate seal; and

z. To perform any other functions as may be necessary or appropriate to achieve the purposes of this act consistent with the state regulation of the business of insurance.

5. a. (1) Each compacting state shall have and be limited to one member of the commission. Each member shall be qualified to serve in that capacity pursuant to the applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which he shall be appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the

manner in which a compacting state determines the election or appointment and qualification of its own commissioner.

(2) Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds of the members vote in favor thereof.

(3) The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of this act, including, but not limited to:

(a) establishing the fiscal year of the commission;

(b) providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee;

(c) providing reasonable standards and procedures for the establishment and meetings of other committees, and governing any general or specific delegation of any authority or function of the commission;

(d) providing reasonable procedures for calling and conducting meetings of the commission that consist of a majority of commission members, ensuring reasonable advance notice of each meeting, and providing for the right of citizens to attend each meeting, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in executive or closed session only after a majority of the entire membership votes to close a meeting, in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed, and votes taken during the meeting;

(e) establishing the titles, duties and authority, and reasonable procedures for the election, of the officers of the commission;

(f) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(g) promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

(h) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact established by this act, after the payment and reserving of all of its debts and obligations.

(4) The commission shall publish its bylaws in a convenient form and file a copy thereof, and a copy of any amendment thereto, with

the appropriate agency or officer in each of the compacting states.

b. (1) A management committee comprising no more than 14 members shall be established as follows:

(a) One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products, determined from the records of the NAIC for the prior year;

(b) Four members from those compacting states with at least two percent of the market based on the premium volume as described in subparagraph (a) of this paragraph, other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and

(c) Four members from those compacting states with less than two percent of the market, based on the premium volume as described in subparagraph (a) of this paragraph, with one selected from each of the four zone regions of the NAIC as provided in the bylaws.

(2) The management committee shall have that authority and those duties as may be set forth in the bylaws, including but not limited to:

(a) managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;

(b) establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard; however, a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee;

(c) overseeing the offices of the commission; and

(d) planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the commission.

(3) The commission shall elect annually officers from the management committee, with each having the authority and duties as may be specified in the bylaws.

(4) The management committee may, subject to the approval of the commission, appoint or retain an executive director for a period, upon those terms and conditions, and for that compensation, which the commission deems appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise additional staff as authorized by the commission.

c. (1) A legislative committee comprised of state legislators or their designees, provided in a manner of selection and for terms as

shall be set forth in the bylaws, shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.

(2) The commission shall establish two advisory committees, one of which shall be comprised of consumer representatives independent of the insurance industry, and the other comprised of insurance industry representatives.

(3) The commission may establish additional advisory committees as provided in the bylaws for carrying out its functions.

d. The commission shall maintain its corporate books and records in accordance with the bylaws.

e. (1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; however, nothing in this paragraph shall be construed to protect any person from suit and liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, so long as that actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct; however, nothing herein shall be construed to prohibit that person from retaining his own counsel.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, so long as that

actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

6. a. The commission shall meet and take those actions consistent with the provisions of this act and the bylaws.

b. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled, and to participate in the business and affairs of the commission. A member shall vote in person or by other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

c. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

7. a. The commission shall promulgate reasonable rules, including uniform standards and operating procedures, in order to effectively and efficiently achieve the purposes of this act. Notwithstanding the foregoing, if the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, that action by the commission shall be invalid and have no force and effect.

b. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 adopted by the National Conference of Commissioners on Uniform State Laws, as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee or committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission, in adopting a uniform standard, shall consider fully all submitted materials and issue a concise explanation of its decision.

c. A uniform standard shall become effective 90 days after its promulgation by the commission, or a later date determined by the commission; however, a compacting state may opt out of a uniform standard as provided in subsection d. of this section. As used in this section, "opt out" means any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.

d. (1) A compacting state may opt out of a uniform standard, either by legislation or regulation, duly promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by regulation, it shall give written notice to the commission no later than 10 business days after the uniform

standard is promulgated, or at the time the state becomes a compacting state and finds that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in that state. The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of that state. The commissioner shall consider and balance the following factors, and find that the conditions in the state and needs of the citizens of the state outweigh:

(a) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this act; and

(b) the presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a compacting state may, at the time of its enactment of the compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing therefor in the act, and that opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in the compact. Such an opt out shall be effective at the time of enactment of the compact by the compacting state, and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

(3) In accordance with the provisions of paragraph (2) of this subsection, this State prospectively opts out of all uniform standards involving long-term care insurance products promulgated by the commission, as this State has previously enacted the "New Jersey Long-Term Care Insurance Act," P.L.2003, c.207 (C.17B:27E-1 et seq.), which facilitates flexibility and innovation in the development of long-term care insurance coverage.

e. If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until the opt out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided pursuant to section 14 of this act for withdrawal from the compact.

f. If a compacting state has formally initiated the process of

opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least 15 days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines that the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to 90 days, unless affirmatively extended by the commission; however, a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

g. Not later than 30 days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure; however, the filing of that petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

8. a. The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except for information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with those agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

b. Except as to privileged records, data and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data or information to the commission; however, disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further, except as otherwise expressly provided in this act, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain

confidential after that information is provided to any commissioner.

c. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as provided in section 14 of this act.

d. The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise the commissioner's authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

(1) With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content of the product or advertisement shall not constitute a violation of the provisions, standards, or requirements of the compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

(2) Before a commissioner may bring an action for violation of any provision, standard, or requirement of the compact relating to the content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, shall authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

9. The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to the compact and which may arise between two or more compacting states, or between compacting states and non-compacting states, and the commission shall promulgate an operating procedure providing for resolution of those disputes.

10. a. Insurers and third party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this act shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and that filing shall be subject to the laws of the states where filed.

b. The commission shall establish appropriate filing and review

processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision in this act to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing these rules, the commission shall consider the interests of the public in having access to that information, as well as protection of personal medical and financial information and trade secrets, which may be contained in a product filing or supporting information.

c. Any product approved by the commission may be sold or otherwise issued in those compacting states for which the insurer is legally authorized to do business.

11. a. Not later than 30 days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing those review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with subsection d. of section 3 of this act.

b. The commission shall have the authority to monitor, review, and reconsider products and advertisements subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process pursuant to subsection a. of this section.

12. a. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the NAIC, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

b. The commission shall collect a filing fee from each insurer and third party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

c. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set

forth in section 7 of this act.

d. The commission shall be exempt from all taxation in and by the compacting states.

e. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

f. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports, including the system of internal controls and procedures of the commission, shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and may be shared with the commissioner of any compacting state upon request, except that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

g. No compacting state shall have any claim to or ownership of any property held by or vested in the commission, or to any commission funds held pursuant to the provisions of this act.

13. a. Any state is eligible to become a compacting state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states; however, the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after 26 states are compacting states or, alternatively, by states representing greater than 40% of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, the compact shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

c. Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless all compacting states enact the amendment into law.

14. a. (1) Once effective, the compact shall continue in force and remain binding upon each compacting state; however, a compacting state may withdraw from the compact by repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of those products, prior to or on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in paragraph (5) of this subsection.

(3) The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The commission shall notify the other compacting states of the introduction of such legislation within 10 days after its receipt of notice thereof.

(5) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisements prior to the effective date of withdrawal shall continue to be effective and be given full effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisements previously approved under state law.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

b. (1) If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under the compact, the bylaws, or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by the compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state shall cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be

terminated from the compact and all rights, privileges, and benefits conferred by the compact shall be terminated from the effective date of termination.

(2) Product approvals by the commission or product self-certifications, or any advertisement in connection with that product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to subsection a. of this section.

(3) Reinstatement following termination of any compacting state shall require a reenactment of the compact.

c. (1) The compact shall dissolve effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of the compact, the compact shall become void and shall be of no further effect, and the business and affairs of the commission shall be completed, and any surplus funds shall be distributed in accordance with the bylaws.

15. a. The provisions of this act shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this act shall be enforceable.

b. The provisions of this act shall be liberally construed to effectuate its purposes.

16. a. (1) Nothing herein shall prevent the enforcement of any other law of a compacting state, except as provided in subsection b. of this section.

(2) For any product approved or certified by the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of that product. For any advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, no action taken by the commission shall abrogate or restrict:

(a) the access of any person to state courts;

(b) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the product;

(c) state law relating to the construction of insurance contracts; or

(d) the authority of the attorney general of the state, including, but not limited to, maintaining any actions or proceedings, as authorized by law.

(3) All insurance products filed with individual states shall be

subject to the laws of those states.

b. (1) All lawful actions of the commission, including all rules and operating procedures promulgated by the commission, are binding upon the compacting states.

(2) All agreements between the commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(4) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time the compact becomes effective.

17. The Commissioner of Banking and Insurance shall report to the Legislature, as provided pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), within one year of the effective date of this act or within one year of the operational date of the compact for the long-term care insurance products, whichever is later, the commissioner's [1]non-binding[1] recommendation as to whether the State should participate in the compact with respect to all uniform standards involving long-term care insurance products under the compact.

18. This act shall take effect upon enactment of the compact into law by two compacting states.

Establishes the "Interstate Insurance Product Regulation Compact."

Section 10.7.2
Changes to an interstate agreement; lengthy form of bill title

SENATE, No. 2348

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED OCTOBER 14, 2010

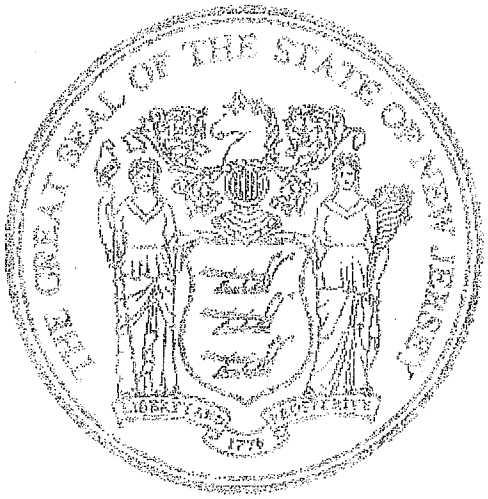
Sponsored by:
Senator DONALD NORCROSS
District 5 (Camden and Gloucester)

SYNOPSIS

Imposes restrictions concerning Delaware River Port Authority commissioners, officers, and employees regarding employment, gifts, and compensation.

CURRENT VERSION OF TEXT

As introduced.



Section 10.7.2
Changes to an interstate agreement; lengthy form of bill title

AN ACT concerning the Delaware River Joint Commission and supplementing P.L.1931, c.391, authorizing the Governor, on behalf of the State of New Jersey, to enter into a supplemental compact or agreement with the Commonwealth of Pennsylvania supplementing the compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania entitled "Agreement Between the Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented, and authorizing the Governor to apply, on behalf of the State of New Jersey, to the Congress of the United States for its consent to such supplemental compact or agreement.

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

1. The Governor is authorized to enter into a supplemental compact or agreement, on behalf of the State of New Jersey, with the Commonwealth of Pennsylvania supplementing the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as set forth in P.L. , c. (C.) (pending before the Legislature as this bill).

2. a. The commission, including any of its subsidiary corporations, shall not compensate any commissioner, officer, or employee in the form of an allowance or reimbursement for expenses related to the use of a vehicle that is procured by or for the commissioner, officer, or employee primarily for personal use or for the purpose of commuting between home and work.

b. No current or former commissioner, officer, or employee of the commission or of any of its subsidiary corporations shall be exempt from payment, in the form of an allowance or reimbursement, of any toll relating to the person's use of a commission toll bridge or toll road, or of any fare relating to the person's use of the transportation services of the commission, and the commission, including any of its subsidiary corporations, shall not compensate any such commissioner, officer, or employee in the form of an allowance or reimbursement for payment of any such toll or fare or for payment of any other expenses for commuting between home and work or for travel not directly related to the public business of the commission.

c. The commission shall not provide to any commissioner, officer, or employee of the commission, or of any of its subsidiary corporations, a driver whose assigned full-time or part-time duties

are to operate any motor vehicle in which the commissioner, officer, or employee, or an immediate family member is a passenger, unless the driver is a law enforcement officer who is assigned also to provide for the security of the commissioner, officer, or employee when the need for such security has been documented. For the purposes of this subsection, "immediate family member" of a person means the person's spouse and any parent, child, or sibling of the person residing in the same household as the person.

d. The commission, including any of its subsidiary corporations, shall not compensate any commissioner, officer, or employee in the form of an allowance or reimbursement for the cost of overnight travel on behalf of the commission or for purposes of conducting commission business unless such travel arrangements and the pertinent itinerary shall first have been approved in writing by the commission commissioners at a public meeting; provided, however, that this subsection shall not be construed to prohibit the reimbursement of any commissioner, officer, or employee for the cost of overnight travel in emergent situations relating to the commission's business. Any payment made for travel expenses in accordance with this subsection shall be made as a reimbursement for allowable expenses, and such reimbursement shall be made after the date of travel.

e. The commission, including any of its subsidiary corporations, shall not extend to any commissioner, officer, or employee a personal line of credit or any other form of credit agreement unless the use of credit, as documented in writing, is directly related and essential to the performance of those official duties of the commissioner, officer, or employee that concern the maintenance of security for specified persons or property, law enforcement, inspections or audits of regulated facilities, entities, or persons, or the health, safety, and welfare of members of the public.

f. No commissioner, officer, or employee of the commission or of any of its subsidiary corporations shall receive any personal expense allowance, or be authorized to charge any contingent fund or account for personal or official expenses except where such allowance or fund is expressly provided for by statute or legislative appropriation.

g. No commissioner, officer, or employee of the commission, or of any of its subsidiary corporations shall receive an allowance, stipend, subsidy, reimbursement, or other form of payment for the purchase, lease, or maintenance of a residence, and no such individual shall accept use of a residence owned or leased by the commission or any of its subsidiary corporations for any purpose not directly related and essential to the performance of those official duties of the officer or employee, as documented in writing, that concern the maintenance of security for specified persons or

property, law enforcement, or the health, safety, and welfare of members of the public.

h. The commission shall not reimburse any officer or employee of the commission or of any of its subsidiary corporations for attendance of courses at an institution of higher education unless (1) the course is taken at an accredited public institution of higher education in Pennsylvania or New Jersey, including a county college, (2) the course is directly related to the skills and knowledge required for the duties being performed by the officer or employee, or required for the performance of the duties of a position to which the officer or employee may directly be promoted from the current position, and (3) the officer or employee agrees to remain an officer or employee for five years after the final tuition reimbursement is made. The amount of any reimbursement hereunder shall be limited to 50 percent of the tuition for the course attended. If the officer or employee does not remain an officer or employee of the commission for that period of time, the officer or employee shall be required to pay the commission for all tuition reimbursements made. If the officer or employee does not maintain a C average or its equivalent for courses attended, the officer or employee shall not receive payment or reimbursement for tuition. This subsection shall not apply to tuition reimbursement for a course or program that provides a certification of a skill or understanding sufficient to perform or assess a particular technological, mechanical, industrial, operational, accounting, or construction process or function, and that certification is required for holding that office or employment.

3. a. No commissioner, officer, or employee of the commission, or any of its subsidiary corporations, shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift, honorarium, out-of-State travel or subsistence expense or other thing of value from any source other than the commission, for providing any service, advice, or assistance, making any appearance or speech, or performing any other action related to the official duties of the commissioner, officer, or employee, or under any other circumstance which could reasonably be expected to influence, or which may be reasonably perceived as being expected to influence, the manner in which a commissioner, officer, or employee conducts the public business of the commission; provided however, that a commissioner, officer, or employee may be compensated by any party for any written publication of the commissioner, officer, or employee relating to, or concerning that commissioner's, officer's, or employee's employment or service with the commission.

b. No commissioner, officer, or employee having had decision-making authority or responsibility with regard to any commission or commission subsidiary corporation shall accept or engage in employment with any professional service provider, vendor, or

independent contractor of the commission for a period of two years after the termination of such employment with the commission or commission subsidiary corporation.

c. No commission commissioner, officer, or employee, or commission subsidiary corporation employee, shall solicit, receive or agree to receive, whether directly or indirectly, any ticket or other form of admission to any place of entertainment that is provided free of charge or at a discounted rate by the sponsor, promoter, performer, or operator of the event or entertainment venue unless the same free or reduced admission is available to (1) the public; (2) a class consisting of all officers or employees of Pennsylvania or New Jersey state agencies, as appropriate, whether or not restricted on the basis of geographic consideration; (3) all members of a group or class in which membership is unrelated to commission service; (4) all members of an organization, such as an employees' association or state or other public entity credit union, in which membership is related to commission service; or (5) a group or class that is not defined in a manner that specifically discriminates among state or commission officers or employees on the basis of branch of government or type of responsibility, or on a basis that favors those of higher rank or rate of pay. Free or discounted admission available to a member of the immediate family of a commissioner, officer, or employee shall be treated as available to the commissioner, officer, or employee for the purposes of this subsection.

As used in this subsection, "immediate family member" of a person means the person's spouse and any parent, child, or sibling of the person residing in the same household as the person; and "place of entertainment" means any privately or publicly owned and operated entertainment facility within or outside of the states of Pennsylvania or New Jersey, such as a theater, stadium, museum, arena, racetrack or other place where performances, concerts, exhibits, games or contests are held and for which an entry fee is charged.

4. Any, commissioner, officer, or employee of the commission, or any of its subsidiary corporations, who willfully engages in conduct, or upon whom a benefit is conferred, in violation of the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to removal from office or employment and shall be fined not less than $500 nor more than $10,000, which penalty may be collected in a summary proceeding pursuant to the laws of the state in which the commissioner, officer, or employee is employed by the commission or a commission subsidiary corporation.

5. The Governor is hereby authorized to apply on behalf of the State of New Jersey to the Congress of the United States for its

consent and approval to the amendments to this compact or agreement provided in P.L. , c. (C.) (pending before the Legislature as this bill), but in the absence of such consent and approval, the Delaware River Commission shall have all the powers the Commonwealth of Pennsylvania and the State of New Jersey may confer upon it without the consent and approval of Congress.

6. This act shall take effect immediately, but shall remain inoperative until the enactment into law of legislation substantially similar to P.L. , c. (C.) (pending before the Legislature as this bill) by the Commonwealth of Pennsylvania, but if such legislation shall have been enacted prior to the enactment of P.L. , c. (C.) (pending before the Legislature as this bill), this act shall take effect immediately, but shall not be construed to impair any vested right or obligation under any contract or collective bargaining agreement prior to the date of enactment.

STATEMENT

This bill supplements the compact between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission, now known as the Delaware River Port Authority ("DRPA"). The bill makes changes to the compact to impose various restrictions upon the DRPA, its subsidiary corporations, and the commissioners, officers, and employees of the commission and subsidiary corporations. The bill is part of a package of bills, including bills associated with other, specific, bi-state authorities, and legislation known as the "Government Reality Check Act," which impose various reforms concerning the compensation, ethical standards, and activities of public officials and employees at all levels of State government, including independent State and bi-state authorities.

The bill prohibits the DRPA and its subsidiary corporations from:

- compensating any commissioner, officer, or employee for expenses related to commuting or a personal vehicle;
- exempting any commissioner, officer, or employee, or former commissioner, officer, or employee from payment of any of its tolled facilities or reimbursing any such individual for use of any of its tolls or Commission Transit Corporation rail fares or for payment of any other expenses for commuting between home and work or for travel not directly related to the public business of the commission;
- providing to any commissioner, officer, or employee a driver whose assigned full-time or part-time duties are to operate any motor vehicle in which the commissioner, officer, or employee, or an immediate family member, is a passenger,

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unless the driver is a law enforcement officer who is assigned also to provide for the security of the commissioner, officer, or employee when the need for such security has been documented;

- compensating any commissioner, officer, or employee for overnight travel on behalf of the commission or for purposes of conducting commission business unless such travel arrangements and itinerary are approved in writing by the commission at a public meeting except in emergent situations relating to the commission's business;
- extending to any commissioner, officer, or employee a personal line of credit or any other form of credit agreement for any purpose unless the use of credit is directly related and essential to the performance of those official duties of the commissioner, officer, or employee, as documented in writing, that concern the maintenance of security for specified persons or property, law enforcement, inspections or audits of regulated facilities, entities, or persons, or the health, safety, and welfare of members of the public;
- providing to any commissioner, officer, or employee any personal expense allowance, or contingent fund for personal or official expenses except where such allowance or fund is expressly provided for by statute or legislative appropriation;
- providing to any commissioner, officer, or employee an allowance, stipend, subsidy, or other form of payment for the purchase, lease, or maintenance of a residence; and
- providing tuition reimbursement unless (1) the course is taken at an accredited public institution of higher education in Pennsylvania or New Jersey, (2) the course is directly related to the skills and knowledge required for the duties being performed by the officer or employee, or required for the performance of the duties of a position to which the officer or employee may directly be promoted from the current position, and (3) the officer or employee agrees to remain an officer or employee for five years after the final tuition reimbursement is made. The amount of reimbursement could not exceed 50 percent of the tuition.

The bill prohibits commissioners, officers, and employees of the commission or its subsidiary corporations from:

- soliciting or accepting any compensation, reward, employment, gift, honorarium, out-of-State travel or subsistence expense or other thing of value from any source other than the commission for any matter related to the official duties of the commissioner, officer, or employee or under any other any circumstance which could reasonably be expected to influence the manner in which commission business is conducted;

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- engaging in employment with any professional service provider, vendor, or independent contractor of the commission for two years after termination;
- accepting use of a commission, or commission subsidiary-owned residence for purposes not directly related and essential to the performance of those official duties of the officer or employee; and
- soliciting, receiving or agreeing to receive, whether directly or indirectly, any ticket or other form of admission to any place of entertainment that is provided free of charge or at a discounted rate by the sponsor, promoter, performer, or operator of the event or entertainment venue unless the same free or reduced admission is available to (a) the public; (b) a class consisting of all officers or employees of Pennsylvania or New Jersey state agencies, as appropriate, whether or not restricted on the basis of geographic consideration; (c) all members of a group or class in which membership is unrelated to commission service; (d) all members of an organization, such as an employees' association or state or other public entity credit union, in which membership is related to commission service; or (e) a group or class that is not defined in a manner that specifically discriminates among state or commission officers or employees on the basis of branch of government or type of responsibility, or on a basis that favors those of higher rank or rate of pay.

Any commissioner, officer, or employee of the commission or its subsidiary corporations who willfully engages in conduct, or accepts a benefit, in violation of the provisions of this bill would be subject to removal from office or employment and fined a minimum of $500 or maximum of $10,000.

The enactment by Pennsylvania of substantially similar legislation will be required, and approval of Congress may be required, before the supplemental compact authorized by this bill may become operative.

Section 10.7.2
Bill related to an interstate agreement

[First Reprint]

SENATE, No. 1649

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED JUNE 7, 2004

Sponsored by:
Senator FRED MADDEN
District 4 (Camden and Gloucester)
Senator STEPHEN M. SWEENEY
District 3 (Salem, Cumberland and Gloucester)
Assemblyman DAVID R. MAYER
District 4 (Camden and Gloucester)

SYNOPSIS

Provides legislative authorization for a certain project of the Delaware River and Bay Authority.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on June 14, 2004, with amendments.

(Sponsorship Updated As Of: 6/25/2004)

Section 10.7.2
Bill related to an interstate agreement

AN ACT concerning the Delaware River and Bay Authority and authorizing a certain project.

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

1. For the purposes of complying with the provisions of section 1 of P.L.1989, c.191 (C.32:11E-1.1), the Delaware River and Bay Authority created pursuant to the "Delaware-New Jersey Compact," enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. s. 1701 et seq.) and P.L.1961, c.66 (C.32:11E-1 et seq.) with the consent of the Congress of the United States in accordance with Pub.L.87-678 (1962), is authorized, pursuant to the procedures set forth in section 1 of P.L.1989, c.191 (C.32:11E-1.1), to undertake a project in Gloucester County for the development of a building within the South Jersey Technology Park at Rowan University, including the leasing of a site for the project and the planning, development, financing, construction, operation, maintenance, improvement and purchase thereof, and the authority to lease and to sell the same, which shall be considered a project of the authority as defined pursuant to Article II of the "Delaware-New Jersey Compact," P.L.1961, c.66, as amended by P.L.1989, c.192 (C.32:11E-1 et seq.) [1]**[**and**]**,[1] P.L.2001, c.414 (C.32:11E-1 et seq.) [1]and P.L.2003, c.192 (C.32:11E-1 et seq.)[1].

Not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction contract undertaken in connection with a project authorized pursuant to this section. The prevailing wage rate shall be the rate determined by the Commissioner of Labor pursuant to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

2. This act shall take effect immediately.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SEG committee amendments adopted June 14, 2004.

Section 10.8.3
Regulatory oversight: first concurrent resolution (WHEREAS clauses)

ASSEMBLY CONCURRENT RESOLUTION No. 126

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED MAY 13, 2010

Sponsored by:
Assemblyman JOHN J. BURZICHELLI
District 3 (Salem, Cumberland and Gloucester)
Assemblywoman CELESTE M. RILEY
District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Declares BPU regulation inconsistent with legislative intent of statute that it purports to implement; prescribes corrective action.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/11/2010)

A CONCURRENT RESOLUTION declaring a regulation of the Board of Public Utilities to be inconsistent with the legislative intent of section 26 of P.L.1972, c.186.

WHEREAS, Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey provides that the Legislature may review any rule or regulation of an administrative agency to determine if the rule or regulation is consistent with the intent of the Legislature and, upon a finding that the rule or regulation is not consistent with legislative intent, may transmit such finding to the Governor and the head of the agency; and

WHEREAS, Section 26 of P.L.1972, c.186, the "Cable Television Act" (N.J.S.A.48:5A-26), sets forth measures to enable cable television subscribers to file service complaints and to require that those complaints receive prompt disposition; and

WHEREAS, Section 26 provides that, "for the purpose of receiving, investigating and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters," a cable television company shall maintain local business offices; and

WHEREAS, The New Jersey Board of Public Utilities ("board"), the State agency with responsibility for oversight of cable television service providers, has issued a regulation (N.J.A.C.14:18-5.1) to implement this statutory directive, specifying that such offices shall be "in or within reasonable proximity of (the company's) service area" and requiring that the location of the office shall be furnished to the board's Office of Cable Television; and

WHEREAS, These provisions of the regulation directly further the intent of the Legislature, evident in the explicit terms of section 26, to ensure the availability of convenient facilities for the receipt of customer complaints concerning cable service; and

WHEREAS, The regulation also provides that a cable television company may not close or relocate a local business office until the company shall have filed, and the board shall have approved, a petition for such closure or relocation; and

WHEREAS, Section 26 neither explicitly nor implicitly authorizes any such requirement of board approval for business office closure or relocation; and

WHEREAS, In enacting the Cable Television Act in 1972, the Legislature declared it to be the policy of this State to provide fair regulation of cable television companies, and set forth as the leading object of such regulation the promotion of "adequate, economical and efficient cable television service to the citizens and residents of this State"; and

WHEREAS, Testimony at the March 23, 2010 meeting of the Executive's Red Tape Review Group indicated that the cable television industry's compliance with the approval requirement has often involved a lengthy review process that saddles operators with the cost of leasing and staffing two office

facilities while a closure or relocation petition is pending, a result that is neither fair to the operators nor an economical or efficient use of their resources; and

WHEREAS, It therefore appears that the approval requirement, being without statutory authorization and producing results that are in conflict with the stated policy of the Legislature in enacting the "Cable Television Act," is inconsistent with the legislative intent in enacting that statute; now, therefore

BE IT RESOLVED *by the General Assembly of the State of New Jersey (the Senate concurring):*

1. The Legislature declares that, in the Board of Public Utilities' regulation concerning the maintenance by cable television companies of a local business office (N.J.A.C.14:18-5.1), the provision requiring closure or relocation of such offices to receive prior approval of the board is not consistent with Legislative intent.

2. A copy of this concurrent resolution, signed by the President of the Senate and the Speaker of the General Assembly and attested by the Secretary of the Senate and the Clerk of the General Assembly, shall be transmitted to the Governor and to the President of the Board of Public Utilities.

3. The Board of Public Utilities is advised that the failure of the board to amend or withdraw the regulation within 30 days in accordance with the legislative declaration of section 1 hereof may subject the rule to legislative invalidation pursuant to Article V, Section IV, paragraph 6 of the State Constitution.

STATEMENT

This concurrent resolution expresses the declaration of the Legislature that the requirement under the Board of Public Utilities' regulation concerning the maintenance by cable television companies of a local business office (N.J.A.C.14:18-5.1) that the closure or relocation of such offices must receive prior approval of the board is not consistent with Legislative intent.

Section 10.8.3
Regulatory oversight: first concurrent resolution (no WHEREAS clauses)

ASSEMBLY CONCURRENT RESOLUTION No. 157

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED NOVEMBER 22, 2010

Sponsored by:
Assemblyman HERB CONAWAY, JR.
District 7 (Burlington and Camden)
Assemblyman JOHN J. BURZICHELLI
District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Determines that DHSS regulations concerning immunization of pupils in school are not consistent with legislative intent.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 1/21/2011)

A CONCURRENT RESOLUTION concerning legislative review of Department of Health and Senior Services regulations pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey.

BE IT RESOLVED *by the General Assembly of the State of New Jersey (the Senate concurring):*

1. Pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey, the Legislature may review any rule or regulation of an administrative agency to determine if the rule or regulation is consistent with the intent of the Legislature as expressed in the language of the statute that the rule or regulation is intended to implement.

2. The Legislature enacted section 7 of P.L.1947, c.177 (C.26:1A-7) to provide for a State Sanitary Code for "the preservation and improvement of public health and the prevention of disease in the State of New Jersey, including the immunization against disease of all school children in the State of New Jersey," and stipulated in section 9 of P.L.1947, c.177 (C.26:1A-9) that the State Sanitary Code, embodied in the regulations of the Department of Health and Senior Services, "shall have the force and effect of law" and "shall be observed throughout the State." The Legislature enacted section 6 of P.L.1974, c.150 (C.26:1A-9.1) to permit an "exemption for pupils from mandatory immunization if the parent or guardian of the pupil objects thereto in a written statement signed by the parent or guardian upon the ground that the proposed immunization interferes with the free exercise of the pupil's religious rights"; however, the Legislature qualified this exemption by providing that it may be suspended by the Commissioner of Health and Senior Services "during the existence of an emergency" as determined by the commissioner, which clearly sets forth the intent of the Legislature to accord priority to the essential purposes for which the Legislature enacted P.L.1947, c.177, by reflecting the primacy of public health protection over individual concerns about mandatory immunization when the public health is endangered. The intent of the Legislature with regard to qualifying an individual's right to a religious exemption from mandatory immunization requirements established by legislative enactment was further clarified by the enactment of P.L.2002, c.58 (C.18A:61D-8 et al.), which requires hepatitis B vaccinations for students in high school and at institutions of higher education, and in which the Legislature gave clear guidance as to the grounds upon which a religious exemption may be granted by providing that such an exemption shall be based upon "a written statement submitted to the secondary school or institution of higher education, as applicable, by the student, or the student's parent or guardian if the

student is a minor, explaining how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, as appropriate" and providing further "that a general philosophical or moral objection to the vaccination shall not be sufficient for an exemption on religious grounds." This provision of P.L.2002, c.58 was incorporated into regulations adopted by the Commissioner of Health and Senior Services and codified in chapter 57 of Title 8 of the New Jersey Administrative Code, at N.J.A.C.8:57-4.4.

3. Effective July 19, 2010, the Commissioner of Health and Senior Services adopted regulations codified in chapter 57 of Title 8 of the New Jersey Administrative Code, in the form of amendments to N.J.A.C.8:57-4.4, which have the effect of permitting a religious exemption from mandatory immunization of pupils in school to be granted based upon a written statement by a pupil's parent or guardian that does not meet the requirements of P.L.2002, 58, because it does not explain how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, but only requests an exemption on the ground that the mandated immunization interferes with the free exercise of the pupil's religious rights, as long as the statement does not rely solely on a moral or philosophical objection.

4. The Legislature finds that the amendments to N.J.A.C.8:57-4.4 are not consistent with the legislative intent of P.L.2002, c.58 because these regulations deleted the language of N.J.A.C.8:57-4.4 that met the requirements of P.L.2002, c.58 and, instead, permit a religious exemption from mandatory immunization of pupils in school based upon a standard that does not meet the requirements of P.L.2002, c.58.

5. The Legislature further finds that these amendments to N.J.A.C.8:57-4.4 will have the effect of increasing the number of religious exemptions to mandatory immunizations of pupils in school that are granted, without any justification provided by a pupil's parent or guardian that the exemption is based upon the bona fide religious tenets or practices of the student, or the parent or guardian, which the Legislature stipulated in P.L.2002, c.58, explicitly with respect to hepatitis B vaccinations and implicitly with respect to all vaccinations of pupils in school, is required for an exemption on religious grounds from mandatory immunizations of pupils in school.

6. The Legislature further finds that the amendments to N.J.A.C.8:57-4.4 will have the effect of undermining the ability of local health and school officials to comply with the intent of the Legislature in its enactment of section 7 of P.L.1947, c.177

(C.26:1A-7) to provide for a State Sanitary Code for "the preservation and improvement of public health and the prevention of disease in the State of New Jersey, including the immunization against disease of all school children in the State of New Jersey"; and that by so doing, these amendments will conduce to the detriment of the public health by leaving some children, and those with whom they come in contact in school, at home, and in the community, at risk of contracting serious communicable diseases that, in some cases, may pose a significant threat to the health and lives of the individual affected.

7. The Clerk of the General Assembly and the Secretary of the Senate shall transmit a duly authenticated copy of this concurrent resolution to the Governor and the Commissioner of Health and Senior Services.

8. The Commissioner of Health and Senior Services, pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey, shall have 30 days following transmittal of this resolution to amend or withdraw the regulations or the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the regulations in whole or in part.

STATEMENT

This concurrent resolution embodies the findings of the Legislature that the regulations set forth at N.J.A.C.8:57-4.4 are not consistent with legislative intent pursuant to Article V, Section IV, paragraph 6 of the State Constitution.

The concurrent resolution finds that these regulations, as amended by the Department of Health and Senior Services, effective July 19, 2010, are not consistent with the legislative intent of P.L.2002, c.58 (C.18A:61D-8 et al.) because the amended regulations deleted the language of N.J.A.C.8:57-4.4 that met the requirements of P.L.2002, c.58 and, instead, permit a religious exemption from mandatory immunization of pupils in school based upon a standard that does not meet the requirements of that legislative enactment.

P.L.2002, c.58 (C.18A:61D-8 et al.), which requires hepatitis B vaccinations for students in high school and at institutions of higher education, specifies that a religious exemption may be granted only by providing "a written statement submitted to the secondary school or institution of higher education, as applicable, by the student, or the student's parent or guardian if the student is a minor, explaining how the administration of the vaccine conflicts with the bona fide

religious tenets or practices of the student, or the parent or guardian, as appropriate."

The amended regulations permit a religious exemption from mandatory immunization of pupils in school to be granted based only upon a written statement by a student's parent or guardian that the mandated immunization interferes with the free exercise of the student's religious rights, without explaining how the immunization conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian.

The amended regulations will have the effect of increasing the number of religious exemptions to mandatory immunizations of pupils in school that are granted, without any justification provided by a pupil's parent or guardian that the exemption is based upon the bona fide religious tenets or practices of the student, or the parent or guardian, which the Legislature stipulated in P.L.2002, c.58, explicitly with respect to hepatitis B vaccinations and implicitly with respect to all vaccinations of pupils in school.

The amended regulations will have the effect of undermining the ability of local health and school officials to comply with the intent of the Legislature in its enactment of section 7 of P.L.1947, c.177 (C.26:1A-7) to provide for a State Sanitary Code for "the preservation and improvement of public health and the prevention of disease in the State of New Jersey, including the immunization against disease of all school children in the State of New Jersey"; and by so doing, the amended regulations will conduce to the detriment of the public health by leaving some children, and those with whom they come in contact in school, at home, and in the community, at risk of contracting serious communicable diseases that, in some cases, may pose a significant threat to the health and lives of the individual affected.

This concurrent resolution provides that the Commissioner of Health and Senior Services will have 30 days following transmittal of the concurrent resolution to amend or withdraw the proposed regulations or the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the regulations in whole or in part.

SENATE CONCURRENT RESOLUTION No. 102

STATE OF NEW JERSEY

INTRODUCED OCTOBER 24, 1996

By Senator SCOTT

A CONCURRENT RESOLUTION concerning legislative review of regulations pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey and invalidating certain regulations of the Department of Environmental Protection.

BE IT RESOLVED *by the Senate of the State of New Jersey (the General Assembly concurring):*

1. Pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey, the Legislature may review any rule or regulation adopted by an administrative agency to determine if the rule or regulation is consistent with the intent of the Legislature as expressed in the language of the statute which the rule or regulation is intended to implement.

2. a. The Legislature enacted the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), to regulate the discharge of pollutants into the State's waters. The Legislature intended that the State program be consistent with the "Federal Water Pollution Control Act Amendments of 1972," 33 U.S.C. §1251 et seq. The foundation of this regulatory program was a permit system that establishes the amount of pollutants that a person may lawfully discharge into the State's waters. Any person discharging pollutants into the State's waters is required to obtain a New Jersey Pollutant Discharge Elimination System (NJPDES) permit, or an equivalent permit from the federal government.

b. Section 9 of P.L.1977, c.74 (C.58:10A-9) provides that the Commissioner of Environmental Protection "shall, in accordance with a fee schedule adopted by regulation, establish and charge reasonable annual administrative fees, which fees shall be based upon, and shall not exceed, the estimated cost of processing, monitoring and administering the NJPDES permits."

c. The fee structure adopted by the commissioner for NJPDES permits for wastewater facilities provides for individual permit fees based on a complicated formula reflecting the facility's potential environmental impact, the billing rate for the category of discharge, and the minimum fee for the category of discharge. Facilities required

to be permitted include those which discharge industrial wastewater, sanitary wastewater, non-contact cooling water, decontaminated ground water, stormwater runoff or other types of treated and untreated types of wastewater to the surface or ground waters of the State. Fees for NJPDES permits related to site remediation are based on the actual cost to the department of processing, administering, and monitoring those permits.

d. The NJPDES permit fees are used to pay personnel costs for the permitting, monitoring, and enforcement of the NJPDES permit requirements. In addition to the actual personnel costs, the fees also pay for fringe benefits of these personnel, including pension, health, and insurance benefits. Additionally, routine departmental operating costs are paid for by these fees, including office supplies, printing, copiers, library supplies, telephone services, postage, vehicle rental and maintenance, legal advertising, and travel. Other major program expenses paid in part by NJPDES permit fees include charges for professional services submitted by the Office of the Attorney General, the United States Geological Survey, the Department of Health Laboratory and the DEP Environmental Laboratory, the Office of Administrative Law, and the Office of Telecommunications and Information Systems.

e. Because of the extensive array of program costs now being supported by NJPDES permits, and because of program inefficiencies, NJPDES permit fees for many if not most permit holders are unreasonable.

3. By the passage of Concurrent Resolution No. 26 of 1996, filed by the Secretary of State on July 19, 1996, the Legislature found that the regulations of the Department of Environmental Protection establishing a fee schedule for NJPDES permittees and applicants, adopted at N.J.A.C.7:14A-1.8, was not consistent with the intent of the Legislature as expressed in the language of the "Water Pollution Control Act" because the high level of the NJPDES fees were not "reasonable" and because the fee schedule allows for the imposition of fees for costs unrelated to the "processing, monitoring and administering the NJPDES permits" as required by section 9 of P.L.1977, c.74 (C.58:10A-9). Senate Concurrent Resolution No. 26 of 1996 further determined that, pursuant to.paragraph 6 of the Constitution of the State of New Jersey, if the Commissioner of the Department of Environmental Protection did not amend or withdraw the regulation within 30 days of passage of Senate Concurrent Resolution No. 26, the Legislature was authorized under the Constitution to invalidate the regulation in whole or in part.

4. The Legislature finds that the 30 day period given to the Commissioner of Environmental Protection in Senate Concurrent

Resolution No. 26 of 1996 has expired and that the Commissioner of Environmental Protection has failed to amend or withdraw N.J.A.C.7:14A-1.8 in a manner that is consistent with the intent of the Legislature.

5. The Legislature therefore is, by the passage of this Concurrent Resolution, exercising its Constitutional powers pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey to invalidate, in whole, the regulations of the Department of Environmental Protection that are promulgated at N.J.A.C.7:14A-1.8. The regulations promulgated at N.J.A.C.7:14A-1.8 are invalidated.

STATEMENT

This concurrent resolution embodies the finding of the Legislature that the regulations of the Department of Environmental Protection concerning a fee schedule for NJPDES permittee and applicants, codified at N.J.A.C.7:14A-1.8, is not consistent with legislative intent pursuant to Article V, Section IV, paragraph 6 of State Constitution.

Previously the Legislature enacted Senate Concurrent Resolution No. 26 of 1996 which initially made this finding and gave the Commissioner of Environmental Protection 30 days in which to amend or withdraw the regulation or the Legislature would be empowered to pass a second Concurrent Resolution to invalidate the regulations in whole or in part. Because the regulations were not amended or withdrawn to address the inconsistency with legislative intent, this second Concurrent Resolution is necessary to invalidate the adopted regulations. Upon passage of this Concurrent Resolution, the regulations adopted at N.J.A.C.7:14A-1.8 will be invalidated in whole.

Finds that NJPDES fee regulations of the DEP invalid due to inconsistency with legislative intent.

Section 10.8.3
Regulatory oversight: second concurrent resolution

SENATE CONCURRENT RESOLUTION No. 151

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED APRIL 11, 2011

Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Prohibits adoption of DHSS proposed medicinal marijuana rules.

CURRENT VERSION OF TEXT

As introduced.

A CONCURRENT RESOLUTION prohibiting the adoption of certain Department of Health and Senior Services rules implementing the "New Jersey Compassionate Use Medical Marijuana Act."

WHEREAS, Pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey, the Legislature may review any rule or regulation proposed by an administrative agency to determine if it is consistent with the intent of the Legislature, and invalidate or prohibit the adoption of a proposed rule or regulation if it finds that the proposed rule or regulation is not consistent with legislative intent; and

WHEREAS, Upon finding that a proposed rule or regulation is not consistent with legislative intent, Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey provides that the Legislature shall transmit its findings in the form of a concurrent resolution to the Governor and the head of the Executive Branch agency which promulgated, or plans to promulgate, the rule or regulation, and the agency shall have 30 days from the time the concurrent resolution is transmitted to amend or withdraw the proposed rule or regulation; and

WHEREAS, If the agency does not amend or withdraw the proposed rule or regulation, Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey provides that the Legislature may prohibit the proposed rule or regulation from taking effect or may invalidate it, in whole or in part, following a public hearing held by either House on the invalidation or prohibition of the rule or regulation, the placement of a transcript of the public hearing on the desks of the members of each House of the Legislature in open meeting for at least 20 calendar days, and a vote of a majority of the authorized membership of each House in favor of a concurrent resolution prohibiting the adoption of, or invalidating, the rule or regulation; and

WHEREAS, On October 6, 2010, the Department of Health and Senior Services posted on its Internet website draft proposed rules to implement the "New Jersey Compassionate Use Medical Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et al.), pending publication of the proposed rules on November 15, 2010 in the New Jersey Register (PRN 2010-293), and subsequently published proposed new rules on February 22, 2011 in the New Jersey Register (PRN 2011-054); and

WHEREAS, The Legislature found in Senate Concurrent Resolution 130 and Assembly Concurrent Resolution No. 151 that certain provisions of the proposed rules issued on October 6, 2010 and published on November 15, 2010 were not consistent with the Legislature's intent to provide relief to suffering patients in this State; and

WHEREAS, Senate Concurrent Resolution No. 130 was substituted by Assembly Concurrent Resolution No. 151, which was transmitted

on December 15, 2011 to the Governor and the Commissioner of Health and Senior Services, and filed with the Secretary of State; and

WHEREAS, The Department of Health and Senior Services failed to amend or withdraw the proposed regulations within 30 days after the transmission of Assembly Concurrent Resolution No. 151 to the Governor and the Commissioner of Health and Senior Services on December 15, 2011, after which the Senate Health, Human Services and Senior Citizens Committee held a public hearing on January 20, 2011; and

WHEREAS, A transcript of the public hearing was laid on the desk of each member of the Senate on January 31, 2011 and on the desk of each member of the Assembly on February 3, 2011; and

WHEREAS, Proposed N.J.A.C. 8:64-10.6(c)5, issued on October 6, 2010, published on November 15, 2010, and proposed anew on February 22, 2011, arbitrarily limits the cannabinoid profile of the medicinal marijuana to no more than 10%, and such limitations are inconsistent with the Legislature's intent to provide relief to suffering patients in this State; and

WHEREAS, Proposed N.J.A.C. 8:64-10.7, issued on October 6, 2010, and published on November 15, 2010, and proposed anew on February 22, 2011, arbitrarily prohibit alternative treatment centers from cultivating more than three strains of medicinal marijuana; and

WHEREAS, N.J.A.C. 8:64-12.1 - 12.4 of the proposed rules issued on October 6, 2010 and published on November 15, 2010, provided for residential delivery services, but N.J.A.C. 8:64-10.12 of the proposed new rules published on February 22, 2011 would prohibit residential delivery of medicinal marijuana, and such a prohibition is not consistent with the Legislature's intent to provide relief to suffering patients; now, therefore,

BE IT RESOLVED *by the Senate of the State of New Jersey (the General Assembly concurring):*

1. The Legislature prohibits the adoption of proposed N.J.A.C. 8:64-10.6(c)5, which would limit the cannabinoid profile of the medicinal marijuana to no more than 10%.

2. The Legislature prohibits the adoption of proposed N.J.A.C. 8:64-10.7, which would prohibit alternative treatment centers from cultivating more than three strains of medicinal marijuana.

3. The Legislature prohibits the adoption of the proposed new rule that prohibits residential delivery of medicinal marijuana, published on February 22, 2011 as N.J.A.C. 8:64-10.12.

4. The Clerk of the General Assembly and the Secretary of the Senate shall transmit a duly authenticated copy of this concurrent resolution to the Governor and the Commissioner of Health and Senior Services.

STATEMENT

Pursuant to Article V, Section IV, paragraph 6 of the Constitution of the State of New Jersey, this concurrent resolution prohibits the adoption of the following proposed rules of the Department of Health and Senior Services to implement the "New Jersey Compassionate Use Medical Marijuana Act," P.L.2009, c.307 (C.24:6I-1 et al.):

- N.J.A.C. 8:64-10.7, which would prohibit alternative treatment centers from cultivating more than three strains of medicinal marijuana;
- N.J.A.C. 8:64-10.6(c)5, which would limit the cannabinoid profile of the medicinal marijuana to no more than ten percent; and
- N.J.A.C. 8:64-10.12 published on February 22, 2011, which would prohibit home delivery of medicinal marijuana, previously permitted by N.J.A.C. 8:64-12.1 - 12.4 of the proposed rules issued on October 6, 2010 and published on November 15, 2010.

The resolution directs the Clerk of the General Assembly and the Secretary of the Senate to transmit a duly authenticated copy of this concurrent resolution to the Governor and the Commissioner of Health and Senior Services.

ASSEMBLY, No. 2001

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:
Assemblyman HERB CONAWAY, JR.
District 7 (Burlington and Camden)

SYNOPSIS

"New Jersey Broadband and Electronic Health Information Network Authority Act."

CURRENT VERSION OF TEXT

As introduced.

AN ACT establishing the "New Jersey Broadband and Electronic Health Information Network Authority" and supplementing P.L.2007, c.330 (C.26:1A-132 et seq.).

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 Broadband and Electronic Health Information Network Authority Act."

2. The Legislature finds and declares that:

a. The use of broadband Internet service to access news and information, exchange personal communication, conduct electronic commerce, and interact with federal, state, and local governmental entities has greatly expanded in recent years;

b. In particular, the use of broadband Internet service to implement an electronic health information network has been shown to be an effective means of promoting a more affordable, safe, and accessible health care system by improving communication among many different health care entities, including, but not limited to, hospitals, clinics, pharmacies, and health care professionals;

c. States such as Delaware and Kentucky have established statewide health information networks that have demonstrated the feasibility of using such networks to facilitate the sharing of health records and information among health care providers and to address the needs of residents for timely, reliable, and relevant health care information;

d. In other states such as Virginia, Wisconsin, Illinois, and Michigan, public authorities and commissions have been established to oversee and promote the overall development of broadband Internet service in their respective jurisdictions in order to provide their residents with greater access to broadband services; and

e. In recognition of the need for a Statewide electronic health information network, and the growing importance of broadband Internet service to the economic and social life of the residents of this State, it is in the public interest to establish an independent authority to promote the development of broadband infrastructure projects, and to specifically oversee and develop a Statewide electronic health information network utilizing the State's broadband capacity and the bonding capacity of the authority as a funding mechanism to expedite the development of such a network.

3. As used in this act:

"Authority" means the New Jersey Broadband and Electronic Health Information Network Authority established pursuant to section 4 of this act.

"Broadband developer" means a person selected by the authority to acquire, construct, develop, and create any part of a broadband infrastructure project.

"Broadband infrastructure project" or "project" means all facilities, hardware, and software, and other intellectual property necessary to provide an electronic health information network, and other related broadband services in this State, including, but not limited to, voice, video, and data.

"Broadband operator" means a person selected by the authority to operate any part of a broadband infrastructure.

"Broadband services" means those services, including, but not limited to, voice, video, and data, that provide capacity for transmission of information at rates in excess of 200 kilobits per second in at least one direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services utilizing transmission at rates in excess of 200 kilobits per second, the voice transmission capacity rate may be less than 200 kilobits per second.

"Development costs" or "costs" means the costs associated with a broadband infrastructure project that have been approved by the authority, including, but not limited to, the costs for planning, acquiring, leasing, constructing, maintaining, and operating a broadband infrastructure project.

"Electronic health information network" means a system that utilizes certain broadband services to provide a secure, integrated method of storing, sending, and accessing health information, records, and data to, and by, health care organizations, health care professionals, public and private payers, and patients, and that links together components of the health care delivery system in this State.

"Health care organization" means: an organization located in this State which is authorized or permitted by law, whether directly or indirectly through a holding corporation, partnership or other entity, to provide health care-related services, including, but not limited to, hospital, outpatient, public health, home health care, residential care, assisted living, hospice, blood bank, alcohol or drug abuse, half-way house, diagnostic, treatment, rehabilitation, extended care, skilled nursing care, nursing care, intermediate care, tuberculosis care, chronic disease care, maternity, mental health, boarding or sheltered care or day care services, services provided by a physician in his office, or any other service offered in connection with health care services or by an entity affiliated with a health care organization or an integrated delivery system; or a health insurance carrier.

"Health insurance carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Banking and Insurance, which contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including, but not limited to, an insurance company, health service corporation, hospital service corporation, medical service corporation, health maintenance organization, dental service corporation, and dental plan organization.

"Health insurance plan" means any hospital and medical expense insurance policy, health, hospital or medical service corporation contract or certificate, or health maintenance organization subscriber contract or certificate, or dental or vision plan.

4. a. There is hereby established in, but not of, the Department of Health and Senior Services, a public body corporate and politic, with corporate succession, to be known as the "New Jersey Broadband and Electronic Health Information Network Authority." The authority shall constitute a political subdivision of the State established as an instrumentality exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this act shall be deemed and held to be an essential governmental function.

b. The authority shall consist of seven members as follows:

(1) the Chief Technology Officer of the New Jersey Office of Information Technology, or his designee, who shall serve ex officio; and

(2) six public members, as follows:

(a) two public members, who shall be appointed by the Governor, one each with demonstrated professional expertise, knowledge, and skill in the academic and business fields relating to the work of the authority, respectively;

(b) two public members, who shall be appointed by the President of the Senate, one each with demonstrated professional expertise, knowledge, and skill in the technology and financial fields relating to the work of the authority, respectively; and

(c) two public members, who shall be appointed by the Speaker of the General Assembly, including one member with expertise in electronic health information technology and one member who is licensed or otherwise authorized to practice as a health care professional pursuant to Title 45 of the Revised Statutes.

The appointments of the public members shall be made no later than the 60th day after the effective date of this act, and the appointments of the public members by the Governor shall be made with the advice and consent of the Senate.

The Governor shall designate a public member as chair of the authority.

c. The public members shall serve for a term of five years; except that, of the public members first appointed, those appointed by the Governor shall serve for a term of three years, and those appointed by the President of the Senate and by the Speaker of the General Assembly shall serve for a term of two years. Vacancies in the membership of the authority shall be filled in the same manner as the original appointments were made.

Any public member of the authority may be removed from office for cause after a public hearing, as follows: by the Governor if the public member was appointed pursuant to subparagraph (a) of paragraph (2) of subsection b. of this section; by the President of the Senate if the public member was appointed pursuant to subparagraph (b) of paragraph (2) of subsection b. of this section; and by the Speaker of the General Assembly if the public member was appointed pursuant to subparagraph (c) of paragraph (2) of subsection b. of this section.

d. The members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their official duties.

e. The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its members a vice chairman who shall hold office until April 30 next ensuing and shall continue to serve after the expiration of the term of the vice chairman's successor and until the vice chairman's successor shall have been appointed and qualified. The authority may also appoint, retain and employ, without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, such officers, agents, and employees as it may require, and it shall determine their qualifications, terms of office, duties, services, and compensation.

f. The powers of the authority shall be vested in the members thereof in office from time to time, and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of a majority of the members present, unless in any case the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

g. Each member and such person as may be designated by the authority as its chief financial officer, shall execute a bond to be conditioned upon the faithful performance of the duties of such member or officer, as the case may be, in such form and amount as may be prescribed by the Attorney General. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter, the members and the chief financial officer, if any, of the authority

shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

h. No trustee, director, or officer of a health care organization may serve as a member of the authority.

i. At least two true copies of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, exclusive of Saturdays, Sundays, and public holidays, after such copies of the minutes shall have been so delivered or at such earlier time as the Governor shall sign a statement of approval thereof. If, in the 10-day period, the Governor returns a copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within the 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the 10-day period, the Governor may sign a statement of approval of each, or any such action of the authority.

The powers conferred in this subsection upon the Governor shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding.

5. The authority shall have power:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business and to alter and revise such bylaws from time to time at its discretion;

b. To adopt and have an official seal and alter the same at pleasure;

c. To maintain an office at such place or places within the State as it may designate;

d. To sue and be sued in its own name;

e. To borrow money and to issue bonds and notes to fund the operations of the authority, to finance or refinance part or all of the development costs of broadband infrastructure projects, including, but not limited to, a Statewide electronic health information network, to refinance existing debt for technology that constitutes a part of or is related to broadband infrastructure projects, and to secure bonds and notes by mortgage, assignment, or pledge of any of its revenues and assets;

f. To make loans and to enter into partnership arrangements with broadband developers and broadband operators in order to acquire, construct, maintain, and operate all or portions of broadband infrastructure projects;

g. To set construction, operation, and financing standards for broadband infrastructure projects in connection with authority financing and to provide for inspections to determine compliance with those standards;

h. To oversee the development of a Statewide electronic health information network in order to ensure that the network is designed to:

(1) promote more efficient and effective communication among multiple health care providers, including, but not limited to, hospitals, physicians, payers, employers, pharmacies, laboratories, and other health care entities;

(2) create efficiencies in the provision of health care by improving data capture and storage through methods that include the increased utilization of existing State assets, and reduce administrative, billing, and data collection costs;

(3) eliminate redundancy of tests, treatments, and procedures;

(4) create the ability to monitor community health status; and

(5) provide reliable information to health care consumers and purchasers regarding the quality and cost-effectiveness of health care, health insurance plans, and health care providers, including, but not limited to, health care professionals, hospitals, nursing homes, and other health care facilities;

i. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, any land or interest therein and other property which it may determine is reasonably necessary for any broadband infrastructure project; and to hold and use the same and to sell, convey, lease, or otherwise dispose of property so acquired, that is no longer necessary for the authority's purposes, for fair consideration after public notice;

j. To receive and accept, from any federal or other public agency or governmental entity, grants or loans for, or in aid of, the acquisition or construction of any broadband infrastructure project, and to receive and accept aid or contributions from any other source, of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants, loans, and contributions may be made;

k. To prepare or cause to be prepared plans, specifications, designs, and estimates of costs of the broadband infrastructure projects, and of the technology that constitutes a part of or is related to such projects, and for the construction of such projects under the provisions of this act, and from time to time to modify such plans, specifications, designs, or estimates;

l. By contract or contracts with and for broadband developers only, to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip broadband infrastructure projects. The authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, under

which the sum to be expended exceeds the adjusted amount determined by the Governor as provided in subsection j. of section 5 of P.L.1972, c.29 (C.26:2I-5) with respect to contracts of the New Jersey Health Care Facilities Financing Authority, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required if the contract to be entered into is one for the furnishing or performing of services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered, are filed with the board;

m. To determine the location and character of any broadband infrastructure project to be undertaken, subject to the provisions of this act, and subject to State health and environmental laws, to construct, reconstruct, maintain, repair, lease as lessee or lessor, and regulate the same and operate the same in the event of default by a broadband operator of its obligations and agreements with the authority; to enter into contracts for any or all such purposes; and to enter into contracts for the management and operation of a broadband infrastructure project in the event of default as herein provided. The authority shall use its best efforts to conclude its position as an operator as herein provided as soon as is practicable;

n. To establish rules and regulations for the use of a broadband infrastructure project or any portion thereof;

o. Generally to fix and revise, from time to time, and to charge and collect rates, rents, fees, and other charges for the use of, and for the services furnished or to be furnished by, those portions of a broadband infrastructure project financed by the authority pursuant to this act, and to contract with holders of its bonds and with any other person, party, association, corporation, or other body, public or private, in respect thereof;

p. To develop and manage a master patient index and a health insurance claims database;

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

r. To invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in such obligations as are authorized by resolution of the authority;

s. To obtain, or aid in obtaining, from any department or agency of the United States any insurance or guarantee as to, or of, or for the payment or repayment of interest or principal, or both, or any part thereof, on any loan or any instrument evidencing or

securing the same, made or entered into pursuant to the provisions of this act; and notwithstanding any other provisions of this act, to enter into agreement, contract, or any other instrument whatsoever with respect to any such insurance or guarantee, and accept payment in such manner and form as provided therein in the event of default by the borrower;

t. To obtain from any department or agency of the United States or a private insurance company any insurance or guarantee as to, or of, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority pursuant to the provisions of this act; and notwithstanding any other provisions of this act, to enter into any agreement, contract, or any other instrument whatsoever with respect to any such insurance or guarantee, except to the extent that such action would in any way impair or interfere with the authority's ability to perform and fulfill the terms of any agreement made with the holders of the bonds of the authority;

u. To receive and accept, from any department or agency of the United States or of the State or from any other entity, any grant, appropriation, or other moneys to be used for or applied to any corporate purpose of the authority, including without limitation the meeting of debt service obligations of the authority in respect of its bonds;

v. To develop or design other initiatives in furtherance of its purposes;

w. To report and make recommendations to the Office for e-HIT established pursuant to section 8 of P.L.2007, c.330 (C.17:1D-1); and

x. To perform any and all other activities in furtherance of the purposes of the authority.

6. a. Each worker employed in the construction or rehabilitation of any broadband infrastructure project undertaken in connection with loans, loan guarantees, expenditures, investments, tax exemptions, or other incentives or financial assistance approved, provided, authorized, facilitated, or administered by the authority, or undertaken to fulfill any condition of receiving any of the incentives or financial assistance, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

b. The Commissioner of Labor and Workforce Development shall determine the prevailing wage rate in the locality in which the construction or rehabilitation is to be performed for each craft, trade, or classification of worker employed in the construction or rehabilitation, as if the construction or rehabilitation is "public work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

c. For the purpose of implementing the provisions of this section, the Commissioner of Labor and Workforce Development shall, and a worker employed in the performance of work subject to this act or the employer or any designated representative of the worker may, exercise all rights, powers, or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

d. The authority shall, in consultation with the Commissioner of Labor and Workforce Development, adopt rules and regulations, consistent with the rules and regulations adopted by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than the prevailing wage be paid to workers employed in the construction or rehabilitation of projects undertaken in connection with loans, loan guarantees, expenditures, investments, incentives, or other financial assistance provided, authorized, or administered by the authority. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

7. a. The authority is authorized from time to time to issue its bonds for any corporate purpose and to fund and refund the same all as provided in this act. Such bonds may, at the discretion of the authority, be designated as "bonds," "notes," "bond anticipation notes," or otherwise.

b. Except as may otherwise be expressly provided by the authority, every issue of authority bonds shall be general obligations of the authority payable from any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys. Notwithstanding that bonds may be payable from a special fund, they shall be fully negotiable within the meaning of Title 12A, the Uniform Commercial Code, of the New Jersey Statutes, subject only to any provisions of the bonds for registration.

c. The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definitive bonds, the

authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

d. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(1) pledging all or any part of the revenues of a broadband infrastructure project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(2) the rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(3) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(4) the limitations on the right of the authority or its agent to restrict and regulate the use of a project;

(5) the limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(6) the limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(8) limitations on the amount of moneys derived from a project to be expended for operating, administrative, or other expenses of the authority; and

(9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

e. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

f. The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with bondholders.

8. In the discretion of the authority, any bonds issued under the provisions of this act may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may

be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues or other moneys or securities to be received or proceeds of any contract or contracts pledged. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this State which may act as depositary of the proceeds of bonds or revenues or other moneys or securities may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as project costs.

9. Bonds issued under the provisions of this act shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof other than the authority, nor a pledge of the faith and credit of the State or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided. All such bonds shall contain on the face thereof a statement to the effect that neither the State of New Jersey nor the authority shall be obligated to pay the same or the interest thereon except from revenues or other moneys of the authority and that neither the faith and credit nor the taxing power of the State of New Jersey or of any political subdivision thereof other than the authority is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this act shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor.

10. The authority is authorized to fix, revise, charge, and collect rates, rents, fees, and charges for the use of and for the services furnished or to be furnished by each broadband infrastructure project and to contract with any person, partnership, association, or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees, and charges shall be fixed and adjusted in respect of the aggregate of rents, rates, fees, and charges from such

project so as to provide funds sufficient with other revenues or moneys, if any:

a. To pay the cost of maintaining, repairing, and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for;

b. To pay the principal of, and the interest on, outstanding bonds of the authority issued in respect of such project as the same shall become due and payable; and

c. To create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds of the authority.

Such rates, rents, fees, and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau, or agency of this State other than the authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair, and operation and to provide reserves for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of any bonds of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of, and the interest on, such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees, and charges and other revenues or other moneys or securities so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund shall be a fund for all such bonds issued to finance projects of a health care organization without distinction or priority of one over another; provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at a health care organization and for the bonds issued to finance a particular project and may,

additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect to such subordinate lien bonds.

11. All moneys received by the authority pursuant to this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and the resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide.

12. Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, proceeding in lieu of prerogative writ, or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the authority or by any officer, employee or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

13. a. The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof and for making payments to reserve funds therefor.

b. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to

such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

c. Any such escrowed proceeds, pending such use, may be invested and reinvested as permitted by the applicable resolution or trust agreement. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

d. All such bonds shall be subject to the provisions of this act in the same manner and to the same extent as other bonds issued pursuant to this act.

14. Bonds and notes issued by the authority under the provisions of this act are hereby made securities in which the State and all political subdivisions of the State, their officers, boards, commissions, departments or other agencies, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any funds, including capital belonging to them or within their control; and said bonds, notes, or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any State or municipal officers or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

15. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, agency, or officer of the State, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, and things which are specifically required by this act.

16. The exercise of the powers granted by this act shall be in all respects for the benefit of the people of this State, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the authority or its agent shall constitute the performance of an essential public function, neither the authority nor its agent shall be required to pay any taxes or

assessments upon or in respect of a project or any property acquired or used by the authority or its agent under the provisions of this act or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation except for transfer, inheritance, and estate taxes.

17. The State of New Jersey does pledge to and agree with the holders of the bonds issued pursuant to the authority contained in this act, and with those parties who may enter into contracts with the authority pursuant to the provisions of this act, that the State will not limit, alter, or restrict the rights hereby vested in the authority to maintain, construct, reconstruct, and operate any project as defined in this act or to establish and collect such rents, fees, receipts, or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds authorized by this act, and with the parties who may enter into contracts with the authority pursuant to the provisions of this act, or in any way impair the rights or remedies of the holders of such bonds or such parties until the bonds, together with interest thereon, are fully paid and discharged and such contracts are fully performed on the part of the authority. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

18. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the State Comptroller.

19. Except as otherwise expressly provided in this act, any member, officer, agent, or employee of the authority, or member of the immediate family thereof, who has an interest, either directly or indirectly, in any contract or transaction of another party with the authority, or in the purchase, sale or lease of any property, either real or personal, to or from the authority, shall be guilty of a crime of the fourth degree.

20. The State Comptroller and the Comptroller's legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts, books, and records of

the authority, including its receipts, disbursements, contracts, sinking funds, investments, and any other matters relating thereto and to its financial standing.

21. The authority shall be entitled to call to its assistance and avail itself of the services of such employees of any State department or agency as it may require and as may be available to it for said purpose.

22. This act shall be liberally construed to effect the purpose thereof.

23. Nothing contained in this act shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, of the State.

24. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds.

25. All laws, or parts thereof, inconsistent with this act are hereby declared to be inapplicable to the provisions of this act, except as otherwise provided.

26. The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional or otherwise invalid, the decision of the court shall not affect the validity of any of the remaining provisions of this act.

27. This act shall take effect immediately.

STATEMENT

This bill establishes the "New Jersey Broadband and Electronic Health Information Network Authority" to promote the development of broadband Internet services and broadband infrastructure in the State that are necessary to provide a Statewide electronic health information network.

The bill provides specifically as follows:

- The authority is to consist of seven members, including the Chief Technology Officer of the New Jersey Office of Information

Technology, or his designee, as an ex officio member, and six public members, as follows:

-- two public members, to be appointed by the Governor, one each with demonstrated professional expertise, knowledge, and skill in the academic and business fields relating to the work of the authority, respectively;

-- two public members, to be appointed by the President of the Senate, one each with demonstrated professional expertise, knowledge, and skill in the technology and financial fields relating to the work of the authority, respectively; and

-- two public members, to be appointed by the Speaker of the General Assembly, including one member with expertise in electronic health information technology and one member who is licensed or otherwise authorized to practice as a health care professional pursuant to Title 45 of the Revised Statutes.

- The authority is authorized to issue bonds and notes to finance or refinance all or part of the development of the authority's operations and projects. The bonds or notes issued by the authority will not be a debt or liability of the State.
- The authority is authorized to impose and collect rates, rents, charges, and fees for the services furnished by those portions of the broadband infrastructure projects financed by the authority, in conjunction with any financing that may be issued by the authority.
- The authority, in connection with its development of a Statewide electronic health information network, is to be responsible for overseeing the development of the network in such a way as to ensure that the network is designed to:

-- promote more efficient and effective communication among multiple health care providers, including, but not limited to, hospitals, physicians, payers, employers, pharmacies, laboratories, and other health care entities;

-- create efficiencies in the provision of health care by eliminating redundancy in data capture and storage, and reduce administrative, billing, and data collection costs;

-- create the ability to monitor community health status; and

-- provide reliable information to health care consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans, and health care providers.

- The authority is required to report and make recommendations to the Office for e-HIT established pursuant to section 8 of P.L.2007, c.330 (C.17:1D-1) with regard to the development of a Statewide health information network.

In addition, the bill:

-- defines "broadband infrastructure project" to include broadband services in this State related to the provision of an electronic health information network;

-- defines "health care organization" to include health insurance carriers authorized to operate in this State;

-- prohibits a trustee, director, or officer of a health care organization from serving as a member of the authority;

-- provides for the authority to fund the provision of broadband Internet services to residential, commercial, public, and nonprofit customers in this State that are related to the development of a Statewide electronic health information network;

-- authorizes the authority to develop and manage a master patient index and a health insurance claims database; and

-- authorizes the authority to report to the Office for e-HIT established pursuant to section 8 of P.L.2007, c.330 (C.17:1D-1).

Appendix B follows a draft as it moves from introduction to enactment. It sets out the documents as prepared by staff (the "drafter's versions") and the documents after processing by BPU (the "official versions").

APPENDIX B

FULL BILL, FROM INTRODUCTION TO ENACTMENT

Full bill, from introduction to enactment
Drafter's version: introduced bill (S1918 of 2008-2009)

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SR 084
TR 196
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House Copy | OLS Copy | Public Copy

For Official House Use

BILL NO. _____

Date of Intro. _____

Ref. _____

NOTE TO SPONSOR	Notify OLS if you require changes in this document. A revised copy for introduction will be prepared on the legislative computer system. Handwritten changes will not appear in the printed bill.

AN ACT concerning fraud with respect to workers compensation insurance and supplementing P.L.1983, c.320 (C.17:33A-1 et seq.) and Title 2C of the New Jersey Statutes.

Makes failure to provide workers compensation coverage a violation of "New Jersey Insurance Fraud Prevention Act" and crime of insurance fraud.

PRIME Sponsor Sarlo / Madden

CO-Sponsor	District	CO-Sponsor	District

Same as _____ 06/07 Same as _____ 08/09

Suggested allocation: s.1: C.17:33A-4.1
s.2: C.2C:21-4.9
s.3: effective date – note to 2008/18

AN ACT concerning fraud with respect to workers compensation insurance and supplementing P.L.1983, c.320 (C.17:33A-1 et seq.) and Title 2C of the New Jersey Statutes.

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

1. It shall be a violation of the "New Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.), for any employer, who is required to provide workers' compensation insurance coverage or to self-insure for such coverage pursuant to chapter 15 of Title 34 of the Revised Statutes, to fail to provide that coverage as required by law.

2. A person is guilty of the crime of insurance fraud pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6) if that person is an employer, who is required to provide workers' compensation insurance coverage or to self-insure for such coverage pursuant to chapter 15 of Title 34 of the Revised Statutes, and who knowingly fails to provide that coverage as required by law.

3. This act shall take effect immediately.

STATEMENT

This bill makes it a violation of the "New Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.), and a crime of insurance fraud under the New Jersey Code of Criminal Justice, for any employer, who is required to provide workers' compensation insurance coverage or to self-insure for such coverage pursuant to chapter 15 of Title 34 of the Revised Statutes, to fail to provide that coverage as required by law.

Makes failure to provide workers compensation coverage a violation of "New Jersey Insurance Fraud Prevention Act" and crime of insurance fraud.

SENATE, No. 1918

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED MAY 22, 2008

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)

SYNOPSIS

Makes failure to provide workers compensation coverage a violation of "New Jersey Insurance Fraud Prevention Act" and crime of insurance fraud.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning fraud with respect to workers compensation insurance and supplementing P.L.1983, c.320 (C.17:33A-1 et seq.) and Title 2C of the New Jersey Statutes.

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

1. It shall be a violation of the "New Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.), for any employer, who is required to provide workers' compensation insurance coverage or to self-insure for such coverage pursuant to chapter 15 of Title 34 of the Revised Statutes, to fail to provide that coverage as required by law.

2. A person is guilty of the crime of insurance fraud pursuant to section 73 of P.L.2003, c.89 (C.2C:21-4.6) if that person is an employer, who is required to provide workers' compensation insurance coverage or to self-insure for such coverage pursuant to chapter 15 of Title 34 of the Revised Statutes, and who knowingly fails to provide that coverage as required by law.

3. This act shall take effect immediately.

STATEMENT

This bill makes it a violation of the "New Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.), and a crime of insurance fraud under the New Jersey Code of Criminal Justice, for any employer, who is required to provide workers' compensation insurance coverage or to self-insure for such coverage pursuant to chapter 15 of Title 34 of the Revised Statutes, to fail to provide that coverage as required by law.

Full bill, from introduction to enactment
Committee substitute (drafter's version)

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SR 181
TR 239

Suggested allocation: s.2: 17:33A-19.1

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

STATE OF NEW JERSEY

Sponsored by Senators SARLO and MADDEN

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L. 1998, c. 21.

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

1. Section 34 of P.L. 1998, c. 21 (C. 17:33A-18) is amended to read as follows:

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.
(cf: P.L.1998, c.21, s.34)

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L. 1998, c. 21 (C. 17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor.

3. This act shall take effect immediately.

Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of cases of failure to provide workers' compensation coverage.

Full bill, from introduction to enactment
Committee substitute (official version)

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1918

STATE OF NEW JERSEY

213th LEGISLATURE

ADOPTED JUNE 5, 2008

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)

SYNOPSIS

Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of cases of failure to provide workers' compensation coverage.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Labor Committee.

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L.1998, c.21.

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

1. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to read as follows:

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.

(cf: P.L.1998, c.21, s.34)

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor.

3. This act shall take effect immediately.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Full bill, from introduction to enactment
Committee statement (drafter's version)

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SENATE LABOR COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Senate Labor Committee reports favorably the Senate Committee Substitute for Senate Bill No. 1918.

This Senate Committee Substitute authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage under the existing provisions of the workers' compensation statutes, and in particular, N.J.S.A.34:15-79, which already establishes criminal penalties for failure to provide such coverage. The substitute bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of the Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Senate Labor Committee reports favorably the Senate Committee Substitute for Senate Bill No. 1918.

This Senate Committee Substitute authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage under the existing provisions of the workers' compensation statutes, and in particular, R.S.34:15-79, which already establishes criminal penalties for failure to provide such coverage. The substitute bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of the Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

Full bill, from introduction to enactment
Committee statement (drafter's version)

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SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE SUBSTITUTE FOR
SENATE, No. 1918

STATE OF NEW JERSEY

DATED: JUNE 16, 2008

The substitute authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage under the existing provisions of the workers' compensation statutes, and in particular, R.S.34:15-79, which already establishes criminal penalties for failure to provide such coverage. The substitute bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of the Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

This bill is identical to Assembly Bill No. 2970.

FISCAL IMPACT:

The substitute will have no fiscal impact on the General Fund for two reasons: 1) it is uncertain if it will be necessary or possible, in light of current budgetary constraints on hiring, for the Office if the Insurance Fraud Prosecutor to hire new staff to accommodate any increased workload; and 2) any costs associated with the implementation of the act will be recouped through an assessment on the insurance industry. The bill authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage. Pursuant to statute, the Office of Insurance Fraud Prosecutor is located in the Department of Law and Public Safety but is funded through an assessment imposed on the insurance industry and collected by the Department of Banking and Insurance for the operation of the Division of Insurance Fraud Prosecutor (C.17:33A-30).

Full bill, from introduction to enactment
Committee statement (official version)

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

STATE OF NEW JERSEY

DATED: JUNE 16, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill 1918 (SCS).

The substitute authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage under the existing provisions of the workers' compensation statutes, and in particular, R.S.34:15-79, which already establishes criminal penalties for failure to provide such coverage. The substitute bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of the Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

This bill is identical to Assembly Bill No. 2970.

FISCAL IMPACT:

The substitute will have no fiscal impact on the General Fund for two reasons: 1) it is uncertain if it will be necessary or possible, in light of current budgetary constraints on hiring, for the Office of the Insurance Fraud Prosecutor to hire new staff to accommodate any increased workload; and 2) any costs associated with the implementation of the act will be recouped through an assessment on the insurance industry. The bill authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage. Pursuant to statute, the Office of Insurance Fraud Prosecutor is located in the Department of Law and Public Safety but is funded through an assessment imposed on the insurance industry and collected by the Department of Banking and Insurance for the operation of the Division of Insurance Fraud Prosecutor (C.17:33A-30).

LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1918

STATE OF NEW JERSEY
213th LEGISLATURE

DATED: JUNE 16, 2008

SUMMARY

Synopsis: Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of cases of failure to provide workers' compensation coverage.

Type of Impact: None.

Agencies Affected: Department of Law and Public Safety, Department of Labor and Workforce Development and Department of Banking and Insurance.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	$0	$0	$0

- The Office of Legislative Service (OLS) estimates that Senate Committee Substitute for Senate Bill No. 1918 will have no fiscal impact on the State General Fund for two reasons: 1) it is uncertain if it will be necessary or possible, in light of current budgetary constraints on hiring, for the Office of the Insurance Fraud Prosecutor to hire new staff to accommodate any increased workload; and 2) any costs associated with the implementation of the act will be recouped through an assessment on the insurance industry.

- The bill authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage. The Office of Insurance Fraud Prosecutor is located in the Department of Law and Public Safety but is funded through an assessment imposed on the insurance industry and collected by the Department of Banking and Insurance for the operation of the Division of Insurance Fraud Prosecutor (C.17:33A-30).

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 1918 of 2008 authorizes the Insurance

Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage under the existing provisions of the workers' compensation statutes, and in particular R.S.34:15-79, which already establishes criminal penalties for failure to provide such coverage.

The bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that Senate Committee Substitute for Senate Bill No. 1918 will have no fiscal impact on the State General Fund for two reasons: 1) it is uncertain if it will be necessary or possible, in light of current budgetary constraints on hiring, for the Office if the Insurance Fraud Prosecutor to hire new staff to accommodate any increased workload; and 2) any costs associated with the implementation of the act will be recouped through an assessment on the insurance industry. The bill authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage. Pursuant to statute, the Office of Insurance Fraud Prosecutor is located in the Department of Law and Public Safety but is funded through an assessment imposed on the insurance industry and collected by the Department of Banking and Insurance for the operation of the Division of Insurance Fraud Prosecutor (C.17:33A-30).

Section:	*Commerce, Labor and Industry*
Analyst:	*Robin C. Ford* *Assistant /Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

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SENATE LABOR COMMITTEE

AMENDMENTS

to

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

(Sponsored By Senators SARLO and MADDEN)

REPLACE SECTION 2 TO READ:

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage [1]after being given a reasonable opportunity to obtain that coverage[1], or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor.

Full bill, from introduction to enactment
Committee amendments (official version)

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1918

STATE OF NEW JERSEY

213th LEGISLATURE

ADOPTED JUNE 5, 2008

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)
Assemblyman JOSEPH V. EGAN
District 17 (Middlesex and Somerset)
Assemblyman NEIL M. COHEN
District 20 (Union)
Assemblyman THOMAS P. GIBLIN
District 34 (Essex and Passaic)
Assemblyman PETER J. BARNES, III
District 18 (Middlesex)

Co-Sponsored by:
Senator Ruiz, Assemblywomen Evans and Greenstein

SYNOPSIS

Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of cases of failure to provide workers' compensation coverage.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on June 19, 2008, with amendments.

(Sponsorship Updated As Of: 6/24/2008)

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L.1998, c.21.

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

1. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to read as follows:

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.

(cf: P.L.1998, c.21, s.34)

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage [1]after being given a reasonable opportunity to obtain that coverage[1], or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor.

3. This act shall take effect immediately.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SLA committee amendments adopted June 19, 2008.

Full bill, from introduction to enactment
Committee statement (drafter's version)

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SENATE LABOR COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2008

The Senate Labor Committee reports favorably and with committee amendments the Senate Committee Substitute for Senate Bill No. 1918.

The amended committee substitute authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage occurring after a reasonable opportunity has been given to obtain that coverage. The prosecution would be conducted under the existing provisions of the workers' compensation statutes, and in particular, R.S.34:15-79, which already establishes criminal penalties for failure to provide such coverage. The substitute bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of the Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

The committee amendments authorize the insurance prosecutor to investigate and prosecute only cases of failure to provide workers' compensation coverage which occur after the employer has been given a reasonable opportunity to obtain that coverage.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 2008

The Senate Labor Committee reports favorably and with committee amendments the Senate Committee Substitute for Senate Bill No. 1918.

The amended committee substitute authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage occurring after a reasonable opportunity has been given to obtain that coverage. The prosecution would be conducted under the existing provisions of the workers' compensation statutes, and in particular, R.S.34:15-79, which already establishes criminal penalties for failure to provide such coverage. The substitute bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of the Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

The committee amendments authorize the insurance prosecutor to investigate and prosecute only cases of failure to provide workers' compensation coverage which occur after the employer has been given a reasonable opportunity to obtain that coverage.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1918
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Committee Substitute for Senate Bill No. 1918 (First Reprint) with my recommendations for reconsideration.

This bill would require the Office of the Insurance Fraud Prosecutor in the Department of Law and Public Safety, Division of Criminal Justice, to add the Department of Labor and Workforce Development to the roster of enumerated entities with which the Office of the Insurance Fraud Prosecutor has a liaison relationship. The bill would also authorize the Office of the Insurance Fraud Prosecutor to investigate and prosecute employers who fail to provide workers' compensation insurance coverage as required by N.J.S.A. 34:15-79, with the limitation that the employer has been "given a reasonable opportunity to obtain that coverage."

I commend the sponsors of this bill for their efforts to address the serious problem of employers who fail to protect their employees with the compensation insurance required by law, leaving them without a sure avenue to obtain necessary medical treatment. The sponsors' sincere efforts to improve the workers' compensation delivery system are laudable. I cannot, however, approve this bill without proposing a small number of technical amendments to ensure that this measure is not construed to limit or impede the conduct of criminal investigations and prosecutions by prosecutorial agencies of the State.

Accordingly, I herewith return Senate Committee Substitute for Senate Bill No. 1918 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 2,
Line 38 to Line 39:

After "coverage" delete "after being given a reasonable opportunity to obtain that coverage"

Page 2, Section 2,
Line 41:

After "Statutes." insert "The Commissioner of Labor and Workforce Development shall not refer any case of failure to provide required workers' compensation insurance coverage, or self-insurance for such coverage, for criminal prosecution unless the employer has been afforded a reasonable opportunity to obtain that coverage. The provisions of this section are not jurisdictional, and the failure to afford such opportunity shall not in any manner be construed as a prerequisite to a criminal prosecution or conviction."

Page 2, Section 2,
Line 42:

After "Prosecutor" insert "or any other prosecutorial entity"

Respectfully,

Jon S. Corzine
Governor

Attest:

Edward J. McBride, Jr.
Chief Counsel to the Governor

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CL 084
SR 200
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CONDITIONAL VETO

to

[First Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1918

(Sponsored by Senators SARLO and MADDEN, and
Assemblymen EGAN, COHEN, GIBLIN and BARNES)

REPLACE SECTION 2 TO READ:

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage **[2[1]** after being given a reasonable opportunity to obtain that coverage **1]]2**, or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. **2**The Commissioner of Labor and Workforce Development shall not refer any case of failure to provide required workers' compensation insurance coverage, or self-insurance for such coverage, for criminal prosecution unless the employer has been afforded a reasonable opportunity to obtain that coverage. The provisions of this section are not jurisdictional, and the failure to afford such opportunity shall not in any manner be construed as a prerequisite to a criminal prosecution or conviction.**2** Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor**2** or any other prosecutorial entity**2**.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Full bill, from introduction to enactment
Senate floor amendments (CV) (official version)

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1918

STATE OF NEW JERSEY

213th LEGISLATURE

ADOPTED JUNE 5, 2008

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen, Essex and Passaic)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)
Assemblyman JOSEPH V. EGAN
District 17 (Middlesex and Somerset)
Assemblyman THOMAS P. GIBLIN
District 34 (Essex and Passaic)
Assemblyman PETER J. BARNES, III
District 18 (Middlesex)

Co-Sponsored by:
Senator Ruiz, Assemblywomen Evans and Greenstein

SYNOPSIS

Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of case(s) of failure to provide workers' compensation coverage.

CURRENT VERSION OF TEXT

As amended on October 23, 2008, by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 12/16/2008)

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L.1998, c.21.

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

1. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to read as follows:

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.

(cf: P.L.1998, c.21, s.34)

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage **[2]**[1]after being given a reasonable opportunity to obtain that coverage[1]**[2]**, or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. **[2]**The Commissioner of Labor and Workforce Development shall not refer any case of failure to provide required

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SLA committee amendments adopted June 19, 2008.
[2] Senate amendments adopted in accordance with Governor's recommendations October 23, 2008.

workers' compensation insurance coverage, or self-insurance for such coverage, for criminal prosecution unless the employer has been afforded a reasonable opportunity to obtain that coverage. The provisions of this section are not jurisdictional, and the failure to afford such opportunity shall not in any manner be construed as a prerequisite to a criminal prosecution or conviction.[2] Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor[2] or any other prosecutorial entity[2].

3. This act shall take effect immediately.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1918

STATE OF NEW JERSEY
213th LEGISLATURE

DATED: DECEMBER 17, 2008

SUMMARY

Synopsis: Requires Insurance Fraud Prosecutor to establish liaison with Department of Labor and Workforce Development (DOLWD) and authorizes its investigation of cases of failure to provide workers' compensation coverage.

Type of Impact: None.

Agencies Affected: Departments of Law and Public Safety, Labor and Workforce Development and Banking and Insurance.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	$0	$0	$0

- The Office of Legislative Service (OLS) estimates that the Second Reprint to Senate Committee Substitute for Senate Bill No. 1918 will have no fiscal impact on the State General Fund for two reasons: 1) it is uncertain if it will be necessary or possible, in light of current budgetary constraints on hiring, for the Office of the Insurance Fraud Prosecutor to hire new staff to accommodate any increased workload; and 2) any costs associated with the implementation of the act will be recouped through an assessment on the insurance industry.

- The bill authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage. The Office of Insurance Fraud Prosecutor is located in the Department of Law and Public Safety but is funded through an assessment imposed on the insurance industry and collected by the Department of Banking and Insurance for the operation of the Division of Insurance Fraud Prosecutor (C.17:33A-30).

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625

– OLS –

Legislative Budget and Finance Office
Phone (609) 292-8030
Fax (609) 777-2442
www.njleg.state.nj.us

BILL DESCRIPTION

The Second Reprint to Senate Committee Substitute for Senate Bill No. 1918 of 2008 authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage under the existing provisions of the workers' compensation statutes, and in particular R.S.34:15-79, which already establishes criminal penalties for failure to provide such coverage.

The bill also adds the Department of Labor and Workforce Development to the list of State departments and agencies with which the Office of Insurance Fraud Prosecutor must establish a liaison relationship and continuing communication.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the Second Reprint to Senate Committee Substitute for Senate Bill No. 1918 will have no fiscal impact on the State General Fund for two reasons: 1) it is uncertain if it will be necessary or possible, in light of current budgetary constraints on hiring, for the Office if the Insurance Fraud Prosecutor to hire new staff to accommodate any increased workload; and 2) any costs associated with the implementation of the act will be recouped through an assessment on the insurance industry. The bill authorizes the Insurance Fraud Prosecutor to investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage. Pursuant to statute, the Office of Insurance Fraud Prosecutor is located in the Department of Law and Public Safety but is funded through an assessment imposed on the insurance industry and collected by the Department of Banking and Insurance for the operation of the Division of Insurance Fraud Prosecutor (C.17:33A-30).

Section:	*Commerce, Labor and Industry*
Analyst:	*Robin C. Ford* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

§2 –
C.17:33A-19.1

P.L. 2008, CHAPTER 121, ***approved December 19, 2008***
Senate Committee Substitute ***(Second Reprint)*** for
Senate, No. 1918

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L.1998, c.21.

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

1. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to read as follows:

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.

(cf: P.L.1998, c.21, s.34)

2. (New section) In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide

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Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SLA committee amendments adopted June 19, 2008.
[2] Senate amendments adopted in accordance with Governor's recommendations October 23, 2008.

workers' compensation insurance coverage ²[¹after being given a reasonable opportunity to obtain that coverage¹]², or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. ²The Commissioner of Labor and Workforce Development shall not refer any case of failure to provide required workers' compensation insurance coverage, or self-insurance for such coverage, for criminal prosecution unless the employer has been afforded a reasonable opportunity to obtain that coverage. The provisions of this section are not jurisdictional, and the failure to afford such opportunity shall not in any manner be construed as a prerequisite to a criminal prosecution or conviction.² Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor² or any other prosecutorial entity².

3. This act shall take effect immediately.

Requires Insurance Fraud Prosecutor to establish liaison with DOLWD and authorizes its investigation of cases of failure to provide workers' compensation coverage.

CHAPTER 121

AN ACT concerning fraud with respect to workers' compensation coverage and amending and supplementing P.L.1998, c.21.

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

1. Section 34 of P.L.1998, c.21 (C.17:33A-18) is amended to read as follows:

C.17:33A-18 Establishment of liaison between office, other departments; responsibilities.

34. a. A section of the Office of Insurance Fraud Prosecutor shall be designated to be responsible for establishing a liaison and continuing communication between the office and the Department of Health and Senior Services, the Department of Human Services, the Department of Labor and Workforce Development, any professional board in the Division of Consumer Affairs in the Department of Law and Public Safety, the Department of Banking and Insurance, the Division of State Police, every county prosecutor's office, such local government units as may be necessary or practicable and insurers.

b. The section of the office responsible for such liaison shall establish procedures: (1) for receiving notice from all entities enumerated in subsection a. of this section of any case in which fraud is suspected or has been substantiated; (2) for receiving referrals for the investigation of alleged fraud; (3) for receiving referrals for the prosecution of fraud by the office; (4) for receiving and referring information regarding cases, administrative or otherwise, under investigation by any department or other entity to the appropriate authority; and (5) for providing information to and coordinating information among any referring entities on pending cases of insurance fraud which are under investigation or being litigated or prosecuted. The liaison section of the office shall maintain a record of every referral or investigation.

C.17:33A-19.1 Additional investigatory and prosecutorial authority, referral for criminal prosecution.

2. In addition to the investigatory and prosecutorial authority granted pursuant to section 35 of P.L.1998, c.21 (C.17:33A-19), the Insurance Fraud Prosecutor may investigate, and if warranted, prosecute, cases of failure to provide workers' compensation insurance coverage, or self-insurance for such coverage, as required pursuant to chapter 15 of Title 34 of the Revised Statutes. The Commissioner of Labor and Workforce Development shall not refer any case of failure to provide required workers' compensation insurance coverage, or self-insurance for such coverage, for criminal prosecution unless the employer has been afforded a reasonable opportunity to obtain that coverage. The provisions of this section are not jurisdictional, and the failure to afford such opportunity shall not in any manner be construed as a prerequisite to a criminal prosecution or conviction. Nothing in this section shall be deemed to limit the existing authority of the Insurance Fraud Prosecutor or any other prosecutorial entity.

3. This act shall take effect immediately.

Approved December 19, 2008.

Appendix C contains various reference materials. These include, among others, the Guidelines for Legal Citation, approved abbreviations and acronyms for use in synopses and statements, and bill status terms used in the bill tracking system.

APPENDIX C

SUPPLEMENTAL MATERIALS

Guidelines for Legal Citation

This guideline for style in legal citation and writing is an abbreviated adaptation with some minor modifications of the Manual on Style published by the Administrative Office of the Courts in December 1979. In those instances where this guideline or the AOC Manual or the "Blue Book" published by the Harvard Law Review Association do not provide guidance, the Legislative Counsel recommends that internal consistency and accuracy are the goals.

Avoid overlong sentences and paragraphs. Use the name of a case as found in the headline of the pages in the official reports. Brevity is the aim. Use only the first plaintiff's surname or corporate name, and so for defendants. Use "v." -- not "vs." and do not underscore "v." in the name of a case.

Only reported opinions should be cited. The court and year of decision, in parentheses, should follow the actual citation in all cases except those of the present New Jersey Supreme Court (since 1948) and those of the U.S. Supreme Court, which require only the year following the N.J. or U.S. citation. This requirement of the court and year of decision holds for the former highest courts of New Jersey and those of other states and the federal system, with the two exceptions just noted. The date in a lower court citation should not be omitted even though the same year.

The Atlantic citation should not be used in addition to an official New Jersey citation, but in citing other state cases the regional reporter citations should be used with the state, court and year indicated, as 351 So. 2d 21 (Fla. Sup. Ct. 1977). The regional reporter systems should be referred to as A. and A.2d, N.E. and N.E.2d, N.W. and N.W.2d, P. and P.2d, S.E. and S.E.2d, So. and So.2d, and S.W. and S.W.2d. Cases in the federal system other than Supreme Court should be cited as F. and F.2d and F. Supp. with the circuit or district and year indicated, as 19 F.2d 842 (9th Cir. 1927), 43 F. Supp. 99 (W.D. Pa. 1940).

The following examples are indicative of correct citing of New Jersey cases: 1 N.J. 102 (1948); 1 N.J. Super. 102 (App. Div. 1948); 1 N.J. Super. 322 (Ch. Div. 1948); 1 N.J. Super. 600 (Law Div. 1948); 3 N.J. Super. 450 (Cty. Ct. 1949); 130 N.J. Eq. 102 (Ch. 1940); 130 N.J. Eq. 214 (E. & A. 1941); 130 N.J. Eq. 380 (Prerog. Ct. 1941); 130 N.J.L. 242 (Sup. Ct. 1943); 130 N.J.L. 511 (E. & A. 1943); 10 N.J. Misc. 885 (D. Ct. 1932); 10 N.J. Misc. 942 (Dept. Labor 1932). C.P. should be used for the former Common Pleas Court, and Cir. Ct. for the former Circuit Court. Cty. D. Ct. should be used for the former County District Court, and J. & D. R. Ct. for the former Juvenile and Domestic Relations Court.

Opinions approved for publication but still in slip sheet form should be cited: State v. Smith, _____ N.J. _____(1979) (slip opinion at 7).

Id. may be used to refer back to an immediately preceding case or non-case citation (i.e., no intervening citation) when the subsequent reference is to a different page. Ibid. may be used to refer back to an immediately preceding case or non-case citation when the subsequent reference is identical in all respects to the prior citation.

Avoid the use of supra by repeating the "short" form name of the authority previously cited at length and the volume and page for this cite.

In referring to two or more consecutive pages of an opinion, use this style: 62 N.J. 155, 167-168; and for two nonconsecutive pages: 124 N.J. Super. 590, 514, 517.

Use "aff'd" for "affirmed"; "aff'g" for "affirming"; "den." for "denied"; "rev'd" for "reversed"; "rev'g" for "reversing"; "mod." for "modified"; "app. dism." for "appeal dismissed"; "certif." for "certification," and "cert." for "certiorari."

"Cf." means that the cited authority supports a proposition different from that in the text but sufficiently analogous to lend support. "See" indicates that the case cited is not different from but directly supportive of the textual statement.

Use of Latin expressions like "inter alia" and "sub judice" should be avoided, English equivalents being readily available (e.g., "among other things"; "the present case"). However, "amicus curiae" is acceptable usage.

CONSTITUTIONS

Cite the United States Constitution as U.S. CONST., Art. II, Sec. 2; and for amendments, U.S. Const., Amend. XVI.

For the New Jersey Constitution of 1947 (or 1844): N.J. Const. (1947), Art. IV, Sec. VII, par. 2; N.J. Const. (1844), Art. VI, Sec. II, par. 6. (No admixture of abbreviations and symbols).

STATUTES

New Jersey statutes should be cited as N.J.S.A. (not R.S. or N.J.S.), followed by the applicable section. Pamphlet laws should be cited as P.L. 1961, c. 5, §1. In referring to a specific act in its entirety, e.g., the Small Loan Act, the style is N.J.S.A. 17:10-1 et seq. Federal laws should be cited as Pub. L. 98-510; 5 U.S.C.A. §352. When an act has been referred to by name or statutory reference, subsequent reference to the statute as "the act" is correct -- not "the Act."

RULES OF COURT AND RULES OF EVIDENCE

Rules effective September 8, 1969 are cited R. while those effective prior thereto should be cited R.R. The Rules of Evidence are cited as Evid. R. 63(1)(a). A comment to a rule should be cited as Pressler, Current N.J. Court Rules, Comment R. 2:3-2 (1979). Cite the annotated Rules of Evidence as Evid. R. 4:4-4 (Anno. 1980).

TREATISES, LAW REVIEWS, ETC.

Use the following style: 2 Sutherland, Statutory Construction (4th ed. 1986), §41.11 at 411; Constitutional Convention of 1947, Convention Proceedings, Volume II, at 1323; 1 Williston, Contracts (3 ed. Jaeger 1957), §104 at 396; 5 Wigmore, Evidence (3 ed. 1940), §1641 at 557; 7 N.J. Practice, Wills and Administration (3 ed. 1962), §1652 at 366; Public Hearing on Senate Concurrent Resolution No. 14, April 1, 1968. And law review references in this manner: Chafee, "Equitable Servitudes on Chattels," 41 Harv. L. Rev. 995 (1928); Note 40 Harv. L. Rev. 107 (1927). The style for annotations is: Annotation, "Right to severance where codefendant has incriminated himself," 54 A.L.R. 2d 830 (1957). As to encyclopedic works: 89 C.J.S., Trusts, §146 at 1031; 21 Am. Jur.2d, Criminal Law, §120 at 197.

UNDERSCORING

Any material that is to be italicized in an opinion is underscored. Aside from matters which the author wishes to emphasize, underscoring should also be used in the following instances: all Latin expressions such as habeas corpus, quantum meruit, cf., i.e., e.g. and [sic] -- but not words like bona fide, prima facie, pro rata, which have passed into common usage. Note that all of in pari materia is underscored.

Any word or expression in a foreign language and titles of newspapers and publications are underscored. Case names and all signals used to introduce them should be underscored -- e.g., Cermak v. Hertz Corp., 53 N.J. Super. 455 (App. Div. 1958); see Buckeye Union Cas. Co. v. Ill. Nat'l Ins. Co., 206 N.E. 2d 209 (Oh. Sup. Ct. 1965). Where reference is made to a constitution the underscoring should be as indicated under CONSTITUTIONS. When certiorari is denied the style is, cert. den. 422 U.S. 1007 (1975); but note, certif. den. 10 N.J. 347 (1952).

QUOTATIONS

A brief quotation of less than 50 words can be run in with the rest of the paragraph. Longer quotations -- and unnecessarily long quotations are to be avoided -- should be indented and single-spaced; quotation marks, in this instance, are unnecessary either at the beginning or end.

In the case of omissions in the quoted material use the standard three dots (. . .) and so, too, in quotations that start beyond the beginning of a paragraph. It is not necessary to use . . . at the end of a quotation if it ends with a complete sentence. When eliminating one or more paragraphs, indicate the deletion by four dots (. . . .) on a separate indented line. When the deletion comes at the end of a sentence, do not omit the closing punctuation for that sentence.

A footnote omitted from a quotation should be noted in the citation following the quotation, e.g.: [at 347; footnote omitted]. If a footnote is to be included in the quotation, it should immediately follow the quoted text. If a citation is omitted, indicate the omission at that point by: [Citation omitted].

Where the author inserts his own underscoring within the quoted matter for emphasis, he should add at the end: [Emphasis supplied]. Where he desires to point out an error contained in the quoted material he should insert [sic] following the error. Anything supplied by the author inside a quotation -- usually by way of explanation -- should appear in brackets.

The page reference of an indented quotation should appear in brackets at its close -- not before the quotation. Thus: [at 380], or if the case is not cited just before the quotation: [124 N.J. Super. at 380]. If the author has used underscoring in the quotation, the quotation should close with: [at 380, emphasis supplied], or [124 N.J. Super. at 380; emphasis supplied]. (This use of citation in brackets run onto the indented long quotes is a departure from whatever practice existed prior to 1989).

Abbreviations and Acronyms for Synopses and Statements

Abbreviations	
Dept.	Department
Div.	Division

Acronyms	
ABC	Alcoholic Beverage Control
ABP	Alternate Benefit Program
ADA	Americans with Disabilities Act of 1990
AG	Attorney General
AIDS	Acquired Immunodeficiency Syndrome
AOC	Administrative Office of the Courts
BAC	Blood Alcohol Concentration
BPU	Board of Public Utilities
BYOB	Bring Your Own Bottle
CAFRA	Coastal Area Facility Review Act
CBT	Corporation Business Tax
CDS	Controlled Dangerous Substance
COAH	Council on Affordable Housing
CPFPF	Consolidated Police and Firemen's Pension Fund
CPI	Consumer Price Index
CRDA	Casino Reinvestment Development Authority
DARE	Drug Abuse Resistance Education
DCA	Department of Community Affairs
DCPP	Division of Child Protection and Permanency
DCF	Department of Children and Families
DEP	Department of Environmental Protection
DHS	Department of Human Services
DHSS	Department of Health and Senior Services* *(*Renamed; now the Department of Health. See P.L.2012, c.17.)*
DLPS	Department of Law and Public Safety
DMVA	Department of Military and Veterans' Affairs
DYFS	Division of Youth and Family Services* *(*Renamed; now the Division of Child Protection and Permanency. See P.L.2012, c.16.)*
DOBI	Department of Banking and Insurance
DOC	Department of Corrections
DOE	Department of Education
DOH	Department of Health
DOL	Department of Labor (United States)
DOLWD	Department of Labor and Workforce Development
DOT	Department of Transportation
DRG	Diagnosis Related Group
DRPA	Delaware River Port Authority
DWI	Driving While Intoxicated
EDA	Economic Development Authority
EEOC	Equal Employment Opportunity Commission
ELEC	Election Law Enforcement Commission
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FAIR	Fair Automobile Insurance Reform Act of 1990

Abbreviations and Acronyms for Synopses and Statements

Acronyms	
FCC	Federal Communications Commission
FDA	Food and Drug Administration
FDIC	Federal Deposit Insurance Corporation
FEMA	Federal Emergency Management Agency
HIV	Human Immunodeficiency Virus
HMFA	New Jersey Housing and Mortgage Finance Agency
HMO	Health Maintenance Organization
HVACR	Heating, ventilating, air conditioning, and refrigeration
IRS	Internal Revenue Service
JRS	Judicial Retirement System
JUA	Joint Underwriting Association
MTBE	Methyl Tertiary Butyl Ether
MTF	Market Transition Facility
MVC	Motor Vehicle Commission
NJ	New Jersey
NJIT	New Jersey Institute of Technology
NJMC	New Jersey Meadowlands Commission
NJPDES	New Jersey Pollutant Discharge Elimination System
NJTA	New Jersey Turnpike Authority
NJT	New Jersey Transit
OAL	Office of Administrative Law
OIT	Office of Information Technology
OLS	Office of Legislative Services
OMB	Office of Management and Budget
PAAD	Pharmaceutical Assistance to the Aged and Disabled
PAC	Political Action Committee
PANYNJ	Port Authority of New York and New Jersey
PATH	Port Authority Trans-Hudson Corporation
PEOSHA	Public Employees' Occupational Safety and Health Act
PERC	Public Employment Relations Commission
PERS	Public Employees' Retirement System
PFRS	Police and Firemen's Retirement System
PIP	Personal Injury Protection
SCI	State Commission of Investigation
SFRA	School Funding Reform Act of 2008
SHBP	State Health Benefits Program
SJTA	South Jersey Transportation Authority
SPCA	Society for the Prevention of Cruelty to Animals
SPRS	State Police Retirement System
SSI	Supplemental Security Income
TANF	Temporary Assistance to Needy Families
TDI	Temporary Disability Insurance
TPAF	Teachers' Pension and Annuity Fund
UCJF	Unsatisfied Claim and Judgment Fund
UEZ	Urban Enterprise Zone
UI	Unemployment Insurance
UMDNJ	University of Medicine and Dentistry of New Jersey
US	United States

Abbreviations and Acronyms for Synopses and Statements

Acronyms	
VA	Veterans' Administration
VCCO	Victims of Crime Compensation Office
WC	Workers' Compensation
WDP	Workforce Development Partnership
WIA	Workforce Investment Act
WIB	Workforce Investment Board
WIC	Supplemental Food Program for Women, Infants, and Children
WTC	World Trade Center

Status Codes (as of April 10, 2013)

Current Status	Description	House
1RA	Introduced 1st Reading Assembly	A
1RAG	1st Reading in the Assembly Concur with Gov/Recommendations	A
1RS	Introduced 1st Reading Senate	S
1RSG	1st Reading/Senate Concur with Gov/Recommendations	S
2RA	2nd Reading in the Assembly	A
2RAC	2nd Reading in Assembly to Concur with Senate Amendments	A
2RAG	2nd Reading in Assembly to Concur with Gov Recommendations	A
2RS	2nd Reading in the Senate	S
2RSC	2nd Reading in the Senate to Concur with Assembly Amendments	S
2RSG	2nd Reading in the Senate to Concur with Gov/Recommendations	S
APP	Bills and Joint Resolutions Signed by the Governor	
AR	Assembly Resolution Passed	A
AV	Absolute Veto	
AVOR	Absolute Veto Override	
AWR	Introduced in Assembly without Reference	A
COMB	Combined with another Bill	
CVOR	Conditional Veto Override	
FILE	Filed with Secretary of State	
FSS	Resolutions and Concurrent Resolutions Filed w/Sec. of State	
HELD	Held for Introduction	
LO/A	Laid Over in the Assembly	A
LO/S	Laid Over in the Senate	S
LSTA	Lost in the Assembly	A
LSTS	Lost in the Senate	S
PA	Passed Assembly	A
PBH	Passed both Houses	
PS	Passed Senate	S
PV	Pocket Veto	
R/A	Received by the Assembly	A
R/S	Received by the Senate	S
REL	Released from Subcommittees	
REP	Reported - not on 2RA and not in Committee	
SR	Senate Resolution Passed	S
SUB	Substituted by another Bill	
SWR	Introduced in Senate without Reference	S
W	Withdrawn from the Files	
WOA	Approved without Governor's Signature - Bill Passed	

GLOSSARY OF LEGISLATIVE TERMS

ABSOLUTE VETO The Governor's rejection of a proposed law passed by the Legislature. A bill vetoed in this manner cannot become law unless the Legislature overrides the veto by a vote of at least two-thirds of the members of each house. (27 votes in the Senate; 54 votes in the General Assembly)

AD HOC STUDY COMMITTEE OR COMMISSION A committee or commission established by law, resolution, or order of the presiding officer to investigate special issues and make recommendations for legislative or executive agency action.

ADJOURNMENT SINE DIE Literally adjournment "without a day," it is an adjournment without definitely fixing a day for reconvening. Since 1970 in New Jersey, it is the final adjournment of the two-year legislative session and the end of all legislative business.

ADMINISTRATIVE COMMITTEE A committee that deals with internal housekeeping functions of the Senate or General Assembly.

ADMINISTRATIVE RULES Rules and regulations issued by state executive branch agencies.

ADOPT To vote official approval or acceptance.

ADVANCE LAWS Advance copies of each law published and distributed prior to printing of the annual volumes.

ADVICE AND CONSENT The power vested in the Senate by the State Constitution to review and approve or reject the Governor's nominations for judges, cabinet officers, and other officials. Appointments are confirmed by an absolute majority vote (21 votes in the Senate).

AMENDMENT Any modification made or proposed in a bill, resolution or motion by adding, substituting or deleting language.

AMENDMENT TO THE CONSTITUTION A change of the State Constitution proposed by the Legislature and presented to the voters as a public question on the general election ballot. If rejected by the voters, the proposal or a similar one may not be resubmitted to the public for three years.

APPORTIONMENT The allocation of legislative seats among the legislative districts according to district population.

APPROPRIATION A legislative enactment authorizing the expenditure of public funds for a specific governmental purpose.

ASSEMBLY (See **GENERAL ASSEMBLY**)

ASSEMBLY CLERK (See **CLERK OF THE GENERAL ASSEMBLY**)

ASSEMBLY MINUTES The official record of the actions of the New Jersey General Assembly. This record is published in an annual volume.

ASSEMBLY SPEAKER (See **SPEAKER OF THE GENERAL ASSEMBLY**)

BICAMERAL A legislature composed of two houses. The New Jersey Houses are the Senate and the General Assembly.

BIENNIAL SESSION A two-year meeting period of a legislative body.

BILL A proposal to establish a new law, or to change or repeal an existing law.

BILL DRAFTING The writing of bills and resolutions according to a prescribed form.

BILL GUIDE A publication produced by the Office of Legislative Services' Data Management Unit containing a cumulative listing of bills by subject, by sponsor and in numerical order, passed into law and vetoed. It also includes a list of chapter laws organized by subject matter and leadership and committee assignments.

BILL STATEMENT A brief statement printed at the end of a bill or resolution that described its provision or purpose. It is also called a "sponsor's statement."

BIPARTISAN An adjective indicating that a committee or group is composed of members of both major political parties, or that an action or idea has support from members of both parties.

BUDGET A document of proposed governmental expenditures for a given fiscal year and the proposed means of financing these expenditures.

BUDGET MESSAGE A general description of the proposed annual budget presented by the Governor before the Legislature and in writing.

CAUCUS (See **PARTY CONFERENCE**)

CEREMONIAL RESOLUTION A formal statement by which a House honors an individual or organization or pays tribute to the memory of a deceased citizen. Ceremonial resolutions are not subject to the same strict rules of form and procedure as other resolutions.

CHAMBER The official room or location for meetings of a legislative body.

CHAPTER LAW Each act passed by the Legislature and approved by the Governor. Chapter Laws are organized numerically in order of the Governor's approval and compiled annually.

CITATION A certificate issued by a legislator to mark a notable achievement by an individual or an organization or to offer a memorial tribute. (See **IN-MEMORIAM CERTIFICATE)**

CLERK OF THE GENERAL ASSEMBLY A person, not a member of the Legislature, who is elected by the General Assembly to serve as its chief administrative officer. The Clerk's duties include reading all bills and resolutions on first, second and third reading; recording the vote on all bills and resolutions; and providing general supervision over certain employees of the house.

CODIFICATION OF LAWS The systematic arrangement of laws. In New Jersey, chapter laws are codified according to subject matter.

COMMITTEE AIDE A professional legislative staff member provided by the nonpartisan Office of Legislative Services or partisan offices, to assist each committee in administrative, technical and research capacities.

COMMITTEE, COMMISSION A group established by law, resolution or order of the presiding officer to investigate a particular issue or area and make recommendations for legislative or administrative action. Committees or commissions are frequently comprised of legislators of one or both Houses, subject area experts or public members appointed by merit of the positions they hold in State agencies and private organizations.

CONCURRENT RESOLUTION A resolution adopted by both the Senate and General Assembly to express the policy or opinions of the Legislature, often used to petition Congress to take certain actions; to establish study commissions composed entirely of legislators or appointees of the presiding officer; to adopt joint rules; and to propose amendments to the State Constitution. Requires no action by the Governor.

CONDITIONAL VETO A veto in which the Governor objects to parts of a bill and proposes amendments that would make it acceptable. If the Legislature re-enacts the bill with the recommended amendments, it is presented again to the Governor for signature.

CONFLICT OF INTEREST A situation occuring when an official's private interests may benefit from his or her public actions.

CONGRESSIONAL DISTRICT One of 13 districts in New Jersey from which a congressional representative is elected. The districts are established by State law and are redrawn following a decennial census to maintain equal population in each.

CONSENT LIST A list of bills which, by prearrangement of the two parties, are passed without objection or debate.

CONSTITUENT A resident of a legislator's district.

CONSTITUTION A written instrument defining and limiting the duties and powers of a government and guaranteeing certain rights to the people who are subject to that government's laws. New Jersey's first constitution was adopted in 1776, its present one in 1947.

CO-SPONSOR(S) The sponsor(s) of a bill or resolution in addition to the prime sponsor.

DEBATE The formal discussion and argumentation of a matter by the members of the Senate and General Assembly during a session. Precise limitations on debate in the New Jersey Legislature have been set by the rules of each House.

DISTRICT (See **LEGISLATIVE DISTRICT**)

DISTRICT OFFICES The offices maintained by legislators in their respective districts for the purpose of serving their constituents.

DRAFT The copy of a preliminary bill, not yet officially introduced.

EMERGENCY RESOLUTION A motion used to expedite the passage of legislation by advancing a bill from second and third reading on the same day. Requires an affirmative vote of three-fourths of House membership (30 votes in the Senate; 60 votes in the General Assembly).

EX-OFFICIO Membership on a committee or board by virtue of a particular office or position held.

EXPENDITURE Charges incurred, whether paid or unpaid.

FIRST REPRINT (SECOND, THIRD, ETC.) The designation that indicates the number of times that a bill or resolution has been reprinted after being amended either by committee or floor action.

FISCAL NOTE A statement that indicates the anticipated financial impact of proposed legislation on state or local government.

FISCAL YEAR An accounting period of 12 months. In New Jersey State government, this period runs from July 1 to June 30.

FLOOR The area of the legislative chamber occupied by the members and staff of the house. A legislator "has the floor" when he or she has been granted permission by the presiding officer to address the House.

GALLERY The area of the legislative chamber from which proceedings may be viewed by visitors.

GENERAL ASSEMBLY In New Jersey, one of the two houses that comprises the state Legislature. The General Assembly has 80 members - 2 elected from each legislative district - and is presided over by the Speaker of the General Assembly.

GERRYMANDERING The act of drawing legislative district boundaries to gain partisan or factional political advantages.

GRANDFATHER CLAUSE A provision within a bill that allows activities, individuals or groups involved prior to its enactment, to be exempt from that legislation.

HEARING A formal meeting, usually of a committee or commission, at which testimony on a question or issue is accepted from the general public and /or invited witnesses.

HOUSE This term can refer to the room or chamber in which a legislative body meets, but most often refers to the body itself. The Senate is one House and the General Assembly another.

HOUSE UNDER CALL A motion requiring all members of a House to remain in the legislative chamber during a voting session until the house concludes its business. This may be done to maintain a quorum, or during consideration of an important issue.

IMMUNITY The privileges afforded by the Constitution whereby legislators are exempt from arrest while attending a session or when traveling to and from a session (except in cases of treason or high misdemeanor, now classified as a crime of the third degree or greater); also, the exemption from questioning on remarks made in speech or debate during a session or committee meeting.

IN-MEMORIAM CERTIFICATE A certificate issued by legislators to offer a memorial tribute.

INTRODUCTION The presentation of a bill or resolution to the legislative body for its consideration. It is formally accomplished when the Secretary of the Senate or Clerk of the General Assembly, in open session, announces the bill's number and sponsor(s) and reads its title.

JOINT RESOLUTION A formal action adopted by both Houses and approved by the Governor. A joint resolution has the effect of a law and is often used instead of a bill when the purpose is of a temporary nature, or to establish a commission or express an opinion.

JOINT SESSION The combined meeting of the Senate and General Assembly for such purposes as receiving the Governor's annual "State of the State" and budget messages and other addresses by the Governor or distinguished visitors, and to hold special commemorative ceremonies. Also, the Constitution provides that the two Houses meet in joint session when appointing the State Auditor.

JURAT A certificate attached to a bill confirming its passage in one House before being delivered to the second House for consideration.

LAW All the official rules and codes that govern citizens' actions, including the Constitution, statutory laws enacted by the Legislature, case laws established by court decisions, and administrative law as set forth by executive branch agencies.

LEGISLATIVE AIDES Assistants employed by a legislator to perform a variety of duties, including addressing concerns of constituents, researching and tracking legislation, and handling administrative functions.

LEGISLATIVE COUNSEL The chief legal officer of the Legislature and adviser to the legislative leadership, committees and commissions on matters of parliamentary procedure and legal matters affecting the Legislature as well as issues pertaining to the Conflicts of Interest Law and the Legislative Code of Ethics.

LEGISLATIVE DELEGATION All the legislators representing one district or county.

LEGISLATIVE DIGEST (See **"NEW JERSEY LEGISLATIVE DIGEST"**)

LEGISLATIVE DISTRICT One of the forty areas in New Jersey from which one senator and two General Assembly members are elected. Districts, many of which cross county lines, are established by a special Apportionment Commission and are of equal population.

LEGISLATIVE INDEX A private publication that provides a cumulative listing of all bills and resolutions introduced in each House. Includes the action taken and synopsis of each.

LEGISLATIVE INFORMATION AND BILL ROOM (LIBR) A unit under the Director of Public Information of the Office of Legislative Services that supplies a variety of information about the Legislature to legislators and the public.

LEGISLATIVE LIAISON A person who represents an executive department before the Legislature and who assists the Legislature with technical expertise and information about the department.

LEGISLATIVE MANUAL A private publication (commonly referred to as the Fitzgerald's Red Book) that serves as an almanac of information about the State of New Jersey and its government, including biographies of present and former governors, legislators and cabinet officials.

LEGISLATIVE SERVICES COMMISSION A bipartisan panel, comprised of eight members from each House, that oversees the non-partisan Office of Legislative Services and coordinates other services for the Legislature, including legislative facilities, computer services, legislative printing, the district office program and personnel policies.

LEGISLATIVE SESSION The formal two-year term for each New Jersey Legislature. The term is divided into two annual sessions. (See **SESSION YEAR.**) Scheduled voting meetings of either House are also called legislative sessions. Voting sessions (meeting days) of the New Jersey Legislature are usually held on Mondays and/or Thursdays.

LEGISLATURE The elected, representative branch of State government formed by the constitution to make and revise laws, approve certain executive nominations, and propose constitutional changes.

LINE-ITEM VETO Applying only to bills containing an appropriation, this veto action allows the Governor to approve the bill but reduce or eliminate monies appropriated for specific items. (See **VETO**)

LOBBYIST A person who communicates with the Legislature and the Governor to support or oppose legislation. Officially, a lobbyist is called a legislative agent.

MAJORITY, MINORITY These terms refer to the political party having the most (majority) or fewest (minority) representatives in either House.

MAJORITY LEADER The floor leader of the majority party in each House, elected by the members of the majority party.

MINORITY LEADER The floor leader of the minority party in each House, elected by the members of the minority party.

MOTION A proposal calling for specific action.

NEW JERSEY LEGISLATIVE DIGEST A publication produced by the Office of Legislative Services, Legislative Information and Bill Room (LIBR) the day after each session of either House providing up-to-date information of legislative activity. The publication contains various categories of bill status including bills introduced, bills passed, and bills signed into law since the last session. Single copies are available free of charge through the LIBR office.

OFFICE OF LEGISLATIVE SERVICES An agency of the Legislature established by law to provide professional, non-partisan staff services to the Legislature and its officers, members, commissions and committees. These services include general, legal and fiscal research and analysis, bill drafting committee staffing, and computer data base management.

ONE-HOUSE RESOLUTION A resolution adopted by one House to express policy or opinions, regulate its internal organization or procedures, or establish a study committee under its sole jurisdiction.

PAMPHLET LAWS The official name of the collection of New Jersey's Chapter Laws. (See **CHAPTER LAWS**)

PARTISAN STAFF Staff members who serve under the direction of the majority and minority leadership to provide research, policy, public relations and administrative services to their respective party leaders and legislators.

PARTY CONFERENCE A meeting of party members from one House of the Legislature to discuss legislative business. Also called a caucus.

PERSONAL PRIVILEGE The parliamentary procedure whereby members of both Houses have the opportunity to express their feelings regarding the "safety, dignity, and integrity" of the proceedings or the "rights, reputation and conduct of members" by gaining recognition from the presiding officer.

POCKET VETO The only type of veto in which the Governor does not return the bill to the Legislature for a possible vote to override. This veto applies only to bills passed within the last 10 days of a two-year legislative session. The Governor, in essence, "pockets" the bill.

PRE-FILING OF BILLS AND RESOLUTIONS The process whereby members and members-elect the Legislature may file bills and resolutions for introduction in the new annual legislative session before that session begins. The pre-filing period runs from November 15 to the first Tuesday in January, according to the Joint Rules of the Senate and General Assembly. Bills and resolutions filed in this way are numbered, printed and available for distribution prior to the start of the new session. Formal introduction occurs after the session is commenced, at either the first or second meeting of the House.

PRESIDENT OF THE SENATE A legislator, elected by members of the Senate to serve as the chief presiding officer during sessions, who appoints committee chairs and members of committees and commissions, refers bills and resolutions to reference committees, sets the agenda for session days, and supervises the administration of the day-to-day business of the Senate.

PRESIDENT OR SPEAKER PRO TEMPORE (PRO TEM) A member of the Senate or General Assembly who is elected to serve as that House's presiding officer in the absence of the President or Speaker.

PRIME SPONSOR The legislator whose name appears first among the sponsors of a bill or resolution. The prime sponsor has the right to select co-sponsors and may exercise a number of other prerogatives in regard to the proposed legislation.

QUORUM The minimum number of members of a House of the Legislature who must be present for the House to conduct business (21 members in the Senate; 41 members in the General Assembly).

QUORUM CALL A roll call to determine whether a quorum of that House is present.

READING The reading of a bill's number, sponsor(s) and title in open session by the Senate Secretary or Assembly Clerk. A bill must be read three times before it can be passed. A bill is given first reading upon introduction, second reading when reported by a committee (or may be sent directly to second reading without committee reference), and third reading when posted for a final vote.

REAPPORTIONMENT The redrawing of the State legislative districts by an Apportionment Commission to maintain an equal population in each district. New Jersey's districts are reapportioned every ten years following the federal census.

RECESS A temporary break during a floor session or a period when no legislative sessions are held.

REDISTRICTING The redrawing of congressional districts, usually following a new population census, to maintain an equal population in each district.
(See **REAPPORTIONMENT**)

RESCIND To annul or undo a previously taken action.

RESOLUTION An action of the Legislature that expresses the policies, sentiment, opinions or direction of one or both Houses. Types include joint, concurrent, ceremonial, and one-House resolutions.

REVENUE Income from taxes, fees, fines, federal grants and other sources.

ROLL CALL VOTE The recording of each member's vote, usually electronically. Roll call votes are also known as recorded or machine votes.

ROUTINE BUSINESS A period during a daily legislative session, usually after all voting is concluded, when the Secretary/Clerk records and reads bill introductions, committee reports and takes administrative actions.

RULES OF THE HOUSES Rules established independently by each House to regulate its internal organization, operation and procedures. Houses also adopt joint rules to govern matters of mutual interest.

SECRETARY OF THE SENATE A person, not a member of the Legislature, who is elected by the Senate to serve as its chief administrative officer. The Secretary's duties include reading all bills and resolutions on first, second and third reading; recording the vote on all bills and resolutions; and providing general supervision over certain employees of the House.

SELECT COMMITTEE A legislative committee established for a limited period that may be created by either House and may include members of one or both Houses to study a specific subject area.

SENATE In New Jersey, one of the two Houses that comprise the State Legislature. The Senate has 40 members - one elected from each legislative district - and is presided over by the President of the Senate.

SENATE JOURNAL The official record of the actions of the New Jersey Senate.

SENATE PRESIDENT (See **PRESIDENT OF THE SENATE**)

SENATE SECRETARY (See **SECRETARY OF THE SENATE**)

SENATORIAL COURTESY Describes the custom in the advice and consent process whereby the Senator from a nominee's county must approve the nominee before the nomination will be considered by the Senate.

SERGEANT-AT-ARMS A member of the session day staff under the jurisdiction of the Secretary of the Senate or Clerk of the General Assembly who assists in maintaining the security and decorum of the House.

SESSION (See **LEGISLATIVE SESSION**)

SESSION DAY STAFF Part-time personnel, including sergeants-at-arms, clerks, supervisors of bills, and pages, who perform functions related to the conduct of a session.

SESSION YEAR New Jersey's session year begins on the second Tuesday of each January. All business conducted during the first year of the two-year legislative session may be continued into the second year, but unfinished business expires at the end of the second year.

SPEAKER OF THE GENERAL ASSEMBLY A member of the General Assembly who is elected by the members of the House to serve as the chief presiding officer during sessions, who appoints committee chairs and members of committees and commissions, refers bills and resolutions to reference committees, sets the agenda for session days, and supervises the administration of the day-to-day business of the General Assembly.

SPONSOR A legislator who introduces a bill or resolution.

STANDING REFERENCE COMMITTEES Committees established by each house to consider bills and resolutions referred by the presiding officer and to review activities of state agencies.

STATE HOUSE New Jersey's capitol building, located on State Street in the City of Trenton, which is the official location of the State government. It houses both the executive (Governor's offices) and legislative (Senate and General Assembly chambers and offices) branches.

STATE HOUSE ANNEX The building adjacent to the State House. It houses the Office of Legislative Services, legislative offices and committee rooms.

STATE HOUSE PRESS CORPS Media representatives of daily and weekly New Jersey newspapers, national news wire services and area radio and television stations who cover legislative news. Most have offices in the State House complex. Regular capitol reporters are known as "legislative correspondents."

STATUTES The laws created by acts of the Legislature. (See **LAW**)

STOPPING THE CLOCK An infrequently used strategy on the morning of the end of the annual legislative session, which occurs at noon on the second Tuesday in January of each even-numbered year, whereby the proceedings continue past noon but the journal indicates occurrence of the action on the final legislative day.

TABLE To defer action on legislation.

THE OTHER SIDE OF THE AISLE During debate, a legislator's way of referring to members of the "other" political party. The phrase pertains to the custom of seating all Democrats in one area of the legislative chamber and Republicans in another, separated by an aisle.

UNICAMERAL A legislature composed of one-house, e.g. the Nebraska Legislature.

VETO An official action of the Governor to nullify legislative action. Forms include absolute veto, conditional veto, line item veto and pocket veto.

VOICE VOTE A method of voting in which individual votes are not recorded, but instead the members respond orally, in unison, to vote yes or no.

WHIP A legislator who assists the party floor leader in maintaining party discipline and ensuring attendance at legislative sessions and committee meetings.

Technical Review Checklist for Bills and Resolutions

Fronter

☐ 1. Is the drafter's personal library I.D. # in the top left corner?

☐ 2. Do the following notations appear in the top right corner?
- The section and number of the bill drafter and the substantive and technical reviewers under the line for the completed bills library document I.D. #;
- The number of the reviewer who conducted the ballot review (BR), if appropriate;
- The drafter's recommendation (DR) with regard to certification for fiscal note, Sales and Use Tax Review Commission, or Pension and Health Benefits Review Commission; and
- The drafter's suggested committee reference (CR) number.

☐ 3. If the measure is a reintroduction of a bill or resolution from the previous two-year session, or if it is identical to a bill or resolution pending in the opposite House, is the number of the other bill or resolution indicated at the bottom of the fronter next to "Same as . . ."?

☐ 4. If the bill or resolution contains supplementary sections, is the suggested allocation or "T & E" (temporary and executed) indicated for each section in the appropriate space at the bottom of the fronter?

Title

☐ 1. Does the title express the general purpose of the legislation?

☐ 2. Is the present participle ("ing" form) of the verb used to convey the general purpose?

☐ 3. If the bill or resolution amends the title of an existing law, does the title so indicate?

☐ 4. Does the title contain the proper citation to the source law?

☐ 5. a. If the bill supplements a Pamphlet Law, does the title contain the compilation number of the P.L. being supplemented?

b. If the bill both supplements and amends a law, is the compilation number omitted?

☐ 6. If the bill appropriates money, does the title so indicate?

☐ 7. If the bill repeals existing law, does the title so indicate?

☐ 8. Is the title on the first page identical to the title on the fronter?

☐ 9. Are all the necessary items included in the title?

Technical Review Checklist for Bills and Resolutions

Enacting and "BE IT RESOLVED" Clauses

- ☐ 1. In the case of a bill, does it contain the enacting clause?
- ☐ 2. In the case of a joint resolution, is it resolved by the "Senate and General Assembly" in that order (even if it is an Assembly joint resolution)?
- ☐ 3. In the case of a concurrent resolution, is it resolved by the House of origin (with the concurrence of the other House)?
- ☐ 4. In the case of a one-House resolution, is it resolved by that House only?

Sections

- ☐ 1. Are the sections numbered sequentially?
- ☐ 2. If the bill or resolution includes sections which are organized into subsections, paragraphs, subparagraphs, etc., are the subdivisions lettered or numbered in the proper form and in a consistent manner throughout the measure?

Text

- ☐ 1. Does the text meet proper standards of grammar, spelling, punctuation, and style?
- ☐ 2. Is the language clear and concise?

Cross-referenced Laws

- ☐ 1. Is a cross-referenced law properly cited?
- ☐ 2. Has a cross-referenced law been repealed?
- ☐ 3. Does a cross-referenced law, as most recently amended, serve the intended purpose for which it is referenced?

Technical Review Checklist for Bills and Resolutions

Official Titles, Names, and Definitions

- ☐ 1. Is an agency referenced by its official name, proper department, and proper capitalization as designated in the enabling statute, transfer act, reorganization plan, administrative regulation, or executive order by which it was established or reorganized?
- ☐ 2. Is a State official referenced by the proper title (e.g., commissioner versus director versus executive director)?
- ☐ 3. Is a municipality or county cited by its official name?
- ☐ 4. Is the use of a word or phrase consistent with the existing definition of that word or phrase in the law being amended or supplemented?
- ☐ 5. If a law is referenced by its short title, has the short title been amended and is the title cited properly?

Amendatory Sections

- ☐ 1. Does the title of the bill or resolution contain an appropriate reference to the law being amended?
- ☐ 2. Is the source of the section being amended properly cited?
- ☐ 3. Is the most recent version of the section used and is it cited at the end of the amendatory section, for example "(P.L.2010, c.20, s.3)"?
- ☐ 4. Does an amendment to this section of law suffice, or does it necessitate an amendment to any other section of law?
- ☐ 5. Is new language, including necessary punctuation, underlined?
- ☐ 6. Is new language inserted immediately after the deletion of existing language and is as much existing language and punctuation as practical saved?
- ☐ 7. Are the numbering and lettering of existing subdivisions retained so as not to affect cross-references to the subdivisions which may be contained in other laws?
- ☐ 8. Does the amendment so alter the scope of the law as to require that the title or short title of the underlying act be amended?
- ☐ 9. Does the first page of the amendatory bill (not the fronter) include the footer that explains how to read an amendatory section?

Technical Review Checklist for Bills and Resolutions

Supplementary Sections

- ☐ 1. If appropriate, does the bill's title contain a reference to the Pamphlet Law or chapter or Title of the Revised Statutes or New Jersey Statutes that is being supplemented?
- ☐ 2. Does the supplementary material so alter the scope of the law as to require that the title or short title of the law be amended?
- ☐ 3. If the bill is both supplementary and amendatory, is each supplemental section identified as "(New section)"?
- ☐ 4. Does the draft contain an unnecessary severability clause?
- ☐ 5. If the bill contains a non-severability clause, are the correct sections linked through that clause?

Effective Date

- ☐ 1. Does the bill or joint resolution have an effective date?
- ☐ 2. Does the context of a concurrent or one-House resolution require an effective date?
- ☐ 3. If different sections of the bill are to take effect at different times, are the section references correct and the directions clear?
- ☐ 4. If the bill becomes effective upon the enactment of other legislation, are the dependency and sequence of enactments clearly stated?
- ☐ 5. If the effective date involves retroactivity, does it interact with existing law coherently?

Technical Review Checklist for Bills and Resolutions

Sponsor's Statement

- ☐ 1. Is there a sponsor's statement?
- ☐ 2. Does the statement accurately summarize the main provisions of the bill or resolution?

Synopsis

- ☐ 1. Is there a synopsis?
- ☐ 2. Is the synopsis at the end of the bill or resolution identical to the synopsis on the fronter?
- ☐ 3. Does the synopsis begin with a verb in the present tense ("prohibits," "permits," "establishes," etc.)?
- ☐ 4. Is the synopsis as succinct as possible and not longer than 35 words? Does the synopsis avoid the use of articles (a, an, the) and does it use recommended abbreviations and acronyms?
- ☐ 5. Does the synopsis specify the amount of any appropriation?

Technical Review Checklist for Committee and Floor Amendments, and Conditional Vetoes

Title

- ☐ 1. Do the amendments require a change in the title of the bill or resolution?
- ☐ 2. Do the amendments amend or supplement a section of law not referenced in the title?
- ☐ 3. Do the amendments delete a section of the bill referenced in the title, thus rendering that reference unnecessary?

Sections

- ☐ 1. If sections or subdivisions of sections are deleted or inserted, have the sections or subdivisions been renumbered or relettered accordingly?
- ☐ 2. If sections have been renumbered, are there internal references to sections in the bill that must be changed (including the effective date, which sometimes lists specific sections with special effective dates)?
- ☐ 3. Are the sections being amended (whether amendatory or supplementary) set forth in their entirety?
- ☐ 4. Are the appropriate instructions used, such as: "REPLACE SECTION # TO READ"; "OMIT SECTION # IN ITS ENTIRETY"; "INSERT NEW SECTION # TO READ"?
- ☐ 5. Do superscript numbers enclose any changes that are being made by amendment and are the correct superscript numbers used?

Cross–references

- ☐ 1. Are cross-references in the original bill or resolution affected by changes in definitions, titles, names, etc., in the amendments?
- ☐ 2. Are all definitions, titles, names, etc., consistent with those in the original bill?

Amendatory Sections

- ☐ 1. Has a section of law in the original bill or resolution been amended since it was drafted, requiring amendments to insert the current text of the law?

Technical Review Checklist for Committee and Floor Amendments and Conditional Vetoes

Supplementary Sections

☐ 1. If the amendments add a new supplementary section, is there a suggested allocation for the section in the top left corner of the first page of the amendments?

Committee or Floor Statement

☐ 1. If the amendments are reported by a committee, is the committee statement based on the content of the bill as amended?

☐ 2. Does the committee statement outline the amendments adopted by the committee in the form that is appropriate to the House?

☐ 3. For a floor amendment, is the floor statement included after the amendment in the same document?

Synopsis

☐ 1. Do the amendments so alter the nature of the bill or resolution, or change the amount of an appropriation, as to require that a new synopsis be provided at the end of the amendments?

Instructions to Technical Reviewer

☐ 1. If the amendments make the bill identical to a bill or resolution of the other House for the purpose of a merger, is there a notice to that effect at the top left corner of the first page of the amendments?

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